



# CAYMAN ISLANDS LEGISLATIVE ASSEMBLY

## OFFICIAL HANSARD REPORT

**2004/5 SESSION**

(2 July 2004—9 March 2005)

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

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# MEMBERS OF THE LEGISLATIVE ASSEMBLY

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## **Hon. Linford A. Pierson, OBE, JP, Speaker**

*Fourth Elected Member for George Town*

### **MEMBERS OF CABINET**

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

*Leader of Government Business*  
Minister of Tourism, Environment,  
Development and Commerce

#### **Hon. Gilbert A. McLean**

*Deputy Leader of Government Business*  
Minister of Health Services, Agriculture,  
Aviation and Works

#### **Hon. Roy Bodden, JP**

Minister of Education, Human  
Resources and Culture

#### **Dr. the Hon. Frank S. McField**

Minister of Community Services, Youth, Sports  
and Gender Affairs

#### **Hon. Juliana Y. O'Connor-Connolly, JP**

Minister of Planning, Communications, District  
Administration and Information Technology

### **OFFICIAL MEMBERS**

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

First Official Member responsible for  
Internal and External Affairs

#### **Hon. Samuel W. Bulgin, QC**

Second Official Member responsible for  
Legal Administration

#### **Hon G Kenneth Jefferson, JP**

Third Official Member responsible for  
Finance and Economics

### **ELECTED MEMBERS**

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

*Leader of the Opposition*  
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. 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. Anthony S. Eden, OBE, JP**

Third Elected Member for the Electoral  
District of Bodden Town

#### **Mr. Lyndon L. Martin**

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

#### **Mr. V. Arden McLean**

Elected Member for the Electoral  
District of East End

#### **Ms. Edna M. Moyle, JP**

Elected Member for the Electoral  
District of North Side

# OFFICIAL HANSARD REPORT

## 2004/5 SESSION

### —INDEX—

**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; **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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#### **Administration of Oaths or Affirmations:**

DeFreitas, Hon. Kurt, 17, 499  
Ebanks, Hon. Donovan W.F., 17, 97, 397  
Jefferson, Hon. G. Kenneth, 451  
McCarthy, Hon. George A., 451

#### **Anglin, Mr. Rolston M.:**

Biography of National Heroes (PMM 8/04), 680, 681-682  
Cayman Brac and Little Cayman Distance Learning (PMM 6/04), 673, 676  
Change of Location of Government House (PMM 7/04), 676, 677-678  
Closing Statements (made by Members 9 March 2005), 870-873  
Convention for the Elimination of all Forms of Discrimination against Women (GM 3/04), 212-214  
Elections (A) Bill, 2004, 174-178  
Hurricane Recovery Programme, 394-396  
Maritime Authority of the Cayman Islands Bill, 2005, 553-558  
Price Gouging Control (Emergency Circumstances) Bill, 2004, 465-468  
Public Management and Finance (A) (No. 2) Bill, 2004, 414-417  
Report of the Standing Public Accounts Committee on the Auditor General's Summer 2001 Report, together with the Auditor General's Report, 772-791  
Report of the standing Public Accounts Committee on the Auditor General's Report on the Government Office Accommodation Project's Private Finance Initiative (PFI) – Report 1: Has the Ministry made the project objectives clear?, together with the Auditor General's Report, 827-830  
Report of the Standing Public Accounts Committee on the Report of the Auditor General on the Financial Statements of the Government of the Cayman Islands for the years ended 31 December 2001 and 2002, together with the Reports of the Auditor General, 848-862  
Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 149-156  
Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 587-594  
Tax Information Authority Bill, 2005, 541-544

#### **Bills:**

Airports Authority (A) Bill, 2004, (1r) 487; (2r) 492-494; (C) 496; (R) 496; (3r) 497  
Civil Aviation Authority (A) Bill, 2004, (1r) 487; (2r) 494-495; (C) 496; (R) 496; (3r) 497  
Coat of Arms, Flag and National Song (A) Bill, 2004, (1r) 510; (2r) 517-519; (C) 520; (R) 520; (3r) 523  
Community College (A) Bill, 2004, (1r) 220; (2r) 230-236, 240-247; (C) 248; (R) 249; (3r) 249  
Development and Planning (A) Bill, 2005, (1r) 530; (2r) 564-565; (C) 574; (R) 576; (3r) 577  
Development and Planning (A) (No. 2) Bill, 2005, (1r) 530; (2r) 566-570; (C) 575; (R) 576; (3r) 577  
Elections (A) Bill, 2004, (1r) 160, (2r) 164-188, 220-230; (C) 254; (R) 260; (3r) 260  
Electricity Regulatory Authority Bill, 2005, (1r) 727; (2r) 796-824; (C) 824; (R) 826; (3r) 826  
Governor (Vesting of Lands) (A) Bill, 2005, (1r) 842; (2r) 842-845; (C) 845; (R) 846; (3r) 846  
Health Insurance (A) Bill, 2005, (1r) 764; (2r) 764-769; (C) 770; (R) 771; (3r) 772  
Health Practice (A) (No. 2) Bill, 2004, (1r) 400; (2r) 400-402; (C) 448; (R) 449; (3r) 449  
Health Services Authority (A) Bill, 2004, (1r) 510; (2r) 510-517; (C) 519; (R) 520; (3r) 523

Law Reform Commission Bill, 2005, (1r) 692; (2r) 692-694; (C) 715; (R) 716; (3r) 717  
 Maritime Authority of the Cayman Islands Bill, 2005, (1r) 530; (2r) 545-564; (C) 571; (R) 576; (3r) 577  
 Merchant Shipping (A) Bill, 2004, (1r) 510; (2r) 516-517; (C) 519; (R) 520; (3r) 523  
 National Roads Authority (A) Bill, 2004, (1r) 88; (2r) 88-94; (C) 95; (R) 96; (3r) 96  
 Parliamentary Pension Bill, 2004, (1r) 301; (2r) 304-312; (C) 314; (R) 319; (3r) 319  
 Penal Code (A) Bill, 2004, (1r) 160, (2r) 160-164; (C) 247; (R) 249; (3r) 249  
 Police (A) Bill, 2004, (1r) 353; (2r) 353-367, 369-375; (C) 375; (R) 377; (3r) 377  
 Price Gouging Control (Emergency Circumstances) Bill, 2004, (1r) 400; (2r) 453-473; (C) 474; (R) 479;  
 (3r) 479  
 Proceeds of Criminal Conduct (A) Bill, 2004, (1r) 486; (2r) 487-492; (C) 495; (R) 496; (3r) 497  
 Public Management and Finance (A) (No. 2) Bill, 2004, (1r) 400; (2r) 402-438; (C) 448; (R) 449; (3r) 449  
 Public Service Pensions (A) Bill, 2004, (1r) 261; (2r) 261, 301-304; (C) 313; (R) 319; (3r) 319  
 Strata Titles Registration (A) Bill, 2005, (1r) 751; (2r) 751-753; (C) 753; (R) 754; (3r) 754  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, (1r) 580; (2r) 580-665; (R) 672; (3r) 673  
 Tax Information Authority Bill, 2005, (1r) 530; (2r) 530-545; (C) 570; (R) 576; (3r) 576  
 Traffic (A) Bill, 2005, (1r) 692; (2r) 694-715; (C) 728; (R) 740; (3r) 740

### **Bodden, Hon. Roy:**

Amendment to the Elections Law (PMM 4/04), 327-328  
 Article in *Cayman Net News* entitled “ ‘A great necessity for change’ says former British MP”, 835-836  
 Biography of National Heroes (PMM 8/04), 681  
 Cayman Brac and Little Cayman Distance Learning (PMM 6/04), 674-676  
 Closing Statements (made by Members 9 March 2005), 863-864  
 Community College (A) Bill, 2004, 230-232, 243-247  
 Convention for the Elimination of all Forms of Discrimination against Women (GM 3/04), 206-207  
 Debate on the Throne Speech, 31-34, 37-43  
 Education and Training Bill, 2004—White Paper Draft Bill, 757-763  
 Education and Training Bill 2004—Drafting Instructions, 126-128  
 Elections (A) Bill, 2004, 224-225  
 Final Report—Task Force on Recruitment and Retention of Caymanian Teachers, July 2004, 840-841  
 Police (A) Bill, 2004, 361-367  
 Public Management and Finance (A) (No. 2) Bill, 2004, 417-418  
 Status Report on Education as at February 2005, 744-751  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 615-620, 621-624  
 Traffic (A) Bill, 2005, 706-709  
 White Paper Draft Bill: The Education and Training Bill, 2004, 757-764

### **Bulgin, Hon. Samuel, W.:**

Annual Report of the Financial Reporting Authority for the period ended 30<sup>th</sup> June 2004, 527-528  
 Attorney General Review 2003, 251-252  
 Complaints Commissioner’s Own Motion Investigation Report 1 on the Department of Vehicle Licensing –  
 Operational Issues following Hurricane Ivan, dated 18 February 2005, 741-742  
 Convention for the Elimination of all Forms of Discrimination against Women (GM 3/04), 210-212  
 Emergency Powers Regulations 2004, 344  
 Law Reform Commission Bill, 2005, 692-693, 694  
 Penal Code (A) Bill, 2004, 160-161, 162-164  
 Police (A) Bill, 2004, 353-354, 375  
 Proceeds of Criminal Conduct (A) Bill, 2004, 487-489, 491  
 Proclamation No. 5/04, 344-346  
 Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 262-263  
 Tax Information Authority Bill, 2005, 536-539  
 Traffic (A) Bill, 2005, 705-706

**Bush, Hon. W. McKeeva:**

- Amendment to section 18 (2) of the Cayman Islands Constitution Order 1982 (GM 2/02), 128  
Amendment to the Elections Law (PMM 4/04), 323-325  
Cayman Islands Development Bank Report for the six-month period ended 30 June 2003, 503-504  
Cayman Islands Economic Development Plan 2004-2009, 499-503  
Christmas Greetings, 523-524  
Community College (A) Bill, 2004, 240-242  
Convention for the Elimination of all Forms of Discrimination against Women (GM 3/04), 207  
Debate on the Throne Speech, 113-116, 117-126  
Development of a Hotel in the District of East End (Response to Personal Statement by Mr. V. Arden McLean), 342  
Discussion Draft White Paper on the Traffic (A) Bill 2004, 252  
Draft Bill—Reporting of Savings Income information (European Union) Bill 2005, 690-691  
Elections (A) Bill, 2004, 226-230  
European Union Savings Directive, 684-690  
Financial Statements of the Port Authority of the Cayman Islands for the period 31 December 2002 and 2001, 504-505  
Hurricane Ivan, 346-347  
Hurricane Recovery Programme, 377-379  
Impact of Hurricane Ivan in the Cayman Islands, 520-522  
Letter from FCO to all Overseas Territories dealing with the Stages for Independence and *Caymanian Compass* Report, 683-684  
Letters of Support, 398-399  
Letters of Support and Verbal Assistance from Various Countries, 350-352  
MC Restoration Contract, 506-510  
Parliamentary Pension Bill, 2004, 310  
Penal Code (A) Bill, 2004, 162  
Port Authority of the Cayman Islands—Container loads following Hurricane Ivan, 668-670  
Postponement of 2004 General Elections Until 17 May 2005, 453  
Presentation of Speaker's Chair, 3-4  
Price Gouging Control (Emergency Circumstances) Bill, 2004, 453-455, 472-473  
Proceeds of Criminal Conduct (A) Bill, 2004, 491  
Promoting, Protecting and Enhancing the Cayman Islands (notice of meeting), 754-755  
Protecting, Enhancing and Promoting the Cayman Islands 'A Cayman Islands Constitution for the future' – Policy Paper, 283-288, 289-290  
Public Management and Finance (A) (No. 2) Bill, 2004, 408-409  
Public Management and Finance Law (2003 Revision) (GM 6/04), 480-483, 486  
Purchase of a Crane for the Port Authority in GT, Grand Cayman, 252-254  
Report of the Proceedings of the Sixth Overseas Territories Council 21-22 September 2004, 684  
Report of the Standing Business Committee  
    Fourth Meeting of the 2003 Session of the Legislative Assembly, 743  
    Fifth Meeting of the 2003 Session of the Legislative Assembly, 742  
    State Opening Meeting of the 2004/5 Session of the Legislative Assembly, 742  
    Third Meeting of the 2004/5 Session of the Legislative Assembly, 742  
    Fourth Meeting of the 2004/5 Session of the Legislative Assembly, 742  
Review and Amendment of Maintenance and Affiliation Legislation (PMM 5/04), 336-337  
Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 277-278  
Standarisation of Consumer Loan Documentation (PMM 3/04), 295-297  
Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 583, 606-615  
Traffic (A) Bill 2004 –Discussion Draft White Paper, 252  
Traffic (A) Bill, 2005, 694-698, 713-714  
Traffic (Public Transportation Appeals Tribunal) Regulations 2004, 157-158  
Update on the National Hurricane Recovery, 439-445  
Waiving of Loan and Mortgage Repayments until January 2005, 352

**Christmas Greetings:**

Bush, Hon. W. McKeeva, 523-524  
 Pierson, Hon. Linford A, Speaker, 525  
 McCarthy, Hon. George A., 524  
 Tibbetts, Hon. D. Kurt, 524

**Closing Statements Made by Members 9 March 2005:**

Anglin, Mr. Rolston M., 870-873  
 Bodden, Hon. Roy, 863-864  
 Ebanks, Capt. A. Eugene, 868-869  
 Eden, Mr. Anthony S., 867  
 Martin, Mr. Lyndon L., 862-863  
 McCarthy, Hon. George A., 869-870  
 McLaughlin, Mr. Alden M. Jr., 873-875  
 McLean, Hon. Gilbert A., 875-877  
 McLean, Mr. V. Arden, 865-867  
 Moyle, Ms. Edna M., 867-868  
 O'Connor-Connolly, Hon. Juliana Y., 880-881  
 Pierson Hon. Linford A., Speaker, 881-882  
 Tibbetts, Hon. D. Kurt, 877-879

**Debate on the Throne Speech:**

Bodden, Hon. Roy, 31-34, 37-43  
 Bush, Hon. W. McKeeva, 113-116, 117-126  
 Ebanks, Capt. A. Eugene, 98-104  
 Glidden, Mr. Cline A. Jr., 71-85  
 Martin, Mr. Lyndon L., 53-57, 59-70  
 McLean, Mr. V. Arden, 43-53  
 Moyle, Ms. Edna M., 104-112  
 Tibbetts, Hon. D. Kurt, 18-30

**Deputy Speaker in the Chair: 219-238, 527-578****Divisions:**

1/04—(Suspension of SO 45, 46 (1), (2) and (4) and 47 to allow the Penal Code (A) and Elections (A) Bills 2004 to be read a first, second and third time), 160  
 2/04—(Elections (A) Bill 2004 (2r)), 230  
 3/04—(Motion for the adjournment), 236  
 4/04—(Elections (A) Bill, 2004 (3r)), 261  
 5/04—(PMM 4/04), 330  
 6/04—(Public Management and Finance (A) (No. 2) Bill, 2004 (2r)), 438  
 7/04—(Public Management and Finance (A) (No. 2) Bill, 2004 (3r)), 450  
 8/04—(Proceeds of Criminal Conduct (A) Bill, 2004 (2r)), 492  
 9/04—(Health Services Authority (A) Bill, 2004 (2r), 516  
 10/04-05—(Suspension of SO 21 allowing questions to be submitted after commencement of meeting), 529  
 11/04-05—(Tax Information Authority Bill, 2005, (2r)), 545  
 12/04-05—(PMM 7/04), 680  
 13/04-05—(Governor (Vesting of Lands) (A) Bill, 2005 (2r)), 845

**Ebanks, Capt. A. Eugene:**

Biography of National Heroes (PMM 8/04), 680, 681  
 Change of Location of Government House (PMM 7/04), 678  
 Closing Statements (made by Members 9 March 2005), 868-869  
 Debate on the Throne Speech, 98-104

Hurricane Recovery Programme, 394  
 Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 149, 274-275  
 Standarisisation of Consumer Loan Documentation (PMM 3/04), 290  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 662-663

**Ebanks, Hon. Donovan W. F.:**

Elections (A) Bill, 2004, 164-165  
 Personnel Department Employment Information and Personnel Activity Report, 133  
 Royal Cayman Islands Police Service Annual Report 2002, 134

**Eden, Mr. Anthony S.:**

Police (A) Bill, 2004, 369-371  
 Public Management and Finance (A) (No. 2) Bill, 2004, 417

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

Change of Location of Government House (PMM 7/04), 676-677, 679-680  
 Consider Strengthening Legislation Related to Crime (PMM 2/04), 290  
 Debate on the Throne Speech, 71-85  
 Electricity Regulatory Authority Bill, 2005, 801, 813-821  
 Hurricane Recovery Programme, 389-391  
 Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 279-281  
 Standarisisation of Consumer Loan Documentation (PMM 3/04), 290-293, 299-300  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 659-662

**Government Motions:**

- 1/04—Amendment to the Development Plan 1997  
 O'Connor-Connolly, Hon. Juliana Y., 147-148
- 2/04—Amendment to section 18 (2) of the Cayman Islands Constitution Order 1982  
 Bush, Hon. W. McKeeva, 128  
 Tibbetts, Hon. D. Kurt, 129
- 3/04—Convention for the Elimination of all Forms of Discrimination against Women  
 Anglin, Mr. Rolston M., 212-214  
 Bodden, Hon. Roy, 206-207  
 Bulgin, Hon. Samuel W., 210-212  
 Bush, Hon. W. McKeeva, 207  
 McField, Dr. the Hon. Frank S., 190-196, 216-218  
 McLaughlin, Mr. Alden M. Jr., 197-201  
 McLean, Mr. V. Arden, 214-216  
 Moyle, Ms. Edna M., 207-210  
 O'Connor-Connolly, Hon. Juliana Y., 202-207
- 4/04—Amendment to the Development Plan 1997 Proposed Rezoning —Vista Norte  
 O'Connor-Connolly, Hon. Juliana Y., 319-320
- 5/05—Amendment to the Development Plan 1997 Godfrey Nixon Subdivision  
 O'Connor-Connolly, Hon. Juliana Y., 320-321
- 6/04—Public Management and Finance Law (2003 Revision)  
 Bush, Hon. W. McKeeva, 480-483, 486  
 Jefferson, Hon. G. Kenneth, 485-486  
 Tibbetts, Hon. D. Kurt, 483-485

- 7/04-05—Development and Planning Law (2003 Revision) Development and Planning (A) Regulations 2005  
O'Connor-Connolly, Hon. Juliana Y., 717-718  
McLean, Mr. V. Arden, 718
- 8/04-05—Building Code (A) Regulations, 2005  
O'Connor-Connolly, Hon. Juliana Y., 718-719  
Tibbetts, Hon. D. Kurt, 719
- 9/04-05—Disbursement from the General Reserve Fund  
Jefferson, Hon. G. Kenneth, 720-721
- 10/04-05—Government Guarantee in favour of the Cayman Islands Civil Service Association Co-operative  
Credit Union Limited  
Jefferson, Hon. G. Kenneth, 721-722, 722-723  
Tibbetts, Hon. D. Kurt, 722
- 11/04-05—Health Insurance (A) Regulations 2005  
McLean, Hon. Gilbert A., 826-827
- 12/04-05—Development and Planning (A)(No. 2) Regulations 2005  
O'Connor-Connolly, Hon. Juliana Y., 846-847, 848  
Tibbetts, Hon. D. Kurt, 847-848

#### **Hurricane Ivan:**

- Disbursement from the General Reserve Fund (GM 09/04-05)  
Jefferson, Hon. G. Kenneth, 720-721
- Government Guarantee in favour of the Cayman Islands Civil Service Association Co-operative Credit  
Union Limited (GM10/04-05)  
Jefferson, Hon. G. Kenneth, 721-722, 722-723  
Tibbetts, Hon. D. Kurt, 722
- Hurricane Ivan, 346-347
- Hurricane Recovery Programme:  
Anglin, Mr. Rolston M., 394-396  
Bush, Hon. W. McKeeva, 377-379  
Ebanks, Capt. A. Eugene, 394  
Glidden, Mr. Cline A. Jr., 389-391  
McField, Dr. the Hon. Frank S., 388-389  
McLean, Hon. Gilbert A., 381-385  
Moyle, Ms. Edna M., 379-381  
O'Connor-Connolly, Hon. Juliana Y., 391-394  
Tibbetts, Hon. D. Kurt, 385-388
- Impact of Hurricane Ivan in the Cayman Islands, 520-522
- Letters of Support, 398-399
- Letters of Support and Verbal Assistance from Various Countries, 350-352
- MC Restoration Contract, 506-510
- Police (A) Bill, 2004, 353-367, 369-375
- Postponement of 2004 General Elections until 17 May 2005, 453
- Price Gouging Control (Emergency Circumstances) Bill, 2004, 453-473
- Statement on "Exceptional Circumstances" as a Result of Hurricane Ivan, 670-671
- Update on the National Hurricane Recovery, 439-445
- Waiving of Loan and Mortgage Repayments until January 2005, 352

#### **Jefferson, Hon. G. Kenneth:**

- 2003 Cayman Islands Compendium of Statistics, 505-506
- Departure from the Principles of Responsible Financial Management (Paper thereon), 671-672



Disbursement from the General Reserve Fund (GM 9/04), 720-721  
 Government Guarantee in favour of the Cayman Islands Civil Service Association Co-operative Credit Union Limited (GM 10/04), 721-722, 722-723  
 Maritime Authority of the Cayman Islands Bill, 2005, 546, 561-564  
 Merchant Shipping (A) Bill, 2004, 516-517  
 Public Management and Finance Law (2003 Revision) (GM 6/04), 485-486  
 Report of the Standing Finance Committee:  
     Meeting held 06 September 2004, 726  
     Meeting held 10 September 2003, 727  
     Meeting held 15 December 2003, 727  
     Meeting held 16 April 2004, 727  
     Meeting held 26 April 1999, 727  
     Meeting held 29 June 2004, 726  
 Speech upon being sworn in as Third Official Member responsible for the Portfolio of Finance and Economics, 451-452  
 Statement on “Exceptional Circumstances” as a Result of Hurricane Ivan, 670-671  
 Supplementary Annual Plan and Estimates for the Government of the Cayman Islands for the Financial year ending 30 June 2005, 580  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 580-583, 584, 663-665  
 Tax Information Authority Bill, 2005, 530-531, 544-545

**Martin, Mr. Lyndon L.:**

Cayman Brac and Little Cayman Distance Learning (PMM 6/04), 673-674  
 Closing Statements (made by Members 9 March 2005), 862-863  
 Debate on the Throne Speech, 53-57, 59-70  
 Electricity Regulatory Authority Bill, 2005, 809-812  
 Maritime Authority of the Cayman Islands Bill, 2005, 551-553  
 Protecting, Enhancing and Promoting the Cayman Islands ‘A Cayman Islands Constitution for the future’ – Policy Paper – (*Short Questions re: statement thereon*), 290  
 Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 275-277  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 645-650

**McCarthy, Hon. George A.:**

Annual Economic Report 2003, 134-136  
 Change of Location of Government House (PMM 7/04), 679  
 Christmas Greetings, 524  
 Closing Statements (made by Members 9 March 2005), 869-870  
 Coat of Arms, Flag and National Song (A) Bill, 2004, 517-518, 518-519  
 Parliamentary Pension Bill, 2004, 304-305, 311-312  
 Public Management and Finance (A) (No. 2) Bill, 2004, 402-404, 434-438  
 Public Service Pensions (A) Bill, 2004, 261, 301-302, 303-304  
 Standardisation of Consumer Loan Documentation (PMM 3/04), 298-299  
 Tax Information Authority Bill, 2005, 540-541

**McField, Dr. the Hon. Frank S.:**

Community College (A) Bill, 2004, 242-243  
 Convention for the Elimination of all Forms of Discrimination against Women (GM 3/04), 190-196, 216-218  
 Elections (A) Bill, 2004, 183-186  
 Health Services Authority (A) Bill, 2004, 514-515  
 Hurricane Recovery Programme, 388-389  
 National Gender Policy, 158-159  
 Report and Recommendation of the Minister responsible for Lands recommending the Vesting of Crown Land (Unclaimed) Block 44B Parcel 136 to the Estate of Leonard Jones. Jr. (deceased), 743

Report and Recommendation of the Minister responsible for Lands recommending the Vesting of Crown Land (Unclaimed):

Block 75A Parcel 131 to the Estate of Sybil Violet McLaughlin (nee Hurlston) (deceased), 743

Block 38D Parcel 26 to Maureen Harris and Marion Cronheim, 743

Block 66A Parcel 57 to The Estate of James Martin Frederick (deceased), 743

Block 44B Parcel 191 to The Estate of James Martin Frederick (deceased), 744

Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 267-271

Strategies and Methods to Enhance Positive Social Change and Address Negative Social Factors, 140-147

Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 624-631

Water Authority of the Cayman Islands Annual Report 1999-2000, 131-133

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

Amendment to the Elections Law (PMM 4/04), 321-323, 329-330

Article in *Cayman Net News* entitled “ ‘A great necessity for change’ says former British MP”, 836-837

Change of Location of Government House (PMM 7/04), 678-679

Closing Statements (made by Members 9 March 2005), 873-875

Community College (A) Bill, 2004, 232-236

Convention for the Elimination of all Forms of Discrimination Against Women (GM 3/04), 197-201

Elections (A) Bill, 2004, 166-171

Health Services Authority (A) Bill, 2004, 512-514

Law Reform Commission Bill, 2005, 693-694

Parliamentary Pension Bill, 2004, 310-311

Police (A) Bill, 2004, 354-361

Protecting, Enhancing and Promoting the Cayman Islands ‘A Cayman Islands Constitution for the future’ – Policy Paper – (*Short Questions re: statement thereon*), 289

Price Gouging Control (Emergency Circumstances) Bill, 2004, 468-471

Proceeds of Criminal Conduct (A) Bill, 2004, 489-491

Public Management and Finance (A) (No. 2) Bill, 2004, 419-420, 423-426

Review and Amendment of Maintenance and Affiliation Legislation (PMM 5/04), 331-336, 340-341

Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 263-267

Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 594-606

Tax Information Authority Bill, 2005, 531-536

Traffic (A) Bill, 2005, 709-712

### **McLean, Hon. Gilbert A.:**

Airports Authority (A) Bill, 2004, 492-493, 494

Article in *Cayman Net News* entitled “ ‘A great necessity for change’ says former British MP”, 836

Civil Aviation Authority (A) Bill, 2004, 494-495

Closing Statements (made by Members 9 March 2005), 875-877

Elections (A) Bill, 2004, 171-174

Health Insurance (A) Bill, 2005, 764-766, 769-770

Health Insurance (A) Regulations 2005, 793-795

Health Insurance (A) Regulations 2005 (GM 11/04), 826-827

Health Practice (A) (No. 2) Bill, 2004, 400, 401-402

Health Services Authority (A) Bill, 2004, 511, 515-517

Hurricane Recovery Programme, 381-385

National Roads Authority (A) Bill, 2004, 88-89, 92-94

Policy Paper – Protecting, Enhancing and Promoting the Cayman Islands ‘A Cayman Islands Constitution for the future’ (*Short Questions re: statement thereon*), 288

Price Gouging Control (Emergency Circumstances) Bill, 2004, 471-472

Public Management and Finance (A) (No. 2) Bill, 2004, 426-434

Report of the Standing Business Committee for the Fifth Meeting of the Meeting 2004-2005 Session of the Legislative Assembly, 841

Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 651-659

**McLean, Mr. V. Arden:**

Amendment to the Elections Law (PMM 4/04), 321  
 Closing Statements (made by Members 9 March 2005), 865-867  
 Coat of Arms, Flag and National Song (A) Bill, 2004, 518  
 Convention for the Elimination of all Forms of Discrimination against Women (GM 3/04), 214-216  
 Debate on the Throne Speech, 43-53  
 Development and Planning (A) (No. 2) Bill, 2005, 567-569  
 Development and Planning Law (2003 Revision) Development and Planning (A) Regulations 2005 (GM 7/04), 718  
 Development of a Hotel in the District of East End, 341-342  
 Elections (A) Bill, 2004, 178-182  
 Electricity Regulatory Authority Bill, 2005, 799-809  
 Maritime Authority of the Cayman Islands Bill, 2005, 558-561  
 National Roads Authority (A) Bill, 2004, 89-90  
 Police (A) Bill, 2004, 371-375  
 Protecting, Enhancing and Promoting the Cayman Islands 'A Cayman Islands Constitution for the future' – Policy Paper – (*Short Questions re: statement thereon*), 289  
 Price Gouging Control (Emergency Circumstances) Bill, 2004, 461-465  
 Public Management and Finance (A) (No. 2) Bill, 2004, 409-414  
 Review and Amendment of Maintenance and Affiliation Legislation (PMM 5/04), 337-339  
 Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 271-274  
 Strata Titles Registration (A) Bill, 2005, 752-753  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 631-640  
 Traffic (A) Bill, 2005, 701-705

**Moyle, Ms. Edna M.:**

Closing Statements (made by Members 9 March 2005), 867-868  
 Convention for the Elimination of all Forms of Discrimination against Women (GM 3/04), 207-210  
 Debate on the Throne Speech, 104-112  
 Hurricane Recovery Programme, 379-381  
 Reviewing Laws and Policies to Enhance the Ability of Royal Cayman Islands Police (PMM 1/04), 339-340  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 641-645

**O'Connor-Connolly, Hon. Juliana Y.:**

2003 Annual Report of the Central Planning Authority and Development Control Board, 133-134  
 2004 Annual Report of the Central Planning Authority and Development Control Board, 839-840  
 Amendment to the Development Plan 1997 GM—1/04), 147-148  
 Amendment to the Development Plan 1997 Godfrey Nixon Subdivision (GM 5/05), 320-321  
 Amendment to the Development Plan 1997 Proposed Rezoning —Vista Norte (GM 4/04), 319-320  
 Building Code (A) Regulations, 2005, 683  
 Building Code (A) Regulations, 2005 (GM 8/04), 718-719  
 Closing Statements (made by Members 9 March 2005), 880-881  
 Convention for the Elimination of all Forms of Discrimination against Women (GM 3/04), 202-207  
 Development and Planning (A) Bill, 2005, 564-565  
 Development and Planning (A) (No. 2) Bill, 2005, 566-567, 569-570  
 Development and Planning (A) Regulations 2004, 527  
 Development and Planning (A) (No.2) Regulations 2005, 840  
 Development and Planning (A) (No.2) Regulations 2005 (GM 12/04), 846-847, 848  
 Development and Planning Law (2003 Revision) Development and Planning (A) Regulations 2005 (GM 7/04), 717-718  
 Electricity Regulatory Authority Bill, 2005, 796-799, 803, 808, 821-824  
 Governor (Vesting of Lands) (A) Bill, 2005, 842-843, 844  
 Hurricane Recovery Programme, 391-394

- Report & Recommendation of the Minister responsible for Lands on the Vesting of Crown Land, Block 4E, Parcel 201, to the Church of God Chapel, Town Hall Road, West Bay, 134
- Report and Recommendation of the Minister Responsible for Lands recommending the Vesting of Crown Land Block 5B, Parcels 178 & 179 to the Port Authority of the Cayman Islands, 726
- Report and Recommendation of the Minister responsible for Lands Recommending the Vesting of Crown Land (Unclaimed):
- Block 70A Parcel 12 to the Estate of Absolom Jeffers (deceased), 725
  - Block 4C Parcel 22 to the Estate of Hubert Lee Ebanks (deceased), 725
  - Block 63A Parcel 16 to the Estate of Henry Terry (deceased), 725
  - Block 1D, Parcel 26 to the Cayman Turtle Farm Ltd., 726
- Strata Titles Registration (A) Bill, 2005, 751-752, 753
- Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 663

**Parliamentary Questions by Category** (also see: *Parliamentary Questions Numerically*):

**Cayman Brac and Little Cayman:**

7. When is dialysis unit expected to be operational on Cayman Brac, 796
8. Expected commencement date for Little Cayman Airport, 796
9. Provision under licence for Westar TV or various radio stations to broadcast to Cayman Brac and Little Cayman, 831
10. Status of appointment of building inspector for Cayman Brac and Little Cayman, 832
11. Expected commencement date for low income housing on Cayman Brac, 833
12. Availability of wheelchair van previously used by the Lighthouse School on Cayman Brac, 841

**Development:**

1. Nature of government's involvement in development of a port facility in the Half Moon Bay/High Rock area of East End, 136
2. Process for awarding of Royal Watler Port project, 138
8. Expected commencement date for Little Cayman Airport, 796

**Education:**

3. Registration of students at GHHS, 189

**Environmental Issues:**

1. Nature of government's involvement in development of a port facility in the Half Moon Bay/High Rock area of East End, 136
2. Process for awarding of Royal Watler Port project, 138

**Health/Medical:**

7. When is dialysis unit expected to be operational on Cayman Brac, 796
12. Availability of wheelchair van previously used by the Lighthouse School on Cayman Brac, 841

**Housing:**

10. Status of appointment of building inspector for Cayman Brac and Little Cayman, 832
11. Expected commencement date for low income housing on Cayman Brac, 833

**Tourism:**

1. Nature of government's involvement in development of a port facility in the Half Moon Bay/High Rock area of East End, 136
2. Process for awarding of Royal Watler Port project, 138
8. Expected commencement date for Little Cayman Airport, 796

**Parliamentary Questions Numerically** (also see: *Parliamentary Questions by Category*):

1. Nature of government's involvement in development of a port facility in the Half Moon Bay/High Rock area of East End, 136
2. Process for awarding of Royal Watler Port project, 138
3. Registration of students at GHHS, 189
4. Proposed date for completion of Young Offenders' Facility at MP Northward (*withdrawn*, 219)
5. (*withdrawn* 219)
6. What is the cost of Affordable Homes (*withdrawn*, 219)

7. When is dialysis unit expected to be operational on Cayman Brac, 796
8. Expected commencement date for Little Cayman Airport, 796
9. Provision under licence for Westar TV or various radio stations to broadcast to Cayman Brac and Little Cayman, 831
10. Status of appointment of building inspector for Cayman Brac and Little Cayman, 832
11. Expected commencement date for low income housing on Cayman Brac, 833
12. Availability of wheelchair van previously used by the Lighthouse School on Cayman Brac, 841

**Personal Statement:**

Development of a Hotel in the District of East End (McLean, Mr. V. Arden), 341-342

**Presentation of Papers and Reports:**

- 2003 Annual Report of the Central Planning Authority and Development Control Board, 133-134
- 2003 Cayman Islands Compendium of Statistics, 505-506
- 2004 Annual Report of the Central Planning Authority and Development Control Board, 839-840
- Annual Economic Report 2003, 134-136
- Annual Report of the financial Reporting Authority for the period ended 30th June 2004, 527-528
- Attorney General Review 2003, 251-252
- Building Code (A) Regulations, 2005, 683
- Cayman Islands Development Bank Report for the six-month period ended 30 June 2003, 503-504
- Cayman Islands Economic Development Plan 2004-2009, 499-503
- Complaints Commissioner's Own Motion Investigation Report 1 on the Department of Vehicle Licensing – Operational Issues following Hurricane Ivan, dated 18 February 2005, 741-742
- Development and Planning (A) Regulations 2004, 527
- Development and Planning (A) (No.2) Regulations 2005, 840
- Education and Training Bill, 2004—White Paper Draft Bill, 757-763
- Education and Training Bill 2004—Drafting Instructions, 126-128
- Emergency Powers Regulations 2004, 344
- Final Report—Task Force on Recruitment and Retention of Caymanian Teachers, July 2004, 840-841
- Financial Statements of the Port Authority of the Cayman Islands - December 31, 2002 and 2001 (*Deferred*, 499), 504-505
- Health Insurance (A) Regulations 205, 793-795
- Impact of Hurricane Ivan in the Cayman Islands, 520-522
- National Gender Policy, 158-159
- Personnel Department Employment Information and Personnel Activity Report, 133
- Report and Recommendation of the Minister responsible for Lands on the Vesting of Crown Land, Block 4E, Parcel 201, to the Church of God Chapel, Town Hall Road, West Bay, 134
- Report and Recommendation of the Minister Responsible for Lands recommending the Vesting of Crown Land Block 5B, Parcels 178 & 179 to the Port Authority of the Cayman Islands, 726
- Report and Recommendation of the Minister responsible for Lands Recommending the Vesting of Crown Land (Unclaimed):
  - Block 70A Parcel 12 to the Estate of Absolom Jeffers (deceased), 725
  - Block 4C Parcel 22 to the Estate of Hubert Lee Ebanks (deceased), 725
  - Block 63A Parcel 16 to the Estate of Henry Terry (deceased), 725
  - Block 1D Parcel 26 to the Cayman Turtle Farm Ltd., 726
  - Block 44B Parcel 136 to the Estate of Leonard Jones. Jr. (deceased), 743
  - Block 75A Parcel 131 to the Estate of Sybil Violet McLaughlin (nee Hurlston) (deceased), 743
  - Block 38D Parcel 26 to Maureen Harris and Marion Cronheim, 743
  - Block 66A Parcel 57 to the Estate of James Martin Frederick (deceased), 743
  - Block 44B Parcel 191 to The Estate of James Martin Frederick (deceased), 744
- Report of the Standing Business Committee:
  - Fifth Meeting of the 2003 Session of the Legislative Assembly, 742
  - Fifth Meeting of the Meeting 2004-2005 Session of the Legislative Assembly, 841
  - Fourth Meeting of the 2004/-5 Session of the Legislative Assembly, 742

- Fourth Meeting of the 2003 Session of the Legislative Assembly, 743  
 State Opening Meeting of the 2004/05 Session of the Legislative Assembly, 742  
 Third Meeting of the 2004/05 Session of the Legislative Assembly, 742  
 Report of the Standing Finance Committee:  
 Meeting held 06 September 2004, 726  
 Meeting held 10 September 2003, 727  
 Meeting held 15 December 2003, 727  
 Meeting held 16 April 2004, 727  
 Meeting held 26 April 1999, 727  
 Meeting held 29 June 2004, 726  
 Report of the standing Public Accounts Committee on the Auditor General's Report on the Government Office Accommodation Project's Private Finance Initiative (PFI) – Report 1: Has the Ministry made the project objectives clear?, together with the Auditor General's Report, 827-830  
 Report of the Standing Public Accounts Committee on the Auditor General's Summer 2001 Report, together with the Auditor General's Report, 772-791  
 Report of the Standing Public Accounts Committee on the Report of the Auditor General on the Financial Statements of the Government of the Cayman Islands for the years ended 31 December 2001 and 2002, together with the Reports of the Auditor General, 848-862  
 Royal Cayman Islands Police Service Annual Report 2002, 134  
 Supplementary Annual Plan and Estimates for the Government of the Cayman Islands for the Financial year ending 30 June 2005, 580-583  
 Traffic (A) Bill 2004 –Discussion Draft White Paper, 252  
 Traffic (Public Transportation Appeals Tribunal) Regulations 2004, 157-158  
 Water Authority of the Cayman Islands Annual Report 1999-2000, 131-133  
 White Paper Draft Bill: The Education and Training Bill, 2004, 757-763

### Private Members' Motions

- 1/04—Reviewing Laws and Policies to Enhance the Ability of the Royal Cayman Islands Police  
 Anglin, Mr. Rolston M. (*Mover*), 149-156  
 Bulgin, Hon. Samuel W., 262-263  
 Bush, Hon. W. McKeeva, 277-278  
 Ebanks, Capt. A. Eugene (*Seconder*), 149, 274-275  
 Glidden, Mr. Cline A. Jr., 279-281  
 Martin, Mr. Lyndon L., 275-277  
 McField, Dr. the Hon. Frank S., 267-271  
 McLaughlin, Mr. Alden M. Jr., 263-267  
 McLean, Mr. V. Arden, 271-274
- 2/04—Consider Strengthening Legislation Related to Crime (*Deferred*)  
 Glidden, Mr. Cline A. Jr., 290
- 3/04—Standardisation of Consumer Loan Documentation  
 Bush, Hon. W. McKeeva, 295-297  
 Ebanks, Capt. A. Eugene (*Seconder*), 290  
 Glidden, Mr. Cline A. Jr. (*Mover*), 290-293, 299-300  
 McCarthy, Hon. George A., 298-299  
 Tibbetts, Hon. D. Kurt, 293-295
- 4/04—Amendment to the Elections Law  
 Bodden, Hon Roy, 327-328  
 Bush, Hon. W. McKeeva, 323-325  
 McLaughlin, Mr. Alden M. Jr. (*Mover*), 321-323, 329-330  
 McLean, Mr. V. Arden (*Seconder*), 321  
 Tibbetts, Hon. D. Kurt, 325-327

## 5/04—Review and Amendment of Maintenance and Affiliation Legislation

Bush, Hon. W. McKeeva, 336-337  
 McLaughlin, Mr. Alden M. Jr. (*Mover*), 331-336, 340-341  
 McLean, Mr. V. Arden, 337-339  
 Moyle, Ms. Edna M., 339-340  
 Tibbetts, Hon. D. Kurt (*Seconder*), 331

## 6/04-05—Cayman Brac and Little Cayman Distance Learning

Anglin, Mr. Rolston M. (*Seconder*), 673, 676  
 Bodden, Hon. Roy, 674-676  
 Martin, Mr. Lyndon L. (*Mover*), 673-674

## 7/04-05—Change of Location of Government House

Anglin, Mr. Rolston M. (*Seconder*), 676, 677-678  
 Ebanks, Capt. A. Eugene, 678  
 Glidden, Mr. Cline A., Jr. (*Mover*), 676-677, 679-680  
 McCarthy, Hon. George A., 679  
 McLaughlin, Mr. Alden M., Jr., 678-679

## 8/04-05—Biography of National Heroes

Anglin, Mr. Rolston M. (*Mover*), 680, 681-682  
 Bodden, Hon. Roy, 681  
 Ebanks, Capt. A. Eugene (*Seconder*), 680, 681

**Proclamation No. 3 of 2004, 1****Proclamation No. 5 of 2004, 344-346****Raising of Matter of Urgent Public Importance (SO 12(1)):**

Article in *Cayman Net News* entitled “ ‘A great necessity for change’ says former British MP”, 835-837

**Re-Dedication of the Legislative Assembly, 4-5****Speaker’s Announcements and Rulings:**

Apologies for short notice of start of Meeting/sitting, 398, 447  
 Christmas Greetings, 525  
 Closing Statements (9 March 2005), 881-882  
 Comment on content of Member’s debate, 615  
 Hansard request forms, 447  
 Hurricane Ivan Strategic Recovery Process, 343-344, 349-350  
 Members’ attention drawn to SO 35(3), 632  
 Members’ attention drawn to SO 35(4), 180  
 Members’ attention drawn to SO 63(2), 602  
 Misleading, 648, 650, 651  
 “Misleading” Points of Order, 667-668  
 Obituary/Condolences:  
     Ebanks, Mr. Craddock, 239  
     McLean, Mr. Hector O. N., former Speaker of the House of Representatives in Trinidad, 592  
 Personal apologies for absence, 579-580  
 Quorum, 553, 739  
 Recalling Dissolved Assembly in case of Emergency, section 47A of the Constitution, 862  
 Renovation works at Legislative Assembly, 2-3  
 Ruling on Points of Order, 598, 633, 634, 650, 651  
 Tedious repetition, 635

**Statements by Members/Ministers of the Government:**Bodden, Hon. Roy:

Status Report on Education as at February 2005, 744-751

Bush, Hon. W. McKeeva:

Draft Bill—Reporting of Savings Income information (European Union) Bill 2005, 690-691

European Union Savings Directive, 684-690

Hurricane Ivan, 346-347

Letter from FCO to all Overseas Territories dealing with the Stages for Independence and *Caymanian Compass* Report, 683-684

Letters of Support, 398-399

Letters of Support and Verbal Assistance from Various Countries, 350-352

MC Restoration Contract, 506-510

Policy Paper – Protecting, Enhancing and Promoting the Cayman Islands ‘A Cayman Islands Constitution for the future’, 283-288; Short Questions thereon, 288-290

Port Authority of the Cayman Islands—Container loads following Hurricane Ivan, 668-670

Postponement of 2004 General Elections until 17 May 2005, 453

Purchase of a Crane for the Port Authority in GT, Grand Cayman, 252-254

Report of the Proceedings of the Sixth Overseas Territories Council 21-22 September 2004, 684

Update on the National Hurricane Recovery, 439-445

Waiving of Loan and Mortgage Repayments until January 2005, 352

Jefferson, Hon. Kenneth

Statement on “Exceptional Circumstances” as a Result of Hurricane Ivan, 670-671

Paper on the Departure from the Principles of Responsible Financial Management, 671-672

McField, Dr. the Hon. Frank S.:

Strategies and Methods to Enhance Positive Social Change and Address Negative Social Factors, 140-147

Tibbetts, Hon. D. Kurt:

Hurricane Ivan, 347-348

**Throne Speech:** (*See also: Debate on Throne Speech*), 5-16

**Tibbetts, Hon. D. Kurt:**

Airports Authority (A) Bill, 2004, 493-494

Amendment to section 18 (2) of the Cayman Islands Constitution Order 1982 (GM 2/02), 129

Amendment to the Elections Law (PMM 4/04), 325-327

Building Code (A) Regulations, 2005 (GM 8/04), 719

Christmas Greetings, 524

Closing Statements (made by Members 9 March 2005), 877-879

Debate on the Throne Speech, 18-30

Development and Planning (A)(No. 2) Regulations 2005 (GM 12/04), 847-848

Elections (A) Bill, 2004, 165, 186-188, 220-224

Government Guarantee in favour of the Cayman Islands Civil Service Association Co-operative Credit Union Limited (GM 10/04), 722

Governor (Vesting of Lands) (A) Bill, 2005, 843-844

Health Insurance (A) Bill, 2005, 766-769

Health Practice (A) (No. 2) Bill, 2004, 401

Health Services Authority (A) Bill, 2004, 511-512

Hurricane Ivan Strategic Recovery Process, 385-388

Hurricane Ivan, 347-348

Maritime Authority of the Cayman Islands Bill, 2005, 546-550

National Roads Authority (A) Bill, 2004, 90-91

Parliamentary Pension Bill, 2004, 305-310



Penal Code (A) Bill, 2004, 161-162  
 Policy Paper – Protecting, Enhancing and Promoting the Cayman Islands ‘A Cayman Islands Constitution for the future’ (*Short Questions re: statement thereon*), 288  
 Price Gouging Control (Emergency Circumstances) Bill, 2004, 455-461  
 Public Management and Finance (A) (No. 2) Bill, 2004, 404-408  
 Public Management and Finance Law (2003 Revision) (GM 6/04), 483-485  
 Public Service Pensions (A) Bill, 2004, 302-303  
 Review and Amendment of Maintenance and Affiliation Legislation (PMM 5/04), 331  
 Standarisisation of Consumer Loan Documentation (PMM 3/04), 293-295  
 Strata Titles Registration (A) Bill, 2005, 752  
 Supplementary Appropriation (July 2004 to June 2005) Bill, 2005, 583, 584-587  
 Tax Information Authority Bill, 2005, 539-540  
 Traffic (A) Bill, 2005, 698-701

MEETING	NUMBER OF SITTINGS	DATES	PAGES IN OFFICIAL REPORT	VOLUME
1 <sup>st</sup>	14	2–29 July 2004	1–342	1
2 <sup>nd</sup>	3	20–23 September 2004	343-396	1
3 <sup>rd</sup>	4	27 October –1 November 2004	397-498	1
4 <sup>th</sup>	1	13 December 2004	499-526	1
5 <sup>th</sup>	12	10 February–9 March 2005	527-884	1

**OFFICIAL HANSARD REPORT**  
**STATE OPENING AND FIRST MEETING**  
**FRIDAY**  
**2 JULY 2004**  
**9.30 AM**  
*First Sitting*

**The Speaker:** I invite the Rev. Joseph Crawford to lead us in Prayers.

**PRAYERS**

**Rev. Joseph Crawford:** Shall 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 Cabinet 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 9.34 am**

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

**READING OF PROCLAMATION NO. 3**  
**SUMMONING THE NEW SESSION OF**  
**THE LEGISLATIVE ASSEMBLY**

**The Clerk:** Proclamation No. 3 of 2004 by His Excellency Bruce H. Dinwiddy, Companion of the Most Distinguished Order of St. Michael and St. George, 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, Bruce H. Dinwiddy, CMG, 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, in the Island of Grand Cayman beginning at 10:00 am on Friday, the 2<sup>nd</sup> day of July, 2004.**

**"GIVEN UNDER MY HAND AND THE PUBLIC SEAL OF THE CAYMAN ISLANDS AT GEORGETOWN IN THE ISLAND OF GRAND CAYMAN, ON THIS TWENTY-NINTH DAY OF JUNE IN THE YEAR OF OUR LORD TWO THOUSAND AND FOUR IN THE FIFTY-THIRD YEAR OF THE REIGN OF HER MAJESTY QUEEN ELIZABETH II."**

**MOTION TO SUSPEND PROCEEDINGS**

**The Speaker:** I now call on the Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker.

I do move that this Honourable House 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:** The question is that this 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. 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 the arrival of His Excellency the Governor and reassemble**

on his arrival to receive a gracious Message from the Throne.

**Proceedings suspended**

**Proceedings resumed**

## ARRIVAL OF HIS EXCELLENCY THE GOVERNOR

*At 10.13 am the Aide-de-Camp gave three knocks on the door.*

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

### Procession

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

**The Speaker:** Please be seated.

## MESSAGE BY THE HONOURABLE SPEAKER

**The Speaker:** Your Excellency the Governor and Mrs. Dinwiddy, Honourable Madam Justice Levers, Honourable Leader of Government Business and Mrs. Bush, Honourable Official Members and Ministers of the Cabinet and spouses, Honourable Leader of the Opposition and Mrs. Tibbetts, Honourable National Hero, Mrs. Sybil McLaughlin, Honourable Members of the Legislative Assembly, Associate Members of the Cayman Islands Branch of the Commonwealth Parliamentary Association, Distinguished guests, ladies and gentlemen:

This Legislative Assembly Building was officially open and dedicated to the people of the Cayman Islands in July 1972. Since that time, some 32 years hence, there have been no major renovations carried out on this building until 2003. It was therefore not surprising that the renovation work, which commenced in February 2003, has taken some 17 months to complete, at a cost of approximately \$2.3 million. The initial survey and estimates could not possibly have envisaged the amount of deterioration discovered once the renovation works commenced. The increased cost is therefore commensurate with the amount of work required to properly renovate this 32-year-old building.

Despite certain difficulties encountered along the way, with the renovation works, I am sure that you will all agree that these Legislative accommodations have been much improved. We now have a facility of

which we can all be justly proud, though there are a number of items still remaining to be completed by the contractor, McAlpine.

These prestigious accommodations are in keeping with standards expected in a jurisdiction that boasts the high level of sophistication that exists in these Islands. It was with this most uppermost in mind that I recently spoke in the House, and subsequently wrote to His Excellency the Governor, of the need of the Legislative Arm of the Government to be made an autonomous body. More importantly, such autonomy properly recognises the constitutional division of powers between the Executive, Judicial and Legislative branches of Government. Further, when the question of Legislative autonomy was first raised by me in this Honourable House, it was quite clear to me that most, if not all, of the Honourable Members present (including Honourable Members of the Opposition) were supportive of such autonomy. It is therefore my view that a restructured Legislative Department would run along similar lines as the Judicial Department, thus clearly defining the separation of the Legislative and Executive Arms of Government.

It is my understanding that the original structure was built with certain materials which were symbolic of our past and present constitutional connections to Jamaica and the United Kingdom. For example, the beautiful mahogany strips that adorned the wall behind the Speaker's Chair, came from Jamaica and the slate that covers the interior walls, came from the United Kingdom. Unfortunately, the Jamaica mahogany strips were not secured and thus had to be replaced with the beautiful mahogany panelling that forms the backdrop to the new Speaker's Chair.

We owe a debt of gratitude to the Honourable Leader of Government Business, Hon. W. McKeever Bush, OBE, JP, for his kind donation of the new Speaker's Chair, which I will shortly invite him to present to this Honourable House. There is no doubt that its splendour and magnificence will add to the dignity of these hallowed chambers. May I also thank him for his intervention in securing the necessary funding from Government to provide the beautiful mahogany finish on the wall.

Before calling on the Honourable Leader of Government Business to make his presentation of the new Speaker's Chair and on Rev. Joseph Crawford to offer the re-dedication prayer for this newly renovated building, I would take this opportunity to thank all those individuals who were directly or indirectly involved with the renovation works. For fear of omitting anyone, I have decided not to do individual recognitions. I would, however, be remiss if I fail to appreciate and recognise our hardworking Clerk and her dedicated staff, the Chief Secretary, the Deputy Chief Secretary and the project managers for their invaluable contributions and the contractor McAlpine. Also, my thanks to Mr. Horace Ingram for his work on the mahogany panelling and the new Speaker's Chair. His dedication to completing this work within such a

short time frame is highly commendable and I wish to thank him most sincerely.

When the Legislative Assembly was forced to find temporary accommodations at the commencement of the renovation works in February 2003, the Honourable Chief Justice came to our rescue by allowing us the use of Court 5, where we remained until the end of March 2004. We then moved across to Cayman Corporate Centre, on Hospital Road, where we shared accommodations at the offices of the Cayman Islands Investment Bureau. May I, once again, thank the Honourable Chief Justice for allowing us the use of Court 5, the Honourable Leader of Government Business for allowing us to share the offices of the Investment Bureau and the Honourable Financial Secretary for making available to us other space at the Corporate Centre to accommodate our staff over the past few months. My grateful thanks are also extended to Mr. Peter Young, Managing Partner of Rothstein Kass & Company for allowing the departmental staff and myself the use of his boardroom on Monday mornings to conduct our weekly devotions. Of course, my heartfelt thanks to all Honourable Members and our staff for so graciously coping with what, at times, was less-than-ideal working conditions. It is certainly good to be back home.

Your Excellency, ladies and gentlemen, it now gives me much pleasure to call on the Honourable Leader of Government Business to make his presentation, followed with the re-dedication prayer by Rev. Crawford.

Thank you.

## PRESENTATION OF SPEAKER'S CHAIR

**Hon. W. McKeeva Bush:** Thank you very much.

Mr. Speaker and Honourable Members, it is a privilege for me to stand here today as Father of the House, that is, the longest serving Member present. It is an honour to serve the people of these Islands. In particular, I pay tribute to the people of West Bay, my constituency, but indeed, all the people of these Islands who it has been my pleasure to serve these past 20 years.

Today, my family and I donate this magnificent Speaker's Chair and its accompanying pieces. We give it, not as a gift to the Legislative Assembly or its Members, but as a gift to the Speaker and to all the people of the Cayman Islands as a mark of thanks for the trust they have vested in me over the years.

This trust has not been taken lightly, and with it comes great responsibility. Throughout my time as a Member of this Honourable House, I have striven to promote the interests of the Cayman Islands and its people. I have also done my utmost to protect and promote the democratic values which we hold dear.

The Cayman Islands, as you know, is a country with a long and proud tradition of democracy, dating back to 1831. I have worked, as others have

done, to uphold and promote the Westminster system of Government in the Cayman Islands and with it democratic choice, freedom of expression and civil liberties.

Mr. Speaker, the Father of another House, Sir Winston Churchill, once said, "**It has been said that democracy is the worst form of government except all the others that have been tried.**" No system of government is perfect and it is the responsibility of all of us to continue to work and make our democratic system open, accountable and responsive to the people. We here must always be vigilant in our defence of our democratic system and civil liberties.

During my tenure, I have endeavoured to establish and entrench more freedoms for the people of the Cayman Islands. Most recently, our Government has made preparations to establish the office of a Complaints Commissioner and appointed an officer to investigate cases of alleged maladministration. We can today announce that a budget has been ring-fenced for this important position and our first Complaints Commissioner has been chosen by His Excellency the Governor.

During my time as Leader of Government Business, I have opened up new opportunities for our people to contribute to our political discourse and comment on our Government's policies. This has meant being more transparent and open than we have ever been before. Inevitably, such openness can and has encouraged criticism of Government, Ministers and, in particular, of the party in power, but that is the nature of a mature democracy and we accept it as such.

We are not, and should not be, afraid of responsible debate and constructive engagement. I am proud to say that we now have the most open, civil society ever enjoyed in the Cayman Islands, although I must add that the open radio shows are still not as educational or, perhaps, even impartial as they should be.

The Mahogany Speaker's Chair, it is my honour to present this to the people of the Cayman Islands today. It has been built here in our country by a Jamaican master craftsman, Mr. Ingram, and is a testament to the quality craftwork and attention to detail that can be accomplished in these Islands, but more than that, it is a demonstration of the resourcefulness and aptitude of our people. If I should say so, it is a magnificent piece of workmanship and a tribute to our people, traditions and history; and while the mahogany that stood at the back of the wall was a gift and came from that country that we have been part of all of our life, although some people refuse to accept that, even our ancestors. Mine go way back to Westmorland and others I know to St. Elizabeth, when the Cayman Islands were annexed to Jamaica and the Cayman Islands were part and parcel of the Parish of Westmorland. While that mahogany is gone, the Speaker's Chair has been built by a Jamaican crafts-

man who learned and was taught the trade in Jamaica but lives here and is a part of us.

Mr. Speaker, we are entering an important stage in the development of our Islands. We have benefited, and will continue to benefit, from a rich and varied political, economic and cultural heritage. Political parties are now again in operation. It is a good system if its members are unified and allow it to work.

I now ask the Caymanian public to allow the system to work, to be a part of it and to help give it their best effort. Every Elected Member needs to work together.

This party system government has existed for hundreds of years in the United Kingdom, Canada and Bermuda, to name just a few. We in the Cayman Islands need constitutional modernisation. The party system is needed to work the modernised constitutional system. I have maintained over my political life that the Constitution, as has been proposed and that would be proposed, will not work with independence; it cannot and has not worked over time. One of the good things about the party system is that it allows all the people to be a part of a system that gives them the opportunity to affect decisions of the Government without waiting four years. That is the reason I keep asking the question, why independence?

We have worked long and hard in the past three years on Constitutional modernisation. I will soon put to the United Democratic Party, then to the House, our proposals which will be debated upon in the coming General Election, and hopefully put in place a modernised constitution, which will strengthen and safeguard our democracy. Among those safeguards are –

1. A bicameral system, that is a Legislative Assembly as we have now with a small senate where the country can benefit from the energy and experience of younger people and others;
2. An expanded Cabinet that will still include the Governor but not as Chairman, as the Chief Minister, whoever that will be, will take on that responsibility. It would include the Chief Secretary, the Financial Secretary and the Attorney General who will continue to be Members with the Attorney General retaining his vote and the others ex-officio only;
3. Including the protection of our financial and monetary systems, shipping, civil aviation, tourism and other key components of our economy;
4. Critically, immigration will remain under the control of the Cayman Islands Government;
5. It would offer financial sovereignty and protection against European expansion;
6. It gives us a new definition to His Excellency the Governor's authority and gives the Islands more say in foreign affairs and international agreements which affect us.

Some say the Bermuda model is where we should go, but I think that what I am outlining is where we should go.

Our relationship with the United Kingdom has been the bedrock on which our development has been built. However, more than at any other stage in our history, our destiny is now in our own hands. We must trust our people to shape this destiny on the way to being full craftsmen of our own faith.

On the evidence of our Islands today, I do not doubt that our future with challenges will be prosperous indeed. The economy is now strong and growing stronger. Our own people are investing in the country, and all of our people are enjoying what is beginning to be a good time again for the people of these Islands, and with the guardianship of Almighty God to steer the good ship Cayman Islands, I know that these Islands and its people will prevail. I find that this is a good time to be here, in this place, in these Islands, among our people. For that, we will work for our people.

Mr. Speaker, you are the fourth Speaker, and I thank you for the excellence you have put into that post. I agree with you as we have agreed that it is time that the work of the legislature be looked at in a different way and perhaps become more independent from central government. That is, perhaps, another debate.

My family and I are privileged to present the Speaker's Chair to the people of these Islands.

Thank you very much.

## RE-DEDICATION OF THE LEGISLATIVE ASSEMBLY

### Prayer of Re-Dedication

**Rev. Joseph Crawford:** Honourable Members and friends, may I invite us to stand for the Prayer of Re-dedication.

Almighty and Eternal God, Sovereign Lord over all your creation, who's loving kindness never fails, who rules both in heaven and in earth, graciously vouchsafe your presence as our prayers are offered for the re-dedication of the Legislative Assembly Building, this building that has stood for over three decades as a bastion of hope for all; this building where laws have been formulated and enacted; this building which has served as a cradle for the democratic process. This building that has supported the exercise of free speech and the cross-fertilisation of ideas. This building that has served as an impartial arbitrator in the defence of the civic, social, political and religious interest of the peoples of these Islands.

Sovereign Lord, we would this day re-dedicate not only this building but also the dreams and aspirations of your servants, whose collective wisdom has been the driving force behind this institution. We re-dedicate this day the renewed efforts of His Excellency the Governor, Members of the Cabinet and Members of the Legislative Assembly. May there be a doubling of the resolve to serve with distinction and true nobility the peoples of these Islands.

In the name of Almighty God we re-dedicate this building and all who labour within its bounds, through Jesus Christ our Lord. Amen.

## READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

### Apologies

**The Speaker:** Please be seated.

Before calling on His Excellency the Governor, I wish to extend apologies for the absence of the Member of North Side and the Third Elected Member for Bodden Town.

### Invitation by the Speaker

**The Speaker:** It now gives me much pleasure, Your Excellency, to call on you to deliver the Throne Speech.

## THE SPEECH FROM THE THRONE

### INTRODUCTION

**His Excellency the Governor:** Honourable Speaker, Honourable Members of the Legislative Assembly, it is a great honour for me to present to you my second Throne Speech, in this finely refurbished Chamber.

I feel that we have come a long way since my first Throne Speech, presented in Cayman Brac nearly 16 months ago. We have successfully managed, even if not totally eliminated a tension which had arisen shortly before that time in Cayman's relations with the United Kingdom. We have achieved this, despite the problems posed for Cayman's financial services industry by the European Union Savings Directive and the failure to bring to a conclusion the negotiations with the United Kingdom on a new Constitution.

I remain conscious that a key part of my role as Governor is to provide a bridge between George Town and London. That bridge and its supporting structures were largely designed many years ago, some would say in another age. Some changes are long overdue. And I strongly believe that is in our joint interest to continue to work for Constitutional reform, even if there are different perceptions about how far it should go. I hope that opportunity will be taken during the forthcoming election campaign to take forward debate in Cayman on this, and to ascertain more clearly what proposals the electorate would like the new government to make to London next year.

Meanwhile, this occasion gives me the opportunity to pledge my continuing commitment to work with you all, with the public service, with the private sector and the wider community, to the best of my

ability and within the parameters prescribed by the Constitution, for the benefit of our Islands and our people.

To this end, I am glad that public sector reform has been further advanced since I first addressed this Honourable House, after my swearing-in, in May 2002. The Public Finance and Management Law poses some big challenges, and I commend the many people, including Honourable Ministers and other Members of this Assembly, who have striven so hard to meet them. I believe there will be substantial benefits, in terms of improved public service and better value for the money voted by this House for public expenditure.

I hope that the reforms associated with the Financial Management Initiative will soon be complemented by reform of personnel management in the civil service, through the passage in this House of a new Public Service Law.

I meanwhile take this opportunity to pay tribute to the Honourable James Ryan, CBE, Chief Secretary, who will be retiring at the end of October after ten distinguished years in that office. We wish Mr Ryan a long, healthy and happy retirement. I announced earlier, in this year, that he will be succeeded as Chief Secretary by the Honourable George McCarthy, OBE, whose place as Financial Secretary will be taken by Mr Ken Jefferson. These two appointments will take effect on 1 November.

I turn now to report on the activities and plans of various Ministries, portfolios and Departments, starting with a new Department, the Cabinet Office, which is already strengthening our machinery of government.

## CABINET OFFICE

The Cabinet Office which in July 2003 replaced the office of Executive Council is guiding coherent and informed policy-making across the whole range of government activity by coordinating the development and implementation of policy between Ministries and Portfolios and across the wider government domain.

## JUDICIARY

The main objective for the Judicial Department with the support of the Government is to expand the Court premises. The Courthouse was built in 1972 and is now grossly inadequate for the judiciary's needs. Government property at Half-way-Pond has been identified as the site for the new Summary Courts Building.

The Judicial Administration, the Attorney General's Department, the Administration of the Legislative Assembly and the Government Information Services Department will make a collaborative effort

to establish a Cayman Islands Judicial and Legal Services Website in 2004.

## **PORTFOLIO OF INTERNAL AND EXTERNAL AFFAIRS**

The Elections Amendment Bill 2004 will be presented to the House during this meeting. The amendments will introduce much needed changes to the law.

### **PERSONNEL**

The Personnel Department is looking forward to the enactment of the Public Service Bill and will develop Regulations to complement this.

### **GOVERNMENT INFORMATION SERVICES**

The overall goal for 2004/05 for the Government Information Services will be to continue strengthening the quality of its services.

Major focus will continue on identification and training of civil servants as departmental press officers, while strengthening media-relations skills among top civil servants.

GIS will also be refining its internal systems with regard to its revenue earning capacity. Introductory efforts in 2004/05 will include offering chargeable training workshops to the private sector in areas such as media relations, speechwriting and public speaking.

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

The Police Department will commence this financial year with a full establishment of officers. To complement our high-quality local personnel, experienced officers were recently recruited from the United Kingdom, the Caribbean and Canada. Additionally, the Police and the many Security Firms in the Islands are working on an accreditation scheme to include security guards as an extension to the RCIPS. They will also acquire a mobile Police Station to provide a police presence where required.

The Police are taking forward these initiatives with enthusiasm. I share the Commissioner's vision of a more professional, effective service enjoying the full confidence of the public, with a well resourced work force, well trained and well equipped, making the best use of technology and enjoying strong leadership and effective management, all aimed at reducing crime and the fear of crime and improving the quality of life in our community.

They are also considering ways of strengthening our capability for coastal surveillance with the possible purchase of new equipment for drug interdiction and search and rescue.

## **LEGISLATIVE DEPARTMENT**

There is another challenging year ahead for the Parliament and its officers. The Department has recently returned to its newly renovated building though certain items still require completion. The building was shut down in February 2003 for major renovations.

Under the auspices of the Commonwealth Parliamentary Association, arrangements have been made to hold a Post-Election Seminar for all sitting Members of the Parliament in February 2005.

Also the Legislative Assembly's website is currently being designed, in collaboration with the Judicial and Legal Departments. It is planned, through a link to the Parliamentary website, to make laws available online.

### **IMMIGRATION**

A major focus of the Immigration Department in 2004 will be the introduction and application of the new Immigration Law and regulations.

The Department will also focus its enforcement efforts on detection of undesirable persons through the use of intelligence and enhanced information systems developed "in house".

At the airport, the Department will extend expedited immigration clearance to frequent visitors, including those who own homes in the Islands, through the Caypass system successfully launched in late 2002.

## **THE PORTFOLIO OF LEGAL AFFAIRS**

The Portfolio of Legal Affairs will continue its efforts to enhance Cayman's ability to participate in the global fight against money laundering and the financing of terrorism. All our anti-money laundering legislation will be consolidated to provide for a single regime.

The portfolio in consultation with the Judiciary is committed to ensuring that the criminal justice system continues to work efficiently and fairly and in the course of the year will introduce legislation to further this aim. It will include amendments to the Penal Code and new legislation to provide for alternative sentencing in the form of community service orders, conditional sentences, and measures to deal with certain drug offenders.

The Legislative Drafting Department expects an extremely busy year, and will be focusing on legislation in Social, Education, Financial, International and other fields.

The Law School will reinstate a redesigned Professional Practice Course, which will be more skills based and supported by locally produced course manuals.

## **THE PORTFOLIO OF FINANCE AND ECONOMICS**

The implementation of a major public relations campaign to heighten awareness within the global financial services market place of the significance of the Cayman Islands as an international financial centre and to demonstrate the relevance of its contribution to commerce within the global financial community will continue in 2004/2005.

Also, the Portfolio will continue to participate in influencing existing and emerging international standards being promulgated by standard setting bodies to ensure their consistency with practices deemed appropriate in fostering the continuing growth and development of our financial industry.

In relation to fiscal affairs, one of the key undertakings of the Portfolio during the fiscal year 2004/2005 will be to manage the issues which may develop as a result of accounting for the activities of Government in accordance with the Public Management and Finance Law.

Two of the three phases of the Financial Management Initiative have been completed. The third and final phase is the delegation of greater input decision-making authority to Chief Officers. This is scheduled to take effect from 1 July 2005.

Other notable undertakings for the Portfolio during 2004/2005 include the establishment of a Revenue Unit. Its initial focus will be to enhance revenue collection from existing sources. In the medium to longer term, the Unit will examine possible new revenue sources for Government as well as develop, in conjunction with other Government agencies, revenue behaviour models.

### **CAYMAN ISLANDS MONETARY AUTHORITY**

The Authority intends to nurture the continued growth of the financial services industry, and to enhance legislation to ensure that it continues to meet international regulatory standards.

The outlook for business activity during the upcoming fiscal year remains good, with signs of significant growth, particularly in the insurance, mutual funds and fiduciary services sectors.

On the international front, the Authority will address issues arising from the International Monetary Fund report to ensure that the jurisdiction continues to be supervised in accordance with international standards.

### **GENERAL REGISTRY**

Prospects for the registration of new companies in the fiscal year 2004/2005 look bright.

The web-based Cayman Online Registry Information System that was launched in September 2003 will receive further enhancements. An exercise

to update the Registry's electronic database with companies' officers and directors has just begun.

### **SHIPPING REGISTRY**

The Shipping Registry will expand its representative office in Greece to include on-site survey capability. It is exploring the possibility of opening offices in Germany and the Far East.

### **CAYMAN ISLANDS STOCK EXCHANGE**

As of 4<sup>th</sup> March 2004, the Cayman Islands Stock Exchange was granted "recognised stock exchange" status by the UK Inland Revenue. This will increase the number of companies wishing to list on the Exchange. The Exchange will continue in 2004/2005 to pursue further recognitions from overseas regulators.

### **THE SECRETARIAT**

The Secretariat will continue its monitoring, analysis and reporting functions with respect to opportunities and challenges for the financial services industry, especially in the area of international initiatives, including those originating from the OECD and the EU.

### **BUDGET AND MANAGEMENT UNIT**

The Budget and Management Unit will work to enhance the capability of the Civil Service in Strategic Management, Financial Management, Personnel Management and Production Management.

The Unit also plans to assist in the preparation of legislation and regulations relating to public authority reform to ensure consistency with the Public Management and Finance Law, the Financial Management Initiative and Personnel Reform.

### **INTERNAL AUDIT UNIT**

The Internal Audit Unit will focus on revenue systems within government agencies, statutory authorities and government-owned companies in order to help strengthen internal controls and improve the collection of revenue.

### **TREASURY**

The commencement of accrual accounting took effect from 1 July, with the Government's financial transactions now recorded and reported on that basis. The Entire Public Sector Reporting Unit is now fully staffed to deal with the new challenges of accrual accounting.



The processes of the Treasury's Cash Management Unit are being redefined and enhanced to provide for the additional requirements under the Financial Management Initiative in forecasting and managing Government's working capital.

### **CUSTOMS**

The upgrading of the Department's automation project continues, the primary objective being to create an interface through which traders can speed up the process of declaration and clearance of goods whilst enabling the Department to produce new reports which provide relevant statistical information for all stakeholders.

The Department is also preparing to host the 27<sup>th</sup> Annual Caribbean Customs Law Enforcement Council (CCLEC) Conference during November 2004.

### **ECONOMICS AND STATISTICS OFFICE**

The Economics and Statistics Office will concentrate on strengthening the collection and dissemination of statistics that matter and research that counts. The office will also provide Cabinet with regular updates on the domestic and international economic climate.

## **MINISTRY OF TOURISM, ENVIRONMENT, DEVELOPMENT AND COMMERCE**

### **CAYMAN AIRWAYS**

Although it was a challenging year for the airline industry, the results for 2003 – 2004 are a strong endorsement of Cayman Airways' strategy: The airline carried nearly 31,000 more international passengers than in the previous year.

Cayman Airways is committed to further increasing air arrivals by maintaining low fares and adding flights to existing and new destinations. In 2004 – 2005, the airline will introduce a second Boeing 737-300 into the fleet. The 737-300 aircraft can carry more passengers and more baggage, is more fuel efficient, and is able to fly to more distant locations than the 737-200 aircraft. The new aircraft will be used to improve customer service and will allow the airline to launch direct scheduled service to Boston in October 2004. The addition of direct service to this major US gateway is expected to be a major boost for tourism in the Cayman Islands.

### **TOURISM ATTRACTION BOARD**

The Tourism Attraction Board will develop policies for its attractions that will enable them to become more competitive. It will develop long term stra-

tegic plans and new marketing strategies, and seek to improve and enhance its attraction products. The board also intends to seek new partnerships with cruise lines and tour operators and privately owned attractions, in order to increase the number of visitors to its sites.

The Tourism Attraction Board has been designated to assume responsibility for the management of a new craft market, which will be located in George Town. This is expected to be completed early in the financial year.

### **PEDRO ST. JAMES**

Pedro St. James "Castle" has added to its historical and cultural appeal with the addition of two new exhibits entitled "How Cayman Was" and a "Cayman Stamp Collection." Both exhibits are on permanent display in the Resource Centre Room.

In the new financial year, Pedro Castle will strive to increase its portfolio of weddings and special events.

### **BOTANIC PARK**

With the extension of the Water Authority's services to the Eastern Districts, the Botanic Park will soon have piped water delivered to its property. This will provide the Park with a dependable supply of water and reduce operating costs.

There are plans for a new Palm Garden by the end of 2004. Funding has been received from an anonymous donor to replace signs throughout the Park and this exercise should be completed early in 2005.

### **PIRATES WEEK OFFICE**

Popular support for the Pirates Week Festival continues to grow. As no admission fees are charged for the events downtown, the festival critically depends on corporate support, in cash and kind. Efforts are underway to secure a major sponsor for the Festival. A new feature, offering humorous presentations, will be introduced in the Float Parade event. Apart from providing an outlet for individual creativity, these smaller presentations will also give a promotion opportunity to small businesses.

### **HOSPITALITY SERVICES TRAINING CENTRE**

The John Silvers Inn in West Bay has been purchased by Government and will be developed into a Hospitality Services Training Centre.

The Ministry is working with the New England Institute of Technology to develop a programme to progress this project which will facilitate greater Caymanian involvement in the tourism industry. It is expected that the centre will focus on the vocational disciplines of the industry.

### **CAYMAN ISLANDS DEVELOPMENT BANK**

The main thrust in the first quarter of 2004/05 will be to raise new funds in order to meet the growing demand for development financing. The CIDB is expected to finalise new funding arrangements for on lending to its target sectors.

While the CIDB will continue to offer development financing for projects in the housing sector and for human resource development, it will concentrate primarily on the advancement of the small business sector by offering creative and relevant financial products as well as actively promoting the spirit of entrepreneurship within the community.

### **CAYMAN ISLANDS INVESTMENT BUREAU**

In the new world economy, the importance of cooperation and partnerships with other organisations is becoming paramount to the success of inward investment. The Investment Bureau will continue to set policies and implement programmes that will enhance Cayman's comparative economic advantages as a domicile for business. Included in the Bureau's promotional strategy will be the launch of a website, the production of new collateral materials and a full schedule of financial marketing conferences.

A highlight of this year's programme will be the official opening of the Investment Bureau's office in Hong Kong.

### **DEPARTMENT OF ENVIRONMENT**

In 2004-2005, 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. Among other initiatives, in collaboration with the National Trust, the Department will compile existing and new information on native flora to generate a comprehensive "red list" for those species in need of urgent conservation planning.

The Department will continue to assist the Ministry of Environment with the acquisition of land and implementation of plans for the proposed Barkers National Park.

### **PORT AUTHORITY OF THE CAYMAN ISLANDS**

The successful implementation of new mandatory International Security Procedures by 1 July 2004 has recently dominated the attention of the Port Authority of the Cayman Islands.

The capital development work on the Royal Watler Cruise Terminal will continue this year with the marine works scheduled for completion in October 2004 and the upland works in December 2004.

The land acquisition for the West Bay Cruise facility has commenced and it is expected that ground breaking will take place in August 2004.

### **VEHICLE LICENSING AND TRANSPORT UNIT**

Government has acquired property in Bodden Town next to the Civic Centre and intends to establish a sub-unit on this site to further decentralise its services to the Eastern Districts.

The Unit's plan for 2004/2005 includes the further development and strengthening of the Traffic Law and related legislation. This includes legislation for people who are physically challenged and enforcement in relation to their designated parking spaces.

The unit will also play a central role in the development of plans for public transportation in line with Vision 2008 and the more recently adopted National Tourism Management Policy.

### **CAYMAN ISLANDS FIRE SERVICES**

In order to maintain the level of competence and efficiency required to meet international obligations, particularly with respect to the Airport Rescue and Firefighting section, nine officers will attend special courses for certification and re-certification at a recognised institution during the 2004-05 financial year.

An order has been placed for a new airport crash tender for Grand Cayman, to be delivered in mid 2004. This vehicle will upgrade the level of fire protection and ensure compliance with the International Civil Aviation Organisation's Requirements due to come into effect on 1<sup>st</sup> January 2005.

The Department is also pursuing the purchase of a new 135 ft ladder truck to cater for the higher-rise buildings now being constructed. Plans are in place for a new fire station in Cayman Brac to enhance existing fire services on that Island.

A Liquefied Petroleum Gas (LPG) bulk storage facility has been installed by Home Gas Ltd in Cayman Brac. The department is pleased that the proprietors are working in tandem with the department to ensure that the installation of the facility complies with all aspects of the adopted National Fire Protection Association Standards. There is also an ongoing programme between Home Gas Ltd. and the department to identify and upgrade premises not in compliance, including small private dwellings, with the growing problem of the improper use and storage of small LPG cylinders.

### **CRISIS READINESS**

We are all aware of the growing number of world crises. Our economy and reputation in the global community, and our relationships with key

stakeholders are directly impacted by these events and how we prepare to respond to them.

The new reality of risk requires a new standard of leadership on our part. We must bring to these challenges a vision; a new approach and shared commitment that will raise the bar of excellence for government as well as businesses.

Building on our long established hurricane preparedness procedures, the Government will this year inaugurate "a Cayman Islands Crisis Readiness Programme." This will enable public and private organizations to better prevent, prepare for, respond to and recover from all kinds of potential threats including:

- Financial services threats (e.g. imposed external legislation or international accounting scandals)
- Industrial accidents (e.g. oil spills)
- Technology failures (e.g. damaging power outage)
- Public health threats (e.g. SARS)
- Terrorism (e.g. bombings)

The Government is considering entering into an agreement with the Marsh McLennan group of companies who will work closely with the Cayman Islands' government and business community to develop and implement this programme.

## **MINISTRY OF HEALTH SERVICES, AGRICULTURE, AVIATION AND WORKS**

During the 2004-05 Budget period, the Ministry of Health Services, Agriculture, Aviation and Works will continue to enhance its strategic policy advice capability. Steps will be taken to refine internal processes to ensure the Ministry is able to effectively meet its goals and manage any necessary changes.

### **HEALTH**

The Strategic Plan for Health that was successfully developed along with action plans during this past year will be implemented by partners within the health service industry. Maintaining rates of preventable diseases within the World Health Organisation standards will remain a priority. Focus will be on coordinating health promotion activities to emphasise the positive aspects of life-style that can reduce or prevent, for example, the onset of cardiovascular disease, diabetes, hypertension and some forms of cancer. The National Strategic Plan for HIV/AIDS will be incorporated into the National Health Plan.

### **HEALTH INSURANCE COMMISSION**

The establishment of an office and the appointment of two inspectors along with the recent amendments to the Health Insurance Law and Regulations, enable the Health Insurance Commission to carry out its remit of monitoring and regulating the in-

urance industry. A comprehensive public education programme will be undertaken.

### **HEALTH SERVICES AUTHORITY**

The following three key strategic goals and objectives for the 2004/5 financial year are part of the Strategic Plan, which has been developed for the Health Services Authority:

- Ensure the provision of patient-focused care that complies with internationally accepted standards;
- Improve the cost effectiveness of the Health Services Authority and the services it provides;
- Create a stable, motivated and empowered workforce.

The recent opening of our Women's Health Centre (the first in the region) and a purpose built In-patient Mental Health facility allows for enhanced services to these priority groups of customers. The services on Cayman Brac and Little Cayman have been enhanced by the recent recruitment of a full time Surgeon and Obstetrician/Gynaecologist. The Little Cayman Health Centre, which has recently been relocated to a new site will also be offering expanded Medical and Dental services.

A significant accomplishment that will assist the Authority in achieving its goals is the capturing of data, which started since the implementation of a new integrated health information system (CERNER) on 28, October 2003. The Cayman Islands National Insurance Company will also be receiving claims electronically from the Health Services Authority. In the next year reliable statistics and trends will be available.

### **CAYMAN ISLANDS NATIONAL INSURANCE COMPANY LTD (CINICO)**

CINICO supports government's goal of ensuring all residents have access to affordable health insurance coverage. The Company (established as the most effective governance structure) manages government's healthcare liability and offers an insurance product to persons unable to afford or access coverage in the private sector.

### **AGRICULTURE**

The Ministry and the Department of Agriculture will engage in the development of a national agricultural plan that will refocus and realign activities in keeping with recent 21<sup>st</sup> century developments.

### **CIVIL AVIATION AND AIRPORTS AUTHORITY**

The Airports Authority Law, 2004 and the new Civil Aviation Authority Law, 2004 came into effect on

15<sup>th</sup> June 2004 effectively segregating the provision of air transport facilities and the regulation of their use. In keeping with the policy directives of the Cayman Islands Government, the construction of a new airport in Little Cayman will begin this year.

### **RADIO CAYMAN**

It is expected that later this year, Radio Cayman will become a Statutory Authority. Work on this has already commenced.

### **NATIONAL ROADS AUTHORITY**

The National Roads Authority Law, 2004 was passed in June. The Roads Division of the Public Works Department becomes the basic resource of the new authority. The Authority is charged with the responsibility for ensuring the effective and efficient management of all public roads including planning, design, construction and maintenance.

### **PUBLIC WORKS DEPARTMENT**

Public Works will continue to provide project management, architectural, quality surveying and construction management services to government departments and authorities. Following the major refurbishment of the Legislative Assembly, the main capital building projects this year include the new Prospect Primary School and the completion of the refurbishment and expansion of the West Bay Post Office.

The Buildings Division of the Public Works Department is currently undertaking several other projects for 2004. These projects include the Island's first Abattoir, the Savannah Post Office, the conversion of the West Bay Town Hall to a District Library, the extension to the Savannah Primary School, hurricane upgrades to Fire Stations at Cayman Brac, Frank Sound and West Bay and finally, generator upgrades to three hurricane shelters.

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

The Ministry considers Education and Human Resources to be the building blocks to mould, develop and nurture the people of the Cayman Islands. In the same vein, Culture is the central interface, the tool to inform the life choices of our people, and the mirror for self-reflection.

During the 2004/05 financial year, the Ministry will introduce key initiatives in all of its three core areas of responsibility. At the same time it will strengthen and consolidate initiatives already in hand. This reflects the commitment of the Ministry, and its various departments, sections and units, to help realise the goals of Vision 2008, and the promise of:

-a world class education system; and  
-a multi-literate, productive, adaptable workforce and community, which will seize opportunities for life-long learning and demonstrate pride in self and country and "a job well done".

### **EDUCATION**

#### **School Improvement**

In 2004, the Ministry will also build on its work in school improvement, with the establishment or continued implementation of the following key initiatives:

1. The introduction of a comprehensive and modern Education and Training Law. Drafting instructions for the new law are to be scheduled shortly, and the Ministry aims to present an Education and Training Bill to the House in September 2005.
2. The continued implementation of the ITALIC (Improving Teaching and Learning in the Cayman Islands) programme. ITALIC is designed to improve teaching and learning in primary, middle and secondary schools through enhanced use of technology in the classroom and education sector.
3. The development and introduction of a parallel phase of the ITALIC programme, ITALIC TOO. This initiative will focus on Years 11 and 12, post-secondary education and the community and will ensure continuity and progression of the work being covered through ITALIC.
4. The development of an educational strategy for technical and vocational education at secondary and post-secondary levels. This strategy will draw on the findings of the recent inspection report on technical and vocational education in government secondary schools.
5. The National Educational Leadership Programme (NELP).
6. The Development of a new School Improvement Planning model.
7. The appointment to the Education Department of a School Development Adviser in September 2004.

#### **University College**

In September 2004, the University College (formerly the Community College) will offer its first four-year degree courses, in the areas of: economics, business management, accounting and finance. This represents significant progress towards the Ministry's goal of improving access to tertiary education for the people of the Cayman Islands.

### **School Construction and Development**

The pressure for places in government schools continues to present challenges. The Ministry is working to accommodate this demand, while ensuring that there is no compromise in the quality of education provided for our students. The Ministry will be pursuing the following capital works projects for education:

1. the delivery of the new Prospect Primary School, on time for a September 2004 start;
2. the construction of a new Primary School in West Bay to open in September 2005;
3. the start of the redevelopment of the George Town Primary School, with the first classroom block to be completed by September 2006;
4. the purchase of land and the design and other preliminary preparations for the building of a new High School, for delivery in September 2006;
5. the purchase of four temporary classrooms for John Gray High School, one for North Side Primary and one for Cayman Brac High School, for September 2004.

### **Cayman Islands Cadet Corps**

The work of the Cadet Corps will be further strengthened by the introduction of an externally accredited course, allowing cadets to earn a vocational qualification accepted in the UK as equivalent to 4 'O' level passes.

## **HUMAN RESOURCES**

### **Pensions**

The review of the National Pensions Law, announced in December 2003, will result in a white paper, which will be circulated to the general public for comment.

### **Human Resources Development and Training and Labour**

As part of the ITALIC TOO initiative, the Ministry will facilitate the development of a Human Resources Development and Training Policy.

The Department of Employment Relations plans to coordinate the production of a National Labour Market Information Plan and the establishment of a Labour Market Information Library.

### **Investors in People**

The implementation of the Investors in People Programme (IIP), an internationally recognised management standard, was launched in 2003 with both government and private participants. In 2004 it is pro-

jected that around nine of the pilot organizations will be assessed against the standard and an additional 15 will be signed up for the pilot programme.

### **Technical and Vocational Education**

A National Training Board will be established, as part of the new Education and Training Law, to advise the Minister on policy, accreditation arrangements, standards and other matters relating to training in the Cayman Islands.

A second TVET (Technical and Vocational Education and Training) Fair is planned for the last quarter of 2004, to highlight the career opportunities and training available.

## **CULTURE**

Initiatives in 2004 and beyond, with culture as the primary driver, yet appropriately linked to education and human resources, include:

- continued development of the National Cultural policy framework by the Taskforce;
- the awarding of a cultural scholarship; and
- development of cultural facilities.

### **National Archive**

Construction of an Extension to the National Archive will begin in 2004, and is scheduled to be completed by December 2005. The extension will provide secure, cost-effective storage for the nation's archives and official records, specialist facilities for government's central computer equipment and vital records, and a Reading Room where school groups, students and the public will be able to do first-hand research on the history of the Cayman Islands. The building is designed to be an emergency operations centre for senior civil servants in a post-hurricane situation.

### **National Museum**

During 2004, the second phase of the Maritime Heritage Trail and Shipwreck Preserves will be developed.

### **National Gallery**

Work continues to raise funds for a locally designed purpose-built facility for the National Gallery, to be located off the Harquail Bypass.

### **Library**

With the contributions of private sector partners, the Ministry is anticipating that construction will commence in 2004 of a 3-storey extension to the George Town Public Library. This new facility will triple

the usable floor space of the current library and provide modern facilities and easy access to a wide range of resources, including internet-enabled computer stations. Work will also proceed in 2004 on plans to network district libraries.

## **MINISTRY OF COMMUNITY SERVICES, YOUTH, SPORTS AND GENDER AFFAIRS**

The Ministry's goal is a healthy population in a safe and secure country for residents and visitors, achieved through cooperation and collaboration of all departments and agencies.

The Ministry of Community Services, Youth, Sports and Gender Affairs has embraced the concept of community-based collaboratives, which are focused on comprehensive service integration to address the root causes of people's need for assistance, rehabilitation or being mandated to services or custody. The following highlights the objectives to be achieved in 2004 –2005:

Develop appropriate legislation to safeguard the rights of dependent persons, review legislation governing the Adoption Law and the Review of the Maintenance Law, and develop regulations for the Children's Law 2003.

Decentralise the Department of Children and Family Services with fully functional District Offices in George Town, West Bay and Bodden Town.

Develop and implement the National Parenting Programme to strengthen the parenting abilities, discipline methods, and responsibility of parents.

Create a National Advisory Board and provide tutors to assist with the implementation of the Commonwealth Youth Programme. This programme will train people working with youth by offering a two-year Diploma in Youth Development Work at the University of the West Indies Distance Learning Centre.

Implement changes suggested by the Parole Commissioners' Board using a collaborative approach that involves the Prison Services, Probation and Aftercare Unit, Department of Substance Abuse Services (DOSAS) and the Department of Children and Family Services (DCFS) to reform the Parole System. Create a therapeutic approach in the rehabilitation of inmates sentenced for substance abuse or drug related offences, or who have been assessed to have a substance abuse problem.

Address the comprehensive needs of youth involved in the criminal justice system by using standardised assessment tools, specially trained youth counsellors, family therapists and psychologists in order to reduce the likelihood of these troubled youths going into the prison system as adults.

Extend services of the Department of Substance Abuse, the Women's Resource and Crisis

Centres and Probation and Aftercare services to Cayman Brac.

Assist the National Housing & Community Development Trust in providing Affordable Housing to qualified applicants.

Investigate appropriate housing or group homes to enhance clients' transitioning from the treatment process or support systems.

Implement a Public Education Programme on the initiatives and projects of the Ministry to gain better understanding and cooperation of the community.

Continue with programmes such as *Super Saturday*, monthly town hall meetings, the *Youth Flex* radio show and the Commonwealth Youth Club's Ambassador Programme to empower young people and allow their voices to be heard.

Continue sports coaching in local communities and schools recreationally and within the sports associations for the training of national athletes to represent the country.

Organise a National Sports Award Ceremony and a Regional Sports Ministers Conference.

Continue extending the water distribution system throughout the eastern districts in Grand Cayman.

Review the feasibility of extending the piped water supply in Cayman Brac.

Complete the new wastewater treatment plant project.

## **MINISTRY OF PLANNING, COMMUNICATIONS, DISTRICT ADMINISTRATION & INFORMATION TECHNOLOGY**

The Ministry of Planning, Communications, District Administration and Information Technology expects a very challenging year ahead in 2004-2005. The Ministry's main focus will be on fostering the continued liberalization of the telecommunications market, the granting of a new non-exclusive licence to Caribbean Utilities Company Ltd and providing a legislative framework to allow for future competition in the electricity sector. The aim in both telecom and electricity sectors is to reduce rates for the public while maintaining a healthy and viable competitive environment.

Another key area for the Ministry will be furthering the provision of Government office accommodations. The current situation is most unsatisfactory and the Ministry will continue to actively pursue various options to find the most satisfactory and economical solution or combination of solutions to this pressing issue.

### **CAYMAN BRAC POWER & LIGHT**

Following the signing by Government and Cayman Brac Power & Light of a non-exclusive licence for electricity supplies in the Sister Islands, which caps prices over the next 15 years (save for

direct fuel price increases), the Ministry continues to work with the company for the relocation of the facility on the Bluff, to provide for increased safety from storms and hurricanes.

### **CARIBBEAN UTILITIES COMPANY LTD.**

Government and CUC continue to work in earnest on reducing electricity rates on Grand Cayman and to introduce future competitive bidding in new generation capacity. It was recently announced that a Heads of Agreement on the way forward had been reached. A final agreement is hoped within a short period of time.

### **TELECOMMUNICATIONS**

The Office of Telecommunications is embarking on several new technology projects in 2004/5 that will enable agencies, especially the emergency services, to take advantage of new and improved capabilities in the area of radio-communications.

A \$1.8 million project with Motorola to upgrade the radio-communication system has just been completed. Users of the system will now benefit from enhanced signal transmission that ensures they will be able to maintain radio contact when operating inside concrete/steel buildings and other structures.

In accordance with a new Government policy that promotes the sharing of technical infrastructure, OFTEL's radio towers are being made available to private sector Information and Communications Technology (ICT) licensees. This provides Government with a new source of revenue and enables ICT licensees to launch new services more quickly, without the time and expense of erecting their own radio towers.

In the Sister Islands, the national radio-communications system is benefiting from a new tower in Little Cayman. This provides users in Little Cayman with full coverage and also provides an important back-up facility to users in Cayman Brac.

### **EMERGENCY 911 COMMUNICATIONS**

The Department now has its own Training Officer who is a certified First Aid and CPR Instructor as well as Emergency Medical Dispatch Instructor. He is also a certified paramedic.

### **ENVIRONMENTAL HEALTH**

The Department of Environmental Health (DEH) will continue to work towards the selection of the most appropriate solid waste collection, treatment and disposal system for Grand Cayman.

### **POSTAL DEPARTMENT**

The Postal Department will be focusing on two main projects:

- The implementation of a postcode for the Cayman Islands; and
- the construction of a post box kiosk at the Airport Post Office.

Much development work has already taken place on the creation of a postcode -- known as a zip code in the USA -- and will continue over the next few months. The Postmaster General anticipates that a major public education campaign will be part of the implementation of the postcode, so the public will hear much more about this project in the near future.

Subject to approval of capital development funds, construction of the new Post Office in Savannah will get underway during the year. This new facility will offer 1100 more post boxes than the present Savannah Post Office, as well as a Post Shop.

To better streamline postal operations across the three Islands and in accordance with the Cayman Islands Postal Law, the postal staff in Cayman Brac and Little Cayman has been brought under the direct supervision of the Postal Services Department as of 1<sup>st</sup> July 2004.

### **DISTRICT ADMINISTRATION**

With further upgrading of nature sites and expansion of the number of attractions, hopes are still high that late 2004 will see day visits of cruise ship passengers to Cayman Brac.

Expansion of the National Airline, Cayman Airways and introduction of Cayman Airways Express, along with Island Air, gives visitors a wider choice of access to the Sister Islands. Visitors to Little Cayman will now experience greater comfort following the recent rehabilitation of the Edward Bodden Airfield.

Economic activity continues to show promise, with the opening of several new businesses and one office complex expected to open later in the year. Liberalization and expansion of telecommunications is expected to complement other private sector and government initiatives.

Suitable land has been identified and will be purchased early in the financial year to allow for the construction of affordable homes. Land has also been identified and will be purchased in 2004 to allow the construction of a new Fire Department sub-station in the eastern district of Cayman Brac.

### **INFORMATION COMMUNICATION TECHNOLOGY AUTHORITY**

The Information Communication Technology Authority will continue to develop the regulatory environment for telecommunications, sound and television broadcasting, all forms of radio operations including amateur radio, and the .ky Internet domain. Additional regulations will be proposed as required, following comprehensive consultation with the various stakeholders and the general public. Steps will be taken to educate consumers on the competition and consumer

protection provisions of the ICTA Law, both of which are new concepts to Cayman.

The Authority is already one of the most open and transparent organizations in Cayman. All its decisions, and the reasons for them, are published on its web site, as are its consultative documents and all responses received from interested parties. The complete text of all licences issued is also available online. Over the next 12 months, the Authority plans to further enhance these facilities by making publicly available all submissions received from licensees, together with the Authority's responses.

### **LANDS & SURVEY**

The Department's new e-business web-site [caymanlandinfo.ky](http://caymanlandinfo.ky) was launched on 17<sup>th</sup> June. The variety of products and services made available through this medium will increase during the year and it is planned to offer full credit card payment facilities online in the near future. This will be a first for a government department.

The Department recently commissioned new aerial photography of all three Islands to permit the preparation of a new set of ortho-rectified images. This data will be utilised in the production of the Second Edition of the Cayman Islands Street Atlas, which will be released early in 2005.

Global Positioning System (GPS) coverage to aid with the accurate surveying of land will be extended to the Sister Islands. Both public and private sector surveying services in the Sister Islands will thereby be greatly improved.

A new unit in the Department will take over full Facilities Management responsibilities for several large Government buildings.

### **COMPUTER SERVICES**

The management and staff of the Computer Services Department recognise that effective and efficient Information Technology is a key ingredient in achieving a cost effective and highly productive Government.

The Department's focus continues to be on the advancement of Electronic Government or E-Government. CORIS (Cayman Online Registry Information Services), the Government's first E-Government implementation developed in partnership between General Registry and Computer Services, has been very successful. CORIS makes available online to clients, both locally and worldwide, the registries, good standing certificates and payment of services for Companies, Trusts, Partnerships, Patents and Trademarks.

CORIS has paved the way for E-Government in the Cayman Islands. But this is just the beginning. The Computer Services Department in partnership with the Customs Department are working diligently to

deploy electronic declarations for major importers and customs brokers.

In order to fully embrace E-Government, the Computer Services Department will work towards the cost-effective and secure implementation of electronic payments for government services by means of online processing of credit cards, debit cards and other means of electronic transactions. This will not only improve government's cash flow, it is likely also to lower the cost associated with traditional invoice, cheque and receipting systems.

### **MOSQUITO RESEARCH**

The Mosquito Research & Control Unit will continue the ambitious new programme of pre-emptive mosquito control begun in May 2004, by means of greatly increased applications of larvicide pellets. Designed to prevent the emergence of mosquitoes, this strategy will build on successes already achieved and will be sustained through 2004 into the 2005 mosquito season.

The Department will complete construction of a new Operations Building & Pesticide Store and commence construction of new Laboratories & Offices. The Operations Building will greatly improve workers' health and safety, as well as helping provide better services to the public. Additional laboratory space will allow scientific staff to conduct research work designed to better safeguard Cayman against the threat of mosquito-borne diseases such as West Nile Virus, Dengue Fever and Malaria.

### **PLANNING**

The proposed amendments to the 1997 Development Plan should be tabled in this Honourable House in the near future. Once approved there will be amendments to the Planning statutes to ensure the implementation of the policies of the new Plan. Simultaneously, the 1975 Guidelines for Development Control in Cayman Brac and Little Cayman will be replaced by policies and guidelines more reflective of current events.

The Planning Department will continue to re-evaluate its business practices to ensure that they are responsive and appropriate to the needs of its customers.

The Department's other strategic objectives for 2004/2005 are:

- To finalise the Procedures Manual so that internal processes continue to meet customer expectations;
- To continue improving the Express Review procedure for houses and other routine applications to reduce the amount of time taken to review these;
- To continue staff training to equip Caymanians to assume increasing responsibilities;



- To complete Area Plans for Bodden Town and West Bay;
- To complete a Development Plan for Little Cayman and Cayman Brac; and
- To introduce a Voice Response System for the planning application and building permit computer Trak-It system, allowing contractors to request inspections over the phone and query the status of projects.

Honourable Speaker, Honourable Members of the Legislative Assembly, as I come to the close of my second Throne Speech, I wish to thank the many people who played a part in preparing it. I also thank all those who work so hard to prepare this Legislative Assembly Building for its reopening today.

My references earlier in the speech to crisis readiness are a reminder of the manifold blessings that Almighty God has bestowed on these beautiful Islands, which with His help it is our duty to protect.

As you embark on a new Session of the Legislative Assembly, a Session which will necessarily be relatively short as we prepare for elections to this House on 17 November, I pray that God will continue, during the coming months and in the longer future, to watch, preserve and prosper these Islands and all who live in them.

*[The Throne Speech was laid on the Table]*

## DEPARTURE OF HIS EXCELLENCY THE GOVERNOR

*His Excellency the Governor, preceded by the Serjeant-at-Arms and the Honourable Speaker, followed by Mrs Dinwiddy and the Aide-de-Camp depart from the Chamber*

*His Excellency the Governor, Mrs Dinwiddy and the Aide-de-Camp proceeded to the Speaker's Chamber*

*His Excellency the Governor and Mrs Dinwiddy proceeded to the upper public gallery to view the remaining proceedings of the House*

### Speaker's Procession

*[The Honourable Speaker returned to the Chamber]*

### Proceedings resumed at 11.41 am

**The Speaker:** Please be seated. Proceedings are resumed. I now call on the Father of the House, the Leader of Government Business, Honourable Minister of Tourism, Environment, Development and Commerce, to move the deferral of the debate on the Throne Speech.

## GOVERNMENT BUSINESS

### Motion for the deferral of debate on the Throne Speech

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker:

**"BE IT RESOLVED that this Honourable Legislative Assembly records its grateful thanks to His Excellency the Governor for the Address delivered at this Meeting;**

**"AND BE IT FURTHER RESOLVED that the debate on the Address delivered by His Excellency the Governor be deferred until Wednesday 7 July 2004."**

**The Speaker:** The question that this Honourable Legislative Assembly records its grateful thanks to His Excellency the Governor for the Address delivered at this Meeting; and be it further resolved that the debate on the Address delivered by His Excellency The Governor be deferred until Wednesday, 7 July 2004.

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

**Ayes.**

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

**Agreed that the Honourable Legislative Assembly record 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 7 July 2004.**

## ADJOURNMENT

**The Speaker:** Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Wednesday, 7 July 2004.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday 7 July 2004. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**At 11.44 am the House stood adjourned until 10 am Wednesday 7 July 2004.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**7 JULY 2004**  
**11.42 AM**  
*Second Sitting*

**The Speaker:** I now invite the Member for North Side to lead us in 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 Cabinet 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 11.45 am**

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

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**Oath of Allegiance**

*(Administered by the Clerk)*

*By Mr. Donovan W. F. Ebanks, MBE*

**The Speaker:** I call on Mr. Donovan W.F. Ebanks, MBE to take the oath. Please all stand.

**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:** On behalf of this Honourable House I welcome you and ask you to take your seat as the Temporary First Official Member.

**Oath of Allegiance**

*(Administered by the Clerk)*

*By Mr. Kurt DeFreitas*

**Mr. Kurt DeFreitas:** I, Kurt DeFreitas, 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. DeFreitas, on behalf of this Honourable House I welcome you as the Temporary Second Official Member and invite you to take your seat. Please be seated.

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

**The Speaker:** I have received apologies for absence from the Honourable Leader of Government Business, the Honourable First Official Member, the Honourable Second Official Member, the Second Elected Member for West Bay and the Third Elected Member for Bodden Town.

**STATEMENTS BY MEMBERS  
OF THE GOVERNMENT**

**The Speaker:** I have received no notice of statements by Members of the Government.

**GOVERNMENT BUSINESS**

**Commencement of Debate on the Address delivered by His Excellency the Governor on Friday 2 July, 2004**

**The Speaker:** The Throne Speech is open for debate. Does any Member wish to speak? The Honourable Leader of the Opposition.

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

"By their fruits ye shall know them."

This verse, taken from the Gospel of St. Matthew, instructs us to pay far more attention to what people actually do than to what they say they have done or what they say they are going to do.

I must confess that ever since I listened to His Excellency the Governor, Mr. Bruce Dinwiddy, deliver the Throne Speech last Friday, the Bible verse has come to me again and again as I have pondered the speech and what I, as Leader of the Opposition, should say in response.

Indeed, "By their fruits ye shall know them."

Although His Excellency delivers the Throne Speech, that really is the extent of his involvement with it. As I have always understood, the Throne Speech is supposed to be about the Government's plans for the year. It is supposed to be the policy document that puts flesh on the proposals set out in the Budget Address and its accompanying documents such as the Annual Plan and Estimates. It is supposed to explain, in some detail, how the Government is going to spend the country's money. It is supposed to demonstrate some cohesiveness between the various initiatives, projects and programmes of Government so that after hearing or reading it, one is able to see with some clarity where the Government intends to take the country and the Government's vision in the short-, medium- and long-term.

Sad to say, after hearing the speech delivered by the Governor last Friday, Mr. Speaker, we are now all in huge quandary. The question is: what is the Government's policy? Is it what is contained in this rather bland, often vague and disjointed document called the Throne Speech? Or, is it what was set out in the grand policy statement delivered by the Leader of Government Business on the occasion of the Budget Address less than two months ago?

If the answer is that the Leader of Government Business articulated Government's policy in his policy statement, then I ask this morning, Sir: what was the purpose of the Throne Speech? Was it merely to fulfil a ritual since nearly a year and a half has passed since we last had the Governor read a speech in the Honourable Assembly?

It certainly seems to me to be little more than a ritual since, as was also the case when the Budget Address was being debated; the Leader of Government Business is again off on one of his many excursions while the Throne Speech is being debated.

That aside, Mr. Speaker, we are again left to wonder (and I must use this word because it is the most appropriate one I could think of) at the schizophrenic nature of the Government. Do they have a plan or not? If so, what is it?

By this point, I believe that the country has become used to the sensationalistic nature of this United Democratic Party administration; to their seizing of every public opportunity to announce some way out, far-fetched but sweet-sounding initiative or programme designed to snatch the headlines and clutter the airwaves and create the impression that a great deal of good is being done. Therefore, given this proclivity of the Government, the most remarkable thing about the Throne Speech is that five months away from the elections the Government seems to have recognised and acknowledged that many of the promises it has made remain unfulfilled and cannot and will not be achieved during this administration.

It seems as though the Government had decided to distance itself from the Grand Policy Statement delivered by the Leader of Government Business on the occasion of the Budget Address (which was less than two months ago, as I said).

Notably absent from the Throne Speech are any of those Don Quixote-like proposals which we have become used to with this Government. Such is the huge dock situated in Half Moon Bay, with a possible inland basin of 90 acres. That area, Sir, is one of the most weather-exposed areas in Grand Cayman. We hear talk of a new airport in East End and three more five-star hotels for Grand Cayman. That is just to mention some of the more recent pronouncements by the Leader of Government Business.

Could it be that the impending elections have tamed the rhetoric and this more realistic approach was adopted deliberately so as to create as little opportunity for controversy and debate as possible? Or, is it that the Government has finally realised that it takes money to transform proposals from mere headlines to reality? Or, is it a bit of both?

Let me pause here to say to you, Mr. Speaker, that I speak to you directly, Sir. However, I do not expect any response.

When one examines previous Throne Speeches and Budget Addresses, the number of unfulfilled promises and proposals by this administration almost knocks you off your feet. In many instances, each year's Address simply moves forward the commencement or completion date of a project, plan or programme without even so much as an acknowledgement that what was stated there was, a goal for the present year was also a goal for the year before and the year before that and sometimes even the year before that.

This is so, not only in relation to proposed major capital projects—such as the proposed new Government administration complex that I hear being talked about on the *marl road* (I understand we are moving that to West Bay too, where there is another matter) the new facilities for the Summary Courts, the development of an alternative solid waste facility to replace the current landfill site, the implementation of a comprehensive road improvement programme, the proposal for a craft market in George Town and the

construction of another High School—but also with respect to important matters such as the preparation of legislation to establish a Drug Court, amendments to the 1997 Development Plan and a revision of the public schools curricula to address the need for technical and vocational training. Mr. Speaker, the list goes on. I will give a few detailed examples.

The Government undertook to construct \$13.38 million of roads in 2003/2004. This, it was stated, would include \$7 million for Phase 3 of the Esterley Tibbetts Highway from the Galleria to Indies Suites. Importantly, the 2003 Throne Speech noted: **“This extension is urgently needed, as growth in traffic volumes since 1998 has resulted in traffic congestion on the southern end of West Bay Road returning to the unacceptable pre-1997 levels.”**

I really hope to God, Mr. Speaker, where they are talking about for the new Government administration complex is not anywhere near what that Report is speaking about.

Also planned for 2003/2004 was \$800,000 worth of works to extend the Linford Pierson Highway from Bobby Thompson Way to Walkers Road.

Needless to say, as far as I can see on driving to these locations, neither of those proposals has transpired. They, again, still remain as proposals in the 2004/2005 Budget but are not even mentioned in the Throne Speech.

The First Throne Speech delivered on behalf of this Government in February 2002 by our wonderful former Governor stated, among other things, that design work on the proposed new secondary school would continue during the course of that year. That was February 2002. The 2003 Budget Address, delivered in November 2002, again made provision for design work on the new secondary school. The following Budget Address, delivered in June 2004, prophesied that the new secondary school would be completed by September 2005. The 2004 Budget Address, the latest one, now contemplates the completion of the new secondary school for delivery in September 2006, although after all these years I still do not know whether the land has been purchased. I know there have been funds in the Budget for the purchase of the land prior to this, but I do not know whether that deal has been consummated.

In the meantime, the George Hicks High School will be forced to accommodate some 1,100 students at the start of the school year this coming September; many in temporary classrooms, five of which were ordered last year. A further five temporary classrooms have also been ordered to accommodate the burgeoning school population at John Gray High School, Cayman Brac High School, and the North Side Primary School, while Bodden Town Primary School received a temporary classroom at the start of the last school year, that is, last September.

Despite assurances and reassurances given by the PS (Permanent Secretary) during the recent

meeting of the Finance Committee, I am firmly of the view—and I believe all objective observers are too—that the education plant in the Cayman Islands is bursting at the seams and many of the school facilities are in need of rehabilitation and renovation. I want to give a quick example.

Because of the problems with the physical plant at the George Town Primary School, when the Prospect Primary School is finished and ready for September, Years 3 and 4 that would be going into the George Town Primary School are now going to have to be moved to the same new school. You hear about ready-made families, they have ready-made Years 3 and 4. There is no choice now and we understand and accept that this is what has to be done.

Thus, in September 2004, the George Town Primary School is going to have Years 1, 2, 5 and 6. The Prospect Primary School is going to have Years 1, 2, 3 and 4. We understand that is what obtains now and nothing can be done. However, look at what it does when you have inter-primary sports, when you have the various sporting competitions, when you have the Festival of the Arts and CayFest and such like. For quite some time, both of those schools are going to be at a huge disadvantage.

People like me are not supposed to say anything about that because everything that can be done is being done. Not only is there insufficient space, but in a number of instances the accommodations are substandard. There are schools which require science laboratories, schools which require canteens, schools which require libraries, and there are schools which, in the absence of other schools, simply need more classroom space, which is not the ideal situation either.

They can come after me and say what they wish. However, for those who did, instead of beating up on the principals who were caring and courageous enough to speak out at those recent graduations about the inadequacies and the lack of attention being given to the school system, the Government should simply put their tail between their legs and take immediate remedial action. That is what should happen.

As has been explained and pontificated upon by the Government when they are ready, every time I bring it up, it is not as though this is a new problem or a new issue. This is a problem that we have all seen coming for many years.

The current Minister of Education was on this Back Bench for 12 years, and I had eight of those years with him, fighting this same cause. We fought the former Minister (and I use the word “fought” in our language, Mr. Speaker. I mean on the Floor of the Legislative Assembly) for his mishandling of the education system and the continuous complaint about inadequate facilities and his failing to plan for the future, something which was continually levelled at the former Minister. If the now Minister was right to criticise him then, as I am certain he was, then, for what-

ever might be taken personally or not, I ask him how he can look in the mirror now. If I were to be fair, I believe that he wants what is best. I do not know what is stopping it.

Quite frankly, in a country which has the per capita income and the standard of living which we boast, and with a Government which is, this year, pounding their chests about an operating surplus of \$45 million, the overcrowding in the government schools, the lack of amenities and the substandard nature of many of the schools are, in my view, nothing short of a national disgrace. As far as I am concerned, the Government is even more culpable than previous Governments because every one of them, except the freshmen, were in this Legislative Assembly going through those same wars, chanting the same songs about what we had to do. It is a wonder—

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** When you were there, what did you do?

They better forget about my 11 months Mr. Speaker, because they have gone on for three years. Do not come at me for my 11 months, hog-tied. I will not even go into that. They have three years to talk about, so the comparison is nowhere near level. Let them keep on chiming about my 11 months and forget about the three years.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** If education was a priority with this Government, they would have taken steps last year when it was apparent that the fiscal position of the country was improving to address some of these inadequacies. I do not mean the little surface ones. I mean we would have seen meaningful steps taken to address some of the inadequacies that I have pointed out.

It is nothing new with Government and the Opposition. The Opposition is going to say what they have to say, and if they have convictions and are convinced, they will keep saying it. Of course, the Government must find itself in a position that it has to deny it. I do not expect them to agree with me, but I want them to stop the flowery words and prove me wrong. That is what they need to do.

Delusions? Never had one in my life. Cannot say the same thing for many others.

With the exception of the new Prospect Primary School by a previous administration, and which is slated to come on-stream in September of this year, nothing of consequence has been done to address the serious problems that exist as a result of overcrowding at many of the public schools. In fact, whatever we have had to face for it, I believe that if the Opposition had not constantly harassed the Minis-

ter and the Government about this, perhaps we would not see it coming this September either.

Although in the 2003/2004 Budget the Honourable Third Official Member boasted that borrowings would be restricted to \$8 million over the course of the year, the Government actually borrowed some \$36 million. I am not with full knowledge as to how much has been drawn down, but the Government had the authority, during that fiscal year, to draw down \$36 million in loans. You know the system like I do, Mr. Speaker, where you do not draw down this year, once you have the authority you can draw it down sooner or later, right? Do not answer me, Sir.

Despite these additional loans, which are more than four times what was budgeted, the Government still has not addressed the urgent need for improvement of the school facilities in these Islands. If we look through the Annual Plan and Estimates, we will see that the vast majority of the additional \$28 million has instead been allocated to other, as far as the Government is concerned, seemingly, more important matters.

Before I get to this year, Mr. Speaker, they will come back again and pump out these percentages of the entire cost of the outputs that is being spent on education. I am not denying all of that. What I speak to is not to cloud that issue of the outputs that need to be purchased, which, in the olden days, were current side of the budget. I am talking about the capital investments in the physical plant that we need and there is a huge difference in what I speak to. So do not come and cloud the issue about how much money being is spent on education. That is what has to be spent every year to keep the schools open. I am talking about the physical plant.

This year the Government has budgeted to borrow a further \$37 million, but still our children—in fact, those who will be fortunate enough to be accommodated—will be forced to learn their lessons in temporary overcrowded classrooms. I have to conclude that education, pure and simple, is not high on this Government's list of priorities.

I understand that sacrifices have to be made. I know that there is not a tree that the Government can go and shake in the backyard and get any money they want, and I know that those sacrifices have to be made and that prioritisation is absolutely necessary on the part of the Government. However, I believe that this Government has it all wrong.

I pledge to the people of this country that a PPM administration, under my leadership, will make education a priority. It will make it the priority that it deserves to be and we will do whatever is necessary and possible to ensure that every child in this country is afforded a decent education with all the opportunities that can be made available in an environment that is conducive to learning. It is not the case today.

It should not be—and by the time I finish using these examples it might brush a few corns, but I am going to say them because they need to be said—

that we can find the money to host receptions or parties wherever they are—in New York or anywhere else—and fly a whole entourage of people from Cayman to these events at government's expense. However, at the same time, we do not have the money to improve the science lab facilities at John Gray High School. The first month I sat in this Legislative Assembly that was talked about and that was in November 1992. It might have been early December, after the elections when we had our first meeting. I remember that distinctly, twelve years ago, and the lab is still in the same condition.

Mr. Speaker, it is unfortunate that when it gets like this we start to deal with one another. I am talking about the science lab and no man can tell me that I do not have a right to say it. If I was there and nothing was done then I would take the beat-up, but the facts are the facts. One can argue the length of tenure or anything they wish, but I just finished dealing with priorities.

Where are the priorities? How is it that we can, recently, host a jazz concert that was great entertainment for those who went? I have heard good things about it. I understand it cost hundreds of thousands of dollars, but at the same time, the Member for East End is arguing, as he has been from the time he got elected, *'Can you please give the primary school in my district a canteen?'* Mr. Speaker, with the greatest of respect, I know we needed a Parliament and I know the Parliament needed renovations and it looks absolutely beautiful at this point in time, but where are our priorities? That is my question.

Mr. Speaker, as a matter of first priority, our administration will rationalise the high school system, provide the facilities for an additional high school and, lest it be forgotten, running right behind the heels of that is the desperate need to modernise the two present campuses. I have heard the Minister himself say the ideal situation is to knock down John Gray High School flat and build another one elsewhere. That means we need two and not one. You understand what I am saying, Mr. Speaker? It is not a joke anymore, it is a serious matter.

We cannot and will not accept the position of the Government that temporary classrooms are adequate for the children of this country. We will work to bring all the public schools, the primary and secondary, up to par as quickly as is physically possible.

Mr. Speaker, the neglect of the education plant is perhaps, in my view, the most patently obvious evidence of this Government's insensitivity and lack of understanding of what is truly important to the health and wellbeing of this little nation. However, I believe that it speaks to a more fundamental problem. All I can see is that this Government is made up of a group of individuals, each in pursuit of their own goals. What they speak to is just that what they speak to; there is no shared, coherent vision which guides choices and the setting of priorities.

It cannot be the case unless all that I just spoke to is a figment of my imagination, and it is not. The result is a seeming inability to see beyond the end of this political term. For all that they say about policies, and all the nice things, it does not seem to me that, as a collective group, they have a long-term plan. It does not seem to me like there is any foresight or desire to examine the impact of their decisions today on the future of this country and on the future of our people.

Sore topic, Mr. Speaker, as an example: how could the Government grant Caymanian status to just under 3,000 in the course of six or seven months and not have any understanding, whatsoever, that this would seriously impact the social and education systems of this country? However, of course, as they did from the very beginning, they twisted and turned it to try to tell these people that persons like me do not want them to have status, which is absolutely not the case. Thank God the people know better now. I will return to this issue in a little bit, but I thought it useful to cite as an example of the short-sightedness and obvious crisis-driven nature of the Government's policies and their decisions.

I contend that the Government is incapable of understanding the critical importance of education, social development, environment and population management to the overall health and wellbeing of the nation. Nor, in my view, does the Government appear to be able to see the interrelationship between these subjects and their link to the overall development and prosperity of the country.

It seems to me like the Government appears to have bought into the Leader of Government Business' philosophy, that is, we must embrace wealth indiscriminately or reap poverty inevitably. That approach seems to guide the general decision-making of the UDP Government, in particular, when it comes to setting priorities.

I am absolutely convinced that the approach to development by this Government is woefully wrong. If they are left to administer the affairs of the country after November, the result will be very serious education, social and environmental problems.

Mr. Speaker, in my contribution to the Budget Address less than two months ago, I devoted a considerable amount of time to an examination and analysis of the two most important elements of our economy: tourism and the financial industry. I made it plain then that I believed that the Government's approach to the tourism industry is unsustainable, particularly in relation to the cruise industry and that I had very serious concerns over their handling of some of the aspects of the financial industry, notably the EU Savings Directive.

I do not intend to rehearse those remarks in detail here today, but I am forced to remind the Government and, in particular, the Minister of Tourism of the folly of their ways. Tourism is barely even mentioned in the Throne Speech and then when it is men-

tioned, only in connection with the Tourism Attraction Board. Perhaps the Minister is basking in the fact that stay over visitor numbers have started to show a modest increase and thus he does not believe that we need to address the fundamental problems that underlie our tourism product.

In his Budget Address, Mr. Speaker, the Honourable Third Official Member went through great pains to point out that tourism is one of the pillars of our economy and that over two million tourists visited the Cayman Islands during last year. He boasted that this figure represented an increase of 12.5 per cent over 2002, but was forced to concede at that time that air arrivals had continued their downward trend during this period, falling by a further 3 per cent in 2003.

Mr. Speaker, tourism is the lifeblood of this country and of its economy. It is estimated that it contributes anything from 30 to 50 per cent to our gross domestic product, and it is also estimated that foreign exchange earnings from tourism could be as much as 70 per cent of the total. However, the tourism industry's history of continued growth and prosperity is no longer a given; not just because of international factors such as the aftermath of 9-11 but for reasons also to do with both the quality and the cost of our tourism product.

Bluntly put, the widely held perception is that Cayman is an overly expensive destination and the quality of its tourism product is declining. To a large extent, Sir, we are at the mercy of the external factors which impact that industry. There is certainly—while that is the case—much that we can do about the quality of the product we offer and also the widely held perception that the Cayman Islands are no longer as good value for money as they used to be.

My contention is that Government is simply not doing enough to address the problems with this critically important industry at their root cause. Sure, we are treated to a regular diet of press announcements about some novel initiative that is going to develop a new niche-market for the industry. However, in reality, little or nothing has been done to address the underlying problems with our tourism product. Those problems, Sir, are eating away like a cancer at the long-term viability of the industry.

In my contribution to the debate on the Budget a short while ago, I referred at length to the report of the tourism company out of London on the state of our industry. That report recognises what all sensible people in these Islands already knew: it recognises that tourism cannot be left to develop unchecked; it recognises that tourism needs to be managed in a sustainable way, that a policy framework is needed to ensure that every one involved in the industry is aware of the overall goals and the parameters and that everyone is pulling in the same direction. Mr. Speaker, we cannot say today that that is the case.

On the issue of sustainability, the report confirms what has been widely believed, that as the

number of cruise ship visitors has skyrocketed, the number of stay over visitors has correspondingly diminished. The report noted the concern at the decline in the number of stay over visitors and the impact that this is having on the national economy. There is also concern that the proportion of visitors to Cayman Brac and Little Cayman remains very small at 3 to 4 per cent of the total stay over visitors, while over in those two Islands, they have approximately 7 per cent of the available bedrooms in the entire Cayman Islands.

The Report also acknowledged that the growing imbalance between the two visitor types is one of the overriding issues raised by tourism stakeholders in the Cayman Islands. Such large volumes of relatively low-spending visitors are seen as deterrent to stay over visitors, as well as cruise ship visitors themselves, seriously diminishing the quality of the experience in George Town and at the key attractions, for example, Stingray City. It is also seen as a major contributor in congestion and the reduction of the quality of life for those of us who actually live here. Importantly, the report noted that recent research suggested that while the Cayman Islands continued to enjoy a positive image, especially with regards to safety and the friendliness of our people overall, the tourism product was deteriorating.

So you see, Mr. Speaker, it tells a tale that the problems are problems which can be managed and fixed. We still have the two very important ingredients and if you lose them, you lose all – safety and the friendliness of our people.

The current image—and everything I speak here is manifested in the report itself—associated with the Cayman Islands is one of expensive living, over-development, traffic and people congestion, notably on the western end of Grand Cayman which is exacerbated by the cruise ship issue. Our image is being diluted by perceived poor service in some instances, narrow product offerings in other instances and a product that has become more a North American product than a Caymanian product.

The report sounded some warnings. It warned that the short-term strategy of increasing the number of cruise ship visitors to compensate for the loss in stay over visitors was, at best, just that – a short-term, stop-gap measure, which is likely to be temporary and which may actually compound the problem in the long-term. So it is saying we have to be extremely careful because if we get embedded in this short-term measure to fill the gap, we are going to be our own un-doing.

More importantly, Sir, in the long-term, the unconstrained growth in the number of cruise ship visitors, the report says, will strangle the tourist industry as the built and environmental infrastructure is overwhelmed by the sheer number of bodies forced upon. It is for this reason that the report recommended that the Government limit the number of cruise ship visitors to 9,200, or four ships per day. In December 2000, when the report was presented, the

Port was then working to thresholds of up to 14,000 passengers per day, with projections that this would continue for the next two to three years.

In page 54 of the report it expressed alarm that the real concern is that this growth is happening without a clear understanding of the impacts or a long-term strategy for managing these visitors. It also sounds the following warning, by saying Cayman is in a position to negotiate controls as long as it remains a special destination. It will not be if that advantage is lost. The question today after all of this: where are we?

It is now plain that despite the recommendations of the report, the Government has decided that mass tourism is the way to go for the Cayman Islands. Quite frankly, Mr. Speaker, a mass tourism policy for Cayman, in my view—and I have said this before and I say it again—is nothing short of madness. It is not sustainable. It is going to further erode both the natural and built environment, it is going to significantly reduce the appeal of these Islands to affluent stay over visitors and it will negatively impact the quality of life for all of us who live here, and Sir, that includes you and me.

Mr. Speaker, it is our position, the position of the PPM, that the future of the tourism industry and, by extension, the Cayman Islands themselves, does not lie in mass tourism. We cannot allow ourselves to be fooled by what seemingly is the short-term gain. Every one of us wants to live long so we have to think long, Mr. Speaker, and I am serious about that.

The future lies in preserving, improving and marketing those natural gifts that this country has been blessed with. We all know that the Cayman Islands—between the three Islands, there is a small and finite land mass. Our unique appeal for tourism lies in our natural beauty and climate; the quality of the marine environment; our mixed way of life and our special character. We cannot hope nor should we wish to compete with major resorts on the mainland or with larger islands. Our future lies in being different and unique.

We must work on making the Cayman experience more Caymanian, less North American or simply just another Caribbean small island. We have to come to appreciate the importance of Caymanians interacting with our visitors as part of the visitors' overall impression of their holiday experience. This all comes down to pooling and equipping our Caymanians. This means that we must concentrate on getting more Caymanians into the industry, not only because it should provide good and well-paid employment to our people but because our own people are critical to the quality of the tourism product itself.

In my view, we have to make greater efforts to protect, preserve and promote our natural environment by limiting the number of persons who visit places such as Stingray City and certain other dive sites. If that environment were not so fragile it would not matter, but, Mr. Speaker, it is like other popula-

tions of shellfish and marine life in the Cayman Islands.

The reason why we have these laws that we keep coming to Parliament with and saying that we have to restrict the numbers that you take is because the numbers are not infinite. The numbers are finite and if you just indiscriminately take all that you want, pillage and rape, none of us will soon have any. It is the same principle when we speak to the natural beauty that is part and parcel of the sell job of our tourism product and we must appreciate that. We cannot look to speak to, in two years, how much money we are going to make because of the number of people you can get on your boat, and the bigger boat that you buy, the more bodies you can dump out there. What happens after that when there is nothing to go to?

That is why the people in this country cannot continue to think that while I get it I am going to get all that I can get, because nearly all of us have children and they are going to have children and how selfish can we be? We get up and speak to these big, bold things that we are going to do for this country with no thought to the long-term negative effects.

Mr. Speaker, we have to educate our people and our visitors of the importance of our environment to the overall quality of life in this nation, including the tourism industry. We have to create more open spaces and more greenery in the urban areas. For example—and others have spoken to this—there are some people who are convinced that it is reasonable and sensible to think this way. It might well be that the best thing is to convert George Town into a friendlier shopping environment. We have spoken about different things and a few things have been tried, but I think that if we stayed with it long enough we can make it come alive at night. I am not talking about ten more nightclubs; that is not what I mean. I mean, come alive at night with wholesome family distractions and attractions.

We have to manage the industry, not allow it to manage us. We must control development. Each time we utter that we must control development, somebody takes and twists it and says that we do not want anything to happen in the country. Nothing can be further from the truth. However, the sooner we accept this—and they can say what they wish to say, but I have lived in this land long enough to know that I am telling the truth. If we simply cater to the indiscriminate huge developers, the moment it goes sour they are gone with what they made off of us and not only have we lost them but we lost what we did not get out of it.

So the marriage must be equal. Nobody intends for them not to get healthy returns on their investment, but we must allow that type of development to take place in an atmosphere that is conducive and our people reap as much of the benefit as anyone else. It can be done quite easily because somebody else is doing it now.



Cayman will never be a low-cost destination, nor should we strive for it to be, but what we have to do is provide good value for the money spent. We have to, therefore, improve the quality of the tourism product, excel in the performance and service, and we have to rid ourselves of the prevailing image of being overpriced.

So, Mr. Speaker, as we move on I would like to say that I am fully aware of the critical importance of a strong economy. What I referred to earlier on about my 11 months there, I was there when the horrific events of September 11<sup>th</sup> 2001 occurred, and I know firsthand the impact that they had on our economy. I was also the Leader of Government Business when the decision was taken—and you will remember this—in the aftermath of 9-11 to reduce the stamp duty and building permit fees to encourage land sales and construction to boost the economy.

So I can easily and truthfully say that I am capitalistic in my outlook. I have been working for myself the greater part of my adult life and I am now 50. So, no one need fear otherwise, about me or the Opposition, nothing like that. A buoyant and sustainable economy is of critical importance. It is the utopia that we must seek.

We only have to look around at other countries in the region to see that a floundering economy prevents effective solutions to social problems. We know that, in fact, a floundering economy creates and aggravates social and political problems. Without a healthy and vibrant economy, people are unemployed and social woes simply increase. Without that same healthy and vibrant economy, Government's revenue is greatly reduced and Government's ability to intervene and provide needed social programmes and support is severely hamstrung. If Government tries to make up the deficit by increasing fees and taxes, that makes our industries less competitive and so the vicious cycle continues to be created.

I know that we must take care of business, encourage sound investment and development to stimulate our economy and keep it robust. However, I also believe that we must seek to develop this country in a way that is sustainable in the long-term; that improves the lot of our own people not just in the short-term; that gives them the best opportunities possible to participate in the wealth that is being created; and that helps our social problems, or at least it does not make them any worse.

Our people can only truly and earnestly benefit from development in this country if they are equipped with the skills to take advantage of the opportunities which development presents. The reality is that too few of our people currently have the skills, resources and education to properly avail themselves of the employment and entrepreneurial opportunities which this market offers.

**The Speaker:** Honourable Member if this is a convenient time for you to take the break; we will take the luncheon break at this time to resume at 2.30 pm.

#### Proceedings suspended at 12.50 pm

#### Proceedings resumed at 2.40 pm

**The Speaker:** Please be seated. Proceedings are resumed. The Honourable Leader of the Opposition continuing with his debate.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. When we took the luncheon break I was going on to say that our people can only truly and earnestly benefit from development in this country if they are equipped with the skills to take advantage of the opportunities which development presents. The reality is that too few of our people currently have the skills—

**The Speaker:** Honourable Member, if you could give me one minute, please.

*[Pause]*

*[Inaudible interjections]*

**The Speaker:** Thank you so much. Please continue, Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you. Mr. Speaker, I was saying our people can only truly and earnestly benefit from development in this country if they are equipped with the skills to take advantage of the opportunities which development presents. The reality is that too few of our people currently have the skills, the education and the resources to properly avail themselves of the employment and entrepreneurial opportunities which this market offers. For that, I believe government must bear the responsibility, not just this Government but certainly including this Government for, in my view, they have done very little to improve the skill sets of those of our people who are already in the workforce or to present more and better opportunities for our youngsters who are still within the education system.

The reality of our Caymanian society is that we are producing a significant number of professionals each year, Mr. Speaker, and for that, all of us are very happy and proud. In fact, I am willing to wager that the numbers are well above what one would expect from such a relatively small population base. The number of Caymanian doctors, lawyers and accountants, in particular, is impressive by any standard. However, I maintain that where we are failing, and where we have been failing for perhaps more than a generation, is in producing artisans, technicians, mechanics, plumbers, carpenters, masons, tradesmen and the like.

If we try to be objective, step out of the box, there are perhaps a number of reasons for this phenomenon, including, very likely, a cultural bias against doing those types of jobs. I believe that this bias derives, in large part, from the lack of attention and value given to the trades and vocations by the educational system that has obtained in the Cayman Islands for all of these years. Academic achievement is the standard by which just about everyone is judged, and thus the trades and vocations are not looked upon as favourable by the establishment; by parents or by many of the students.

So, in this regard, I believe that Government must lead the way in dispelling the stigma attached to these technical and vocational options and careers that the students have. I believe it must do so by actively promoting the trades and the vocations, and I want to hasten to add that simply hosting a trade fair annually is not sufficient. Mr. Speaker, technical and vocational training must form key components of a high school curriculum in this country. They must be made available to as many students as are so inclined.

Mr. Speaker, to interject here, I do not profess to be an educator; neither do I speak because I wish to be the Minister of Education. However, there are some matters which pure logic stare you straight in the face with, regardless of your individual abilities or qualifications. The reality is that two-thirds of the students who graduate from high school will not have the academic qualifications to pursue the professions. Many of those two-thirds, if not the majority of them, would be better suited to technical and vocational careers and should be given every opportunity, encouragement and, indeed, inducement to do so.

I am aware that some courses are offered in the government high schools, but I am of the view that both the number of courses and the number of spaces within the classes are far too limited to satisfy the numbers that I speak to.

Further, Mr. Speaker, I also hold the view that the availability of technical and vocational training outside the high school should be improved and promoted. I must confess that while I welcome the evolution of the Community College into a university college which will offer four-year courses, I am also concerned that this might well result in further reduction in technical or vocational courses. I do not know that.

Some three years ago the Government announced that it had purchased the former John Silvers Hotel to be used as a hotel training school. Quite what has become of the idea I really do not know, but certainly the government now owns the property. It is an initiative that must be pursued and with vigour. Mr. Speaker, I say today, this Government has not done near enough, nor is it at present proposing to do near enough, to equip the local population, and particularly our young people, to share in the opportunities which the Cayman economy presents.

When are we finally going to realise that we should be developing and training our own people to take advantage of the lucrative technical and professional careers that people come from all ends of the earth to pursue? How is it that when the economy of these Islands was at the bottom of the trough following the 9-11 sequence of events and hundreds of Caymanians were unemployed—the records will bear me out—there were still in excess of 12,000 work permits at that time? When is it that the penny is going to drop that the principle reason for this was that these Caymanians who were unemployed were not skilled while those persons who retained their employments on those work permits were tooled?

The Ritz-Carlton has been under construction for, I think, perhaps two years. In his policy statement just after the Budget Address by the Honourable Third Official Member, the Leader of Government Business spoke about three more five-star hotels being proposed. Sounds wonderful but I ask, Mr. Speaker, what is the point in us—and some of us always like to refer to nation building—building the nation, more and more hotels if we have to import labour not just to build them but to man them once they are built? Not because we do not have a sufficient level of people to do the jobs; that is another matter, but because our people are not equipped with the skills to do the jobs.

So, you see, Mr. Speaker, we ask the question: are we truly benefiting our people the way we should when we present that scenario? If the majority of our people have such opportunities, take advantage of them, find their own niche and exercise their potential in a manner that sets them certain standards of living because they are dealing with optimising their aptitude and their abilities, then when you have to import labour—and I have to stop to explain this a second—no one has a problem. We say these same things year in, year out, and we hear all kinds of things that are being done. Why is it the same thing year in, year out, if everything is being done to solve the problem?

If we continue to do this, I liken it to a tub of water and we have just all that the tub can hold and we keep putting into that tub of water other stuff. Sooner or later that other stuff is going to displace the water and it is going to spill over and continue to do so as much as you put more stuff in it. We displace our own people because they do not have the skills and because the way the world is today, the demands are such that these skills are required because private sector and the public sector are involved in a world that is totally competitive. So when we create this wonderful economy and the majority of individuals who we call our own continue to be displaced, and they keep getting to the bottom of the ladder all the time and they keep multiplying, and we have heard this and I have said this in a thousand different ways, what kind of society are we creating for tomorrow?

Everyone will not like the scenario because it does not paint the pretty picture of all the different in-

terventions and actions that are being taken to work, but there are some basics that we cannot hide. You cannot hide those fundamental issues and continue to say that all of these steps we are taking are going to deal with the issue when they are only remedial. They are only patchwork because you have not gotten to understand and you are not going to solve it overnight. However, the longer we continue doing it the same way we do it, the more those people are going to multiply and there is no denying this.

Perhaps there are those who will say that this is all I can talk about. However, the fundamental reason I place so much emphasis on this—and I do not profess to have all the answers—is because I truly believe that living in this society—and I do not live at the top end—I know what is going on because I talk to people, I live with people and I clearly understand the problems these people have. We cannot solve them by fixing them up for a day or helping them to pay a light bill. That is all well and good, right there and then, but there are reasons why they continue to get into those problems and we have to look into those reasons.

While I have to live it and I am not afraid to talk about it publicly, I do not enjoy the thought of keeping a nation just with the dribbles so that I can be seen to be God. That is absolutely nonsensical to think. However, I raise the point because today I wonder if there are any among us who might think otherwise. I referred earlier to the lack of any shared vision or coherent plan on the part of the Government. This is clearly a dangerous and expensive way to administer the country.

I will speak briefly to handling of the so-called Affordable Housing Scheme. I say here today, because I have read all the speeches and I have listened to all the logic, if this initiative had been properly thought through and administered, I believe that much greater benefit would have accrued to the various communities and the project would now have the full support and confidence of the country.

This project is expected to cost the country \$29 million, plus the other government subsidies which are not included in those borrowings. I do not know what all of these subsidies are. I presume some of them are the cost and value of the land that they are built on and perhaps material being allowed to come in with the duty waived and I do not know what else. However, this project, which is US\$29 million plus those other costs, is being built by a foreign contractor, principally with foreign labour of materials which are—the only word I can use—alien to Cayman and which cause doubt to be cast on the quality of the finished product.

I have said from the outset—and we hear all kind of names being called and we must get beyond these things Mr. Speaker—that the local contractors ought to have been given the opportunity to bid on the project. If this had been done and they were given the same playing field, if they could not be competitive

then no one could come and say a single word. However, it seems inconceivable to me that a project involving the construction of 400 individual homes, no matter their size, would not have been sufficiently attractive to local contractors that they would not be falling over themselves to bid for the job or to jointly bid for the job as has been done on many occasions before with sizeable jobs. No matter what is said when I sit down, the reality is and the fact is, the local contractors were never given the opportunity to bid for the job, no matter who the contractors were.

The Minister has said that the Affordable Housing scheme is not about providing jobs for Caymanians, it is about providing homes for Caymanians. I say, sure it has to be about providing homes for Caymanians, but if in the same breath you could provide jobs for Caymanians and it does not cost anymore, why not?

This attitude and this approach is what I speak about when I refer to the individualistic nature of the Government and the lack of any coherent plan or any shared vision. Here we have a perfect opportunity to have Caymanian contractors and workers benefiting from a long-term project that will produce affordable homes for other Caymanians. Yet, the job is given to a foreign company which principally employs foreigners. I might add somebody would have to prove it to me that the money these people are making off this project is stuck here in Cayman.

The Minister, in his statement on the Affordable Housing Initiative on 20 May 2004, when he referred to the cost of the project, said that the total cost of the homes, excluding government subsidies—we are not 100 per cent sure exactly what they are, but I am certain this would refer to any waiving of duty on materials and the value of land—is estimated at a certain cost. He referred to the residential units and the total, not when he was referring to the entire project but to a certain section. He says that the total habitable area of Phase 1 of the initiative is so many square feet. Given the cost, it equates to construction costs of CI\$50.11 per square foot. **“Private-sector-for-profit residential development construction costs for equivalent finished specifications would, at this time, be unlikely to be less than CI \$75.00 per square foot.”**

He can say “unlikely” and that is not an unfair comment, but he would have been a lot better off if he could have said that everyone had been given an opportunity and this route was taken because it was more cost-effective.

However, Mr. Speaker, when he refers in his statement to the likely cost being \$75 per square foot, surely he could not be including if local contractors were allowed to import the materials duty free because that would be a noticeable percentage of the total cost of construction and surely that cannot be apples and apples.

As I said, the Minister noted in his recent statement that **“Private-sector-for-profit residential**

**development construction costs for equivalent finished specifications...**" where he speaks to equivalent, if orthodox methods and standard materials were being used by Caymanian contractors, it would have been better than the equivalent because the walls would have been thicker, for one "... **would, at this time, be unlikely to be less than CI \$75.00 per square foot.**"

You see, Mr. Speaker, the Minister's statement is speculation, and he kind of admits that, because he has not tested the market to determine what the local contractors could or would build 200 or 400 standardised two- or three-bedroom houses for. He has not determined what the per-square-foot cost would be if local contractors were able to import all of their materials duty free as the now contractor has been able to do on the project. He could keep getting up and talking about how we are telling people not to buy the house and all that. It has nothing to do with that. It has simply to do with what is a fact.

The Minister is not comparing apples with apples because there is no doubt in my mind that if local contractors were asked to build these homes or to bid to build these homes, they would be built of concrete and steel with shingle roofs. There would be no concern either about the safety or the durability of the homes or their aesthetics.

However, I say that because of the irrational and individualistic approach of the Minister and his Government, today the project is embroiled in controversy which he says I created. As I speak, not one of the homes is occupied. I do not know how much money has been expended thus far. I think Finance Committee recently approved a bridging finance of over US\$11 million which equates to just over CI\$8 million.

I say today that a People's Progressive Movement (PPM) administration would never pursue such a course of action. We fully support the concept of affordable homes for the people of these Islands. They must be homes that our people can be proud of and feel safe in. As far as is physically possible, unless proven otherwise, I say they ought to be built by Caymanian contractors, local contractors. If Government is going to have to subsidise the construction of homes for our people, our own contractors should be the ones to benefit, not some other contractor that we knew nothing about until we saw something in the paper with a contract being signed.

I have spoken earlier, Mr. Speaker, about the lack of vision, the short sightedness and the individualistic nature of the Government. Nowhere is that more apparent than in the handling of the immigration issue. I move on. Mr. Speaker, the People's Progressive Movement and I have had all manner of evil said about us because of our opposition to the way the Government treated this very sensitive issue, and we spoke what we had to say publicly. However, you see them over on that other side of the fence, Mr. Speaker. I am here to tell them that there are some of

them who have personally said some things behind the scenes that if I were to play them a tape recorder they would run in some corner and hide. They stand up and tell me that I must not say anything and I must not do this. Mr. Speaker, never again! This boy has learned his lesson.

The Government claimed we were anti-foreigner and prejudiced, but for those who wish to conveniently forget, both my colleague and I in George Town campaigned on a platform for immigration reform. We were of the view that the situation which had obtained for many years in this country, whereby hundreds and, perhaps, thousands of persons were permitted to remain here for extended periods of time but were denied security of tenure, had to be addressed. However, at the same time, we were very conscious of the legitimate concerns of Caymanians about becoming outnumbered in their own country.

As Leader of Government Business, I appointed the Immigration Review Team (IRT) which was charged with responsibility to review the existing immigration legislation and circumstances and produce recommendations for a new immigration policy and a new immigration law. The IRT did its work and, indeed, the first interim report which set out the framework for the new immigration policy and law was tabled in Executive Council shortly before I was ousted. The plan was that their reports would be considered by Executive Council, as it then was, and if accepted in whole or in part, these would form the basis for the new immigration legislation.

So, against this background and in the absence of the proposed new legislation, when I was asked by the now Leader of Government Business to participate in the process of circumventing the Immigration Board and to nominate persons to be granted status by Cabinet I declined, more so, because we were asked to decide out of all the people in George Town to give the Minister a list of 30 people. The PPM strongly protested the course that the Government was taking with this issue, and indeed we brought a censure Motion to this Honourable House against the Government which, predictably, failed. However, many people felt that we ought to have done more. I am not quite sure what else we could have done at the time, but many people were so outraged and angry at the Government that they felt there must be something we could do.

On the other hand, some recipients of the grants by Cabinet were understandably upset and concerned that we were opposed to the Government granting them status. Mr. Speaker, despite the fact that to us it was a seemingly no-win situation, whichever way you went, we stuck to our guns because we believed that we were dealing with the situation in the proper and right manner. We warned the Government that the action they were taking was irresponsible and would create many more problems than it solved, particularly in the social and educational arenas.

We were particularly concerned that the worthy recipients of those grants—that is, those persons who would have obtained status through the Board in any event, just perhaps taking a little longer period of time—were not prejudiced as a result of these actions. We refused to participate in the legal action brought against the Government to revoke the grants because we believed, as we still do, that the worthy recipients ought not to have their lives put in jeopardy because of the actions of the Government.

Our position, Mr. Speaker, remains the same on this issue today. However, just as we predicted, adverse social consequences are manifesting themselves as a result of the sheer number of persons who were granted status in such a short period of time.

A factor, which the Government failed to address was the reality that many of the recipients of Caymanian status had children and have children, and under the new immigration legislation, once those children become legally and ordinarily resident, they become entitled to Caymanian status as well.

Further, and perhaps more importantly, in the short-term it cannot be right to prevent a Caymanian parent or parents from having their non-Caymanian minor child come and live with them. These children ought to attend school but many of them so far have been prevented from doing so because they are not entitled to a student visa under the new immigration law. Conveniently, the new law only allows for a student visa to be granted to an individual who is 18 years or older, which means it is designed for someone who is seeking to attend a tertiary institution.

Despite being aware of this difficulty created by the new legislation, the Government has thus far not remedied the matter because it is one that is very difficult and it is also one that none of us really knows the true numbers we are dealing with. So now we have minor children in the Cayman Islands whose parents are Caymanian who are not allowed to attend school. So what is the Government going to do? They have little or no room in the schools. Are they going to continue to prevent minor children of Caymanian parents from residing in the Cayman Islands and thus continue to separate Caymanian parents from their non-Caymanian children? What about the human rights issue? We will see how that situation unfolds and manifests itself.

Mr. Speaker, there is another issue which I wish to address: Not very long ago the new Employment Bill was passed in the Legislative Assembly after a number of Committee stage amendments. The most talked about point during the debate was the question of how many hours constituted the work week and at what stage would employees have to be paid overtime.

At that time I raised the concern of the possibility of employees being negatively affected if employers opted to reduce the number of working hours in certain sectors. We moved from a proposed maximum number of 40 hours per week to the point where

the work week is 40 hours, but employers and employees can mutually agree for employees to work up to 45 hours per week without being paid overtime.

The Director of Labour informed us that the new legislation would impact some 12 types of businesses negatively, and after gathering some data we saw that a number of employees could stand to lose an average of approximately \$150 per month, based on the number of hours per week they were working at the time if those hours were cut to 45. The director was charged to meet with samplings of these 12 types of businesses to ensure that this would not have the possible negative impacts that were thought of at the time.

Mr. Speaker, I personally followed up on this afterwards and I spoke to the director on two occasions. Seemingly, at that time, the situation was stable. However, since that time I personally have received numerous complaints from both employees and employers, and I can honestly say as I stand here today that I do not believe that the plan is working out as had been hoped. I also believe that many people are being negatively impacted by it.

We well understood at the time the reasons given, such as some employees being exploited, but if the end result is that hundreds, and not impossible perhaps thousands, of people earning just about \$1,500 per month are going to be earning \$150 less on a monthly basis then, in an attempt to solve one problem I believe we have created a bigger one. I say “we” because the Opposition supported the Bill, but at the time we did raise the concern.

In his winding up on the Bill, the Honourable Minister heard the concern and assured us that nothing was cast in stone and that he would be monitoring the situation closely. I wish to say clearly now that I believe we need to reassess the situation. The new law will soon be coming into effect and already—and I do not make these stories up—I have had many, many people coming, almost crying and hearing all kinds of stories about the fallout. We need to look at it very carefully.

Mr. Speaker, I do not know about the Government, but I know the Opposition does not want to be responsible for such a state of affairs in the work force. So that one is not one that we are taking the Government on to task about anything, but it certainly warrants being looked at much more carefully to make sure that the situation is not as I feared.

On a separate note, the matter which I am about to speak to has been raised before but now that the Public Management and Finance Law is almost in full effect it bears even more relevance. I speak to the matter of the awarding of contracts.

As it stands now, we have the Central Tenders Committee, which deals with the business of awarding government contracts beyond certain limits, and there are established guidelines which cover the process. The legislation applies to core government. However, statutory authorities and government owned

agencies and companies each have their own individual set of rules, not all of them with proper checks and balances to ensure the transparency and accountability which needs to be displayed.

The current state of affairs not only permits government-owned companies and statutory authorities to opt out of the tendering process but is also susceptible to abuse, as was recently the case when the contract for excavation and filling the sites for the affordable housing scheme was awarded.

The Public Management and Finance Law calls for annual reporting during the budget process of all government entities as a part of government accounts. On top of this, we have just appointed a Complaints Commissioner and that office will be up and running very shortly, as I understand it.

We have to now regularise the tendering process for Central Government and all government entities and departments. The process must be one which can withstand any scrutiny and it must not be one which leaves any doubt about its integrity.

I just mentioned the appointment of the Complaints Commissioner. I really wonder how His Excellency the Governor and the Government expect that office to function properly without freedom of information legislation being put in place. Surely, we cannot expect the Complaints Commissioner to use his own judgment all the time to decide what information should or should not be made available to the public. While we know that this will not be his only function, it will certainly form an integral part of his duties.

When the former Governor announced his intention to appoint someone to this post, a post which we all know is enshrined in our present Constitution, I personally reminded him of the need for the freedom of information legislation to be in place if such an office were to run smoothly and efficiently.

**The Speaker:** Honourable Member, you have ten minutes remaining.

**Hon. D. Kurt Tibbetts:** Since then the Leader of Government Business has promised that too, but like most other things, it is not in sight yet. Still off to the horizon like so many other stacked-up sunsets.

Mr. Speaker, the HSA will have to deserve some special mention because it is difficult to conceive of any government entity or agency whose staff and clients have been so traumatised and pulled from pillar to post. In the two years since the HSA was created, the provision of Health Services in this country, in my view, Mr. Speaker, from the complaints that I keep getting, has declined, not because of the quality of efforts of the staff but because of a certain level of poor management and cost cutting exercises conducted so as to make the hospital operate as a business.

We have had three CEOs before they finally realised that the kind of expertise we needed had always been on staff, willing and able to do the job. One

of the former CEOs, Mr. Michael Elliott, I think his name is (I never did get to know the gentleman), apparently was paid so much money that even now the Honourable Minister appears to be a little bit embarrassed to reveal the sum.

Now that the HSA is being run by three able, committed, long-serving Caymanian women, it is to be hoped that it will emerge from the mire in which it has been placed as a result of obvious previous mismanagement. I do hope that they will be given the support that is necessary by the HSA board and that the board, or at least some members of the board, will desist from interfering in the day-to-day management of the hospital, as I have been advised that they have done in the past.

Mr. Speaker, in the Throne Speech, His Excellency the Governor noted that it is in the joint interest of the UK and the Cayman Islands to continue to work for constitutional reform even if there are different perceptions about how far it should go. He expressed the hope that opportunity will be taken during the forthcoming election campaign to take forward debate in Cayman on this and to ascertain more clearly what proposals the electorate would like the new Government to make to London next year.

We, Sir, have been intimately involved with the constitutional reform process from the very beginning. We have fought tooth and nail to ensure that constitutional changes were not made without support of a vast majority of the electorate. We were determined to ensure that what we regarded as the undemocratic appointment of a chief minister did not occur without the benefit of a general election.

We have always been very cognisant, Sir, that none of us who were elected in 2000 were elected on any mandate which called for major constitutional change. Yes, I certainly acknowledged during the campaign the fact that constitutional modernisation was being proposed by the UK. However, the precise nature and extent of such modernisation was not discussed, as far as I am aware, by any successful candidate in the last elections. For that reason, Mr. Speaker, the PPM has maintained that any changes to our Constitution should have the support of the majority of the population.

Indeed, this position is entirely consistent with the constitutional modernisation checklist which the UK issued at the very start of the review process. That is why we call for a referendum to determine, what is considered to be, the contentious issues arising from the Commissioner's report. That is still our position.

The changes which are to be made to the Cayman Islands Constitution must have the support of the majority of the electorate. I acknowledge that the parameters of the debate on this subject have altered significantly since the process began. This is due, in large part, to the revelations in relation to the Euro Bank trial and the conduct of the then Attorney General, Mr. David Ballantyne, and the former head of the FRU, Mr. Brian Gibbs.

Subsequent events such as the refusal of the UK to allow the Cayman courts to be responsible for making wire tapping orders, and the UK's insistence that the Governor be given that power, has also significantly altered the attitude of many people in Cayman towards the mother country. The UK's treatment of these Islands in the context of the many super-national initiatives, but in particular, the EU Savings Directive, has also caused many of our people to re-consider our constitutional status.

Against this background, Mr. Speaker, the visit last year of Ambassador Earl Huntley, who was the then chairman of the UN Committee of 24 on decolonisation, was certainly timely and appropriate. As a result of Mr. Huntley's presentations, it has become clear that the UK has an international obligation to provide its territories with the degree of self-determination they wish and that it cannot force territories to become independent but must permit them the level of autonomy which they desire.

**The Speaker:** Honourable Member, you have three minutes remaining.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, the UK has been less than enthusiastic about this revelation, but the issue is actively being pursued by a number of private-sector entities. Our broad position on the constitutional change is as follows:-

- Any significant constitutional change must have the support of the majority of the electorate, who must be given the opportunity to consider and discuss the proposed changes.
- Independence is not an option for the Cayman Islands. In a world that is becoming increasingly independent, and in which surviving means joining, trading and bargaining blocks, there are real and tangible benefits in fostering and improving our constitutional link with the UK.
- The UK's ability to legislate for the Cayman Islands and to bind us to agreements and conventions arising from the UK's obligation to the European Union should cease.
- The UK should continue to be responsible for external security and external affairs with the knowledge and approval of the Cayman Islands Government. The legislature should increase in numbers to 17, elected from single-member constituencies.
- We do not support the concept of a senate consisting of unelected persons as we believe that this will result in another layer of bureaucracy and additional expense which the Cayman Islands can do without at this stage.
- There should be a Cabinet of seven elected members, one of whom should be named minister of finance together with the attorney general.

- There should be full ministerial government, with a chief minister appointed by the Governor who should be the elected member who commands the support of the majority of the Elected Members of the House. The other ministers should be appointed by the Governor acting on the advice of the chief minister.
- The attorney general should not be an elected member but be appointed on the advice of the chief minister.
- Protection of the rights of the minority in the Legislative Assembly should be guaranteed.
- There should be a bill of rights which offers protection of the fundamental rights and freedoms of the individual.
- There should be provision for binding people-initiated referendum.
- There should be provision for freedom of information; freedom of the press should be guaranteed.

Generally, Sir, this is the PPM's position on constitutional reform at this stage, but we are fully aware that there are other views and that the situation is dynamic. Our views are not cast in stone, and following the election we expect that there will be further discussions and opportunity for the electorate to make their views known. If even at that stage a referendum is necessary, so be it. However, the country can be assured of one thing: the PPM administration will not impose any Constitution on the people of this country against their will.

Mr. Speaker, the final issue that I want to quickly raise with regards to the constitutional matter was one that you raised, and I will only take two seconds to do so. It was a matter that you raised earlier about the autonomy of the Legislative Assembly and the arrangements that exist at present, which call for the Legislative Assembly to be under the arm of the Honourable First Official Member.

We speak constitutionally and otherwise to the separation of powers, and there is a separation of powers of the judiciary, the legislature and the executive. If the legislature is to truly enjoy the autonomy that we speak to with regards to separation of powers, then certainly we need to have a Legislative Assembly that does not report to another arm of government but rather directly to whoever is in charge of the government which is, at this point in time, the Governor.

Mr. Speaker, unfortunately I am out of time but I am certain my other colleagues will fill any gaps that I may have left. I want to say today that as I sit down what we have expressed from the PPM as to the positions we have taken are those that are well considered, informed positions. Certainly, while we know some things will be refuted, we trust that they are refuted with the facts.

Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister of Education.

**Hon. Roy Bodden:** Mr. Speaker, I was thinking that this time is the time when the poet in *Alice in Wonderland* wrote, when he said, "The time has come," the Walrus said, "To talk of many things:" However, more appropriately, when I listened to the Leader of the Opposition, I was reminded that it is also a different time. It is a time of talk, there shall be plenty, and there will be no shortage of those presumptuous elites and special interest groups and parties puffed up by that quality that Alexander Pope wrote about when he talked about "a little learning".

It is the duty of the Opposition, and the responsibility of any opposition worth its salt, to paint the bleakest picture possible. It is the duty of the Opposition to make it seem that the Government is disjointed and it does not know what is it doing and is running off in every direction.

It is the responsibility of the Government, on the other hand, to espouse its policies in confidence and to speak boldly and convincingly of its achievements. I hope that when the Government speaks, that it receives the same courtesy as it gave when the Leader of the Opposition was speaking. I hope that when the Government speaks its truths, that the same rapt attention is paid. There is a certain disadvantage for the Government because perhaps we do not have access to the kind of expertise and spin-doctors and speech writers and consultants and advocates that the Opposition has access to, according to my information.

However, what we have the benefit of is a good proven track record. Action speaks louder than words and the Government is one of action, and so it seems appropriate to begin at the beginning. I am going to leave, as I promised myself, the most important, as far as I am concerned, topic for the finale.

I want to begin by saying that I think it is appropriate to make the comment that, in spite of all the bluster and furore and the war of words, the surroundings which we inhabit now are appropriate; and I want to commend yourself and those persons, notwithstanding that there will be those who will take umbrage and difference with the amount of money spent, but a country's Parliament is just that. It is the foremost institution in the country, and I was just remarking that some people may not choose to acknowledge that there is a divine being but they have to live by the laws of the land, otherwise they will get into trouble.

So it seems fitting that the institution from which the laws originate and to which Members are entrusted in making, these laws reside, work and operate in comfort, dignity and convenience. I am proud that we have such a noble edifice and I thank all those who were concerned, sensible and visionary enough

to see that we have at last an edifice of which we can be proud.

Mr. Speaker, Caymanian society is in the best hands it could be in at this time. There is for those who can see the signs all around to attest to that fact. In spite of the last speaker proclaiming that the sky is falling, people are employed; buildings are being built; there is law and order in the country. People feel generally optimistic, sure-footed, satisfied. I would hate—heaven knows—to be an Opposition member now because the only future is more years in Opposition. There is no way that people are going to change from a Government which has delivered to a Government which is writing promissory notes which have no value.

Mr. Speaker, the fact is that the person last speaking had an opportunity to make the significant difference, and what happened? He dithered and froze, so much so that there were those who were dissatisfied with the lack of progress and they exercised their democratic right and changed the leadership because they realised that the time had come to move the society forward.

So, Mr. Speaker, do you believe that person is so convincing now – for he is not Cicero; he is not Josephus; he is not Thucydides that he is so convincing now that he is going to let people believe that so quickly after making a change for the sake of action, to put him back at the helm. No, Mr. Speaker, I do not believe that. He will have to plead some more and that is good because it is a kind of seasoning; it is a right of passage and perhaps the time will come but the time will not be 2004.

That is still the UDP's time, the time for actions speaking louder than words. I listened to every facet of his debate and there is nothing that I heard new, which was convincing, which even bore the semblance of anything that anyone could hope for. It was more sizzle than substance.

I said before that I know all the tactics; I spent 12 years over there. I spent time with that honourable gentleman; I was his best buddy. I do not know now how the honourable gentleman believes that after trying so hard I am going to come and make him knock me off the block because he would like to be the Minister of Education. He has not put forward any plans that make sense, not even in the creation of crabs because all I heard him talking about was buildings, but what about programmes?

I hear him talking about temporary classrooms. That is not a phenomenon common only to the Cayman Islands. That is not the worst sin someone can commit. It is just that – temporary. However, I did not hear him talking about the ITALIC programme, the Cadet Corps. He admitted he did not know much about the transformation of the Community College into the University College. I heard him fleetingly mention technical and vocational education and casting some snide remark by saying it is not good enough to hold the trade fair each year.



Mr. Speaker, there is a scientific basis for what we are doing and that is what I was trying to let the Leader of the Opposition understand. However, it escapes his comprehension because all of his focus is on what the people can see. Put up a building! Build a building. I have never used as an excuse the fact that when I came to this office in 2000, I inherited a Herculean mess. I went about the business as I knew best.

Let us take Labour, which he last mentioned. Everyone knew that the country was in need of new and effective labour legislation. This has always been, traditionally, a difficult challenge to meet, a difficult task to initiate. We spent time reforming the Department, creating an Employment Relations Department. We set about setting up a taskforce which we called the Employment Forum, in preparation for the development of a new law. The Bill was brought to this Assembly and passed into a Law, but it still has not come into effect.

I heard the Leader of the Opposition mention the necessity to arrive at a definitive number of hours for a work week and to deal with this phenomenon of overtime, and yes, indeed it is true. I gave the commitment that the matter would be under review and so we have been reviewing the matter. I, myself, have spoken with persons at the managerial level, trying to come to some sensible and acceptable position regarding the number of hours.

However, Mr. Speaker, I have to say that I was puzzled when I heard the gentleman say that he had been approached by large numbers, perhaps hundreds, of people complaining that they are inconvenienced, they are off-put and they are losing income by the situation which exists.

To this present time I have no knowledge of any such furore or problem, and I spoke to the Director of Employment Relations up to this morning and no one has come to me complaining about such a terrible inconvenience. I have not heard it from the Employment Relations Department staff. What I will do again, when I go back to the office this afternoon, is make an effort to contact the Director to ascertain exactly if and what numbers of complaints he has had.

I know that there are ongoing and engaged discussions on this matter and if it needs readjustments, we shall make them. The purpose of the Law is to serve the interests of all involved in the tripartite system. However, I have to record that I am mystified by the Leader of the Opposition, unless he operates the same way he used to operate a couple years ago; he knows all the information and the rest of us are ignorant. Unless it is the rounds he makes and the journeys that he embarks upon, he gets the information and no one else knows. I do not know, Mr. Speaker, because I have not been privy to it.

We are committed to leaving modern labour legislation in the country, legislation that is fair, practical and workable. I say again, the Law is not etched in stone nor is it written in blood. I give that commitment so that will not, and need not, be a great hindrance.

The constitutional position which I espouse will be that of the United Democratic Party and we are going to put out the constitutional position. It will be a position that is sensible, practical and realistic. I can say one thing now: it will not be a constitutional position which supports independence because none of us is advocating that, but it will be a position which will give this country a sensible and workable instrument by which the Government can govern the country.

It is clear, as we travel throughout the Cayman Islands, that people are generally satisfied. They are employed. I heard the Leader of the Opposition try to dodge and jettison his culpability in the whole immigration fiasco by saying that they were not encouraging anybody to sue the Government. Mr. Speaker, to sin by silence is just as big a sin as when we protest. I will leave that for the Leader of the Opposition to ponder.

I am not sure that elements within the entity called the PPM were not fomenting mischief by encouraging people to challenge the Government. If they would wish—as they are saying—to say that mistakes have been made, that is their opinion; they are perfectly entitled to it. What I want to ask the Honourable Leader of the Opposition is: he was there for one year, what did he do besides appoint the Immigration Review Team?

I remember the situation vividly how this problem had its genesis in the fact that shortly after we were appointed I said, as the Minister of Education, we could be doing ourselves a great service by making all these teachers who had been here for all those years have some kind of security of tenure. I made lists of some of those persons, their dependents and even whether they had any kind of proof of domicile; that is, house, land, or something else which was tangible.

Mr. Speaker, as I recall it, all the Leader did was dither. Nothing was done. So now when an entity comes along and does something, what is he complaining about? If he had done what he should have done, there would be no need for chaos and disorder, as he claims there is now. He had the opportunity to set the trend, to establish the method of operation and by dithering and procrastinating, time and events caught up.

There was an admitted urgency to deal with this matter and it was dealt with; but I suppose one could say it was dealt with in a way that stripped away the advantage that would normally have been held by other people; so there are reasons for disgruntlement. I do not believe that it is the end of the world.

Countries have to deal with this all the time. How do they deal with it? Is it by putting management strategies in place? Even the United States, Canada and other countries which are countries of mass migration and countries to which many people emigrate, have to, from time to time, deal with this. Mr. Speaker, it is no reason to foment the ideas and to stir up that

Caymanians are outdone and disadvantaged and sold out because that is not the absolute truth.

The best way that we can protect our people, because we have an obligation to them, is to prepare them to compete, to be competitive and to train them so that they can take their rightful places and make use of the opportunities which are in this country to be grasped by them. You cannot have one country, two systems. No one will accept that. That is intolerable.

So, I do not believe that it is the end of the world, and to stretch the truth and insinuate that because of that the Social Services cannot deliver and children cannot go to school because the classrooms. There is no empirical evidence, no scientific evidence to establish that as a fact. It is pure speculation and it exists only as a figment of the Leader of the Opposition's mind. Perhaps, Mr. Speaker, that may be his hope because he will think that someone's chaos will allow him to assume leadership, but it will not happen on the UDP's watch, no sir! One thousand times no! He will not come by that kind of default.

The challenges which we face we can deal with and I heard him level criticism at the low cost housing and there is an element of disingenuousness in these positions because he knows. Why did these contractors not come forward before? Why? You see, Mr. Speaker, in this rush to judgment to proclaim that this project is doomed to failure, there is a lack of foresight in the overall project.

It is not only about building houses, it is about creating a community. It is about gentrification; it is about offering hope; it is about building self-esteem; it is about giving people a sense of self-worth. So it does not matter if the house is made of concrete, what is important is the psychology of what is being achieved. These people are being removed. They are being up-lifted. They are being given a sense of dignity and self-worth. However, shallow-minded people cannot grasp the significance of that because they only say, *'Oh! But that is not a concrete house'*. They do not understand that it is a community. It is this whole business of associating, building family, kinship and creating dignity, self-worth and gentrification.

So, Mr. Speaker, of course they will come, the undiscerning, and say, *'Well, that is not what we in Cayman have come to'*, never seeing that there is a deeper purpose than how a house looks. Never understanding that what is being done here is giving all these people a sense of hope, giving them a sense that *'I am worth something. My child(ren) now have a chance. This is our community, this is where we live, this is what we have to do and we have to bond now and we will use this'*. It is not intended for all those people to stay there all their lives. They are going to move on upwards and onwards. That is the idea and that is what a responsible Opposition would see and try to promote.

In spite of what the Leader said, the Health Services in this country is better now than they have ever been. Who he should be seeking to cast judg-

ment on is the person who sits with him and was responsible before my colleague took it. Those people who gave the insurance companies *carte blanche!* *'Write your policies, man! Write out them poor people'*. If you were too tall you were excluded; if they thought you were one pound overweight; if you have hypertension – *'Take who you want. Charge what you would like'*. No, Mr. Speaker! This Government is making insurance and Health Services available and affordable and that is commendable. I give my colleague my full support because it makes sense.

You know, Mr. Speaker, the challenge because you were on the way to sorting it out. It is not as the PPM would make it out to be, that the sky is falling and that everything is a mess. Things are progressing, but we on this side understand. We do not expect that the Opposition is going to be as gracious as to tell us we are doing well, everything is fine, *'Your policies and programmes are yielding results. People are benefitting'*. We know that they are going to paint the picture as bleak as they can. They are going to use all the greys and dark colours and make it as pallid as it can be, but we shall continue to do well.

I did not hear him talk about the parks that our people can go in now and relax on the weekends. I did not hear him talk about all the green spaces where people can go with their families and breathe fresh air – North Side, West Bay, throughout the Island. I did not hear him mention these things. I did not hear him mention the prospects people have for employment; only the doom and gloom. Even in this election year that will not get anywhere because too many people know different. They know that they have a Government which is capable of dealing with the challenges.

I would like to say, Mr. Speaker, that culture too is alive and vibrant; the arts, because that is important. I heard him talk about education but he did not make any connection between education and culture. He did not talk about the vibrancy of the cultural product and how it should emanate out of the educational product. He did not talk about that because he is so narrow-minded, insular and unidimensional, he believes that education is only to provide a job and money in the pocket. He does not understand that there is a connection between education and culture. Not only must the person be able to get a job, but he or she must be able to fit into the society.

They must know who they are. They must develop an appreciation for the aesthetics, for the performing arts, for the visual arts. They must be able to participate for we are talking about the rounded citizen. We are talking about a new kind of Caribbean person. That is why you cannot just look at the physical facility of the affordable housing; that is why you cannot just set up a building and say, *'This is a school'*.

There is an interconnectedness. That is what we are working on. We are creating a soul in the society, not just individuals but people who are linked to the society; who have a common umbilical chord; who

understand what it is to live in this society, to be a Caymanian and live among Caymanians – not just someone who is like an automaton, who goes to work and comes home, not just some ghoul who just exists, but someone who says *'This is me. I am a Caymanian'* – that interconnectedness between all these things.

That is why, Mr. Speaker, the UDP has the health policies, community development policies and education policies the way they are. We recognise that there is this interconnectedness; there is this necessity to create intelligent persons in the society, not a community of philistines whose only purpose is to amass riches and grow wealthy, but people who have a sense of altruism, a sense of community and a sense of obligation to their brothers and sisters, especially those who are less fortunate than they are.

That is what we are about, for all the people. That is the major distinguishing difference between us, the UDP, and the PPM – a dynamic vision that brings hope and aspiration which aspires people to be a part of the community which we are trying to build and we are doing well. I do not see any crisis in health. In spite of what the Leader of the Opposition said, there is no crisis in education.

Mr. Speaker, I will put this to you: if there was a chance that what I am saying about the educational system bore any inaccuracies or bore any untruth, there was a time when that would come out because I was not at the Finance Committee. I was stricken with a most terrible flu. I listened on the radio subsequently. There was a chance then. The Permanent Secretary was the one who represented the Ministry, and it was, by any account, a most thorough grilling. However, no one was able to find any inconsistencies or inaccuracies because the Ministry is sound. The policies are sound and effective.

I chuckled when I heard the Honourable Leader of the Opposition make reference to that. I heard him with some nonsensical reference about persons who complained about teachers taking political positions.

Let me say something, Mr. Speaker. I am of the school that believes that the Civil Service should be sacrosanct. It should be sacred from the arena of politics. That is what the Westminster system is predicated upon. Civil Service should be a faceless, anonymous organisation out of the realms of politicians. However, there are those persons who would like to politicise the Service for their own ends. Mr. Speaker, it is not—trust me—the best thing to happen unless you want to be like Mobutu in Zaire and all these other African people who foment and experiment and contaminate and pollute the democracy.

I do not encourage any kind of fraternisation between the politicians and the civil servants beyond what is necessary. My job is to formulate policy, not to dabble into the runnings and befriend and compromise. I am a strict professional and I keep a stiff upper

lip and so it should be. I do not condone, indeed I take a dim view of those persons who try to do otherwise.

Things happened and I never said anything because, Mr. Speaker, I am seldom ruffled by these things. When you are seasoned like me, you have to have the skin of an armadillo. I get insults all the time, and there were occasions when I know that it was a mistake. It could not have been a mistake, but I do not mind about protocol and who calls who before whom. Trust me, I just do my job. I have no ego to stroke but the same does not go for other people, my colleagues included.

So, when someone is invited to a function and insulted by someone who feels they have a licence because they are the principal or acting principal or a civil servant, to give a lament, which is unfounded, just because it is detraction or an insult, I cannot condone that! However, it is not my business to sanction anyone even for such grossly improper behaviour. It is within the realms and ambits of the civil servants to do that, and I hope that note is taken because we do not want any politicisation. There should be no greying of this kind of area. I would prefer it to remain as it has been for a long time.

I do not associate myself with the comment that people should run with their tail between their legs and curl themselves up. I think that people have a right, if they are insulted on those occasions, to express their dissatisfaction and their discontent. They should demand that the lines of separation be clear and obvious, always remaining that way. I hope, Mr. Speaker, that with that, we have put this kind of behaviour behind us and that we can get on in our usual professional way of acting and delivering.

Mr. Speaker, I want to devote a fair amount of time to talking about education and training and this whole business of where we are, where we are going and how we are going to get there. I listened to the Leader of the Opposition and I wonder—I do not want to be uncharitable—if the comments and criticisms were his; if he was the author or he had some assistance. If he had assistance, I hope it was not assistance for which he paid money because someone has robbed him, seriously. If it is a case where he paid for that advice, he should go and reclaim his money.

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

### **Apologies**

**The Speaker:** I would just mention that I have received a note this afternoon that the Honourable Minister for Planning was unavoidably absent today and I would like the *Hansard* to so reflect that.

## ADJOURNMENT

**The Speaker:** Honourable Minister, if this is a convenient point, I would call on the Honourable Deputy Leader of Government Business for the Motion for adjournment.

**Hon. Gilbert A. McLean:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow, Thursday 8 July 2004.

**The Speaker:** The question is that this House do now adjourn until Thursday 8 July 2004 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 10 am Thursday 8 July 2004.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**8 JULY 2004**  
**10.32 AM**  
*Third Sitting*

**The Speaker:** I now invite the Honourable Minister responsible for Education, Human Resources and Culture to lead us in 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 Cabinet 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. Proceedings are resumed.

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

**The Speaker:** I have received apologies for absence from the Honourable First Official Member, the Honourable Second Official Member, the Second Elected

Member for West Bay and the Honourable Leader of Government Business.

Also apologies for late arrival from the Second Elected Member for Cayman Brac and Little Cayman and the Minister for Community Services, Youth, Sports and Gender Affairs.

**STATEMENTS BY MEMBERS  
OF THE GOVERNMENT**

**The Speaker:** I have received no notice of statements by Members of the Government.

**GOVERNMENT BUSINESS**

**Debate on the Address Delivered by His Excellency the Governor on Friday 2 July 2004**

*(Continuation of debate thereon)*

**The Speaker:** The Honourable Minister of Education, Human Resources and Culture continuing with his debate.

Honourable Minister, you have one hour and 15 minutes remaining.

**Hon. Roy Bodden:** Thank you, Mr. Speaker.

When we took the adjournment yesterday afternoon, I was remarking that if the Honourable Leader of the Opposition had paid for advice and consultation (which I believe he received in preparation for his contribution to the Throne Speech) he should seek a refund of his money because his advice was indeed worthless. Anyone offering such advice would have to be investigated as being an impostor. Political positions notwithstanding, I would not like to see advantage taken even of my political adversary. So the advice I would give the Honourable Leader of the Opposition is that he should seek to recoup his expenses from that advisor, and he would be well served looking in other directions where the advice would be more sound and appropriate for someone of his aspiration.

I came this morning equipped with facts because I want to make a clear and unequivocal refutation of the idea proffered by the Honourable Leader of the Opposition that the schools are in chaos and there is indeed a shortage of space.

Nothing can be further from the truth. It is a known fact that in one school, namely the George Hicks High school, which was, I understand, built 25 years ago for a complement of 400 students, we will

have to this point 1,087 students enrolled. I want to make a comment on that. I believe that as in many aspects of our planning in this country, educational planning is weak. It has been weak for some time and we are trying to strengthen it.

No one who is right thinking would expect to put up a building such as a school without making provision for expansion. I pause here to say that this is exactly the argument I, as Minister, find myself involved in now. I believe like Churchill said about war, it was too important to be left to the generals. I believe that educational planning and the building and construction of schools is too important to be left solely to the whims and fancies of the architects and designers.

**The Speaker:** Honourable Member, if you can give me one minute, please.

*[Pause]*

**The Speaker:** Please continue, Honourable Minister.

**Hon. Roy Bodden:** Thank you, Mr. Speaker.

I was saying that it is a challenge for education policymakers and planners because it seems often when we are talking about designing and construction of schools and school buildings that the architects, designers and people who are responsible for articulating the project have their own ideas, which may not be necessarily in tandem with those of the administrators. We are building a new high school. I say that high school should be built to house at least 1,000 students, although we recognise that the capacity at the beginning will probably be in the vicinity of 500-700.

I also mentioned to some persons involved in the development of the plans that I would wish for the school to have an auditorium which seats 5,000 people. That indeed is not far fetched when you come to realise that currently when we hold high school graduations for the George Hicks and John Gray High Schools, invitations to the graduates are limited to four per person because of lack of space.

Most recently, I learned that in the case of the George Hicks High School, which has a band of some 90 members, when they were assembled on the platform of the Agape Worship Centre there was no room for the distinguished delegates – Minister, Permanent Secretary and all the other persons on the platform. This is the situation that is most untenable and certainly unacceptable!

If we are building a new high school, it should be built so that it can comfortably hold functions like the school graduation. What if the high schools have combined events, which is not farfetched? Where would we hold the people? I am holding out and advocating that the new high school be built with an auditorium which seats at least 5,000 people.

It goes even further. I enquired and to my pleasant surprise I found out that there is no convention space currently available in the Cayman Islands that would accommodate 5,000 people were there to be a convention of that magnitude. So, a little economics comes in here because under our present financial and management system, the schools could rent this space out to conventions and make some money.

So it makes sense for us to develop a more sophisticated planning mechanism so that we can avoid these kinds of problems in the future. To revert to my original point, there is no crisis as the Leader of the Opposition pointed out because in some of the schools we will have fewer students as of September than we had for the last school year. The outgoing classes were larger than the intake as of September according to figures which we have.

While it is true that enrolment in many cases has closed, that is not unusual. The law gives a specific window in which enrolment must take place, and there is an obligation to accommodate Caymanian students at whatever time of the year; they have to be enrolled. Mr. Speaker, I know of no cohorts who have been turned away because of no space.

For the Leader of the Opposition to try to promote the case that the Government is in chaos, or to promote the idea that the schools are in crisis; that the Minister of Education does not know what he is doing; that the Government is floundering in its education policies, is irresponsible and patently fallacious. I might even say that it is disingenuous because the Honourable Member knows better and that is not the case.

I do not know, as he does not know, what numbers there are as a result of the recent status grants. I have to interject this: it seems as if that exercise is blasphemy to many people. I believe that there could be a more accurate, scientific basis for us to arrive at the numbers of children who are school age arising out of those grants, but in light of the circumstances under which the grants were given, we do not have that information now. So what should we do? Sensible people will try to cope as best they can, but it seems that the Opposition is rejoicing at this predicament, as if when they become the Government it would not be their predicament too.

I am not an alarmist and I do not believe that the situation is out of hand. The question I pose is this: if the people who are trained and educated as administrators cannot manage education, how are the people who are not going to manage it? If it is in chaos now under the United Democratic Party, who has the most qualified educational administrator available from the political field, then tell me who on their side is going to do better? Who are they going to draft or co-op? Certainly not the people who are advising him based on what I heard him reading yesterday because that is hogwash and nonsense. More sizzle than substance!

All the Leader of the Opposition bases his criticism of education on is the absence of buildings. Education is about more than building school buildings, it is about programmes and I am going to talk about some of the programmes that we have in place. Not only is it about programmes, it is about interlocking with other ministries, like the Ministry of Community Development, and taking a holistic approach to the development of the individual child and families.

I did not hear him talk anything about that, and do you know why? That is foreign to his genius because he cannot make that kind of connection; otherwise, he would have been making it. I heard him say something about whether there have been any transactions which would lead us to believe that there will be a new high school. I have given my word, the land has been purchased, but I just want the Leader of the Opposition to do this: he has to eat some crow now because he is the same one that said there would be no new Prospect Primary School come September.

I want to take him to the pile of crow and push his head in it and let him eat it. When he has finished eating that pile, I want to take him and let him eat a bigger pile because there will be a new high school in Frank Sound. The land has been purchased, 26 acres, so the UDP Government is doing what it said it would do.

I want to say this again: there has been no reluctance on the part of the United Democratic Party to support my educational policies and to meet my educational requests. There has been none. I have had unstinting support. So any criticism which is purported to be levelled at the Government I have to take personally because my position and the position of the Government as far as Education is concerned are one and the same. I cannot say that there has been a lack of educational support.

I heard the promise which he made and I would just like to ask when and if he takes over the Government, if the only Ministry is going to be Education. I would like to know how he is going to deliver all he says he is going to deliver in Education when he will have Community Development, Planning, Tourism, and also Health to service.

I know that there are educational needs. I inherited from my predecessor a list for \$60 million in educational infrastructure. Indeed, I seem to recall before that Parliament was prorogued that \$10 million was voted purportedly to be spent on the development of educational infrastructure. Regrettably, it went on asphalt on the roads and so we were that much further behind in the development of our educational infrastructure.

Under the United Democratic Party Government, at the same time, we are building buildings because in four years we have a new primary school in Prospect. We had an unexpected disaster with the ceilings dropping at the Middle School, and we were fortunate to escape with no injury to students or staff.

At the same time, we are redeveloping the George Town Primary School site, a school site that had been flood prone for years, as you will know, Mr. Speaker, because it was during your tenure as Minister that we talked about really developing and set about concretely developing this site. So nobody can make me feel embarrassed or can give short shrift to the United Democratic Party Government's support for education.

We have a plan and we are redeveloping the George Town Primary School site to eliminate the flooding and while we are doing that there will be no inconvenience because we are moving some of those cohorts of students on to the new Prospect School, three year groups of them. At the same time, we are opening a section of the Prospect School as a new school. We have given ourselves two years to complete the redevelopment project.

I want to say something about redevelopment since we are on that. When we have completed the redevelopment of the George Town Primary School site, we will then be tackling, as we are discussing now, the redevelopment of the John Gray High School site because we know too that that needs redevelopment.

We are working with a plan and a system because I do not believe in adhocracies. I do not believe in break and patch. I am a professional educational administrator and a policy maker second to none in the Cayman Islands and I put my record alongside any who profess, and even those who do not profess, those who pretend and I dare them to find it wanting. So, there is a system. These things have to be done with a minimum of inconvenience and disruption to students and staff.

So we will be getting a new high school in Frank Sound. It is only left for me to wrangle as to whether I can get the auditorium to seat 5,000 or otherwise. Mr. Speaker, I guarantee you that I shall go down fighting on that point.

In addition to this, what about the programmes that have been delivered? What about *ITALIC*—Improving Teaching and Learning in the Cayman Islands? Most recently we came to Finance Committee to get money to buy 280 computers, the last set of computers for teachers who have been through the 40-hour training. That will mean that when we are finished, every teacher in the Government school system will have his or her own laptop computer with which to aid in the instruction of our children. It is revolutionary. It is so revolutionary before I end my contribution I will tell you how famous we are becoming. We are becoming a model because that is my objective to make the Cayman Islands educational system so excellent that it is a model for the region and beyond. In four years we are on our way to becoming that.

Technical and vocational education, which is everybody's whipping boy now, I know that this needs addressing but what are you going to do? What are



you going to say, technical and vocational education, we will do it? I heard the Leader of the Opposition make fun and say, technical and vocational education is more than holding a technical trade fair. I wonder where his plan is. What is his alternative? We know it is more than holding a technical and vocational trade fair every year.

We have completed and commissioned a work-force skills assessment survey. We know where the skills are lacking. We know what needs to be done and we are doing it because one of the first things we found out is that there is a weakness and employers tell us that we need to do something with the work ethics. So come September every school in the Government system up to the University College will have a module of work ethics in the curriculum. Every day there will be at least five minutes dealing with the development of work ethics, punctuality, deportment, respect and cooperation.

So you think you can just take these things in isolation? There has to be continuity, they work along a continuum so before you get people ready for all of this stuff, you have to prepare them and that is what we are doing. Simultaneously, we are strengthening the curriculum because it needs to be strengthened. The mistake that was made is that we were trying to introduce technical and vocational education at too late a stage and in isolation. There was a stigma attached to it and there still are some cultural nuances that we have to overcome in order to let people understand that it is okay to work with the hands.

Our approach is to jettison the old methodologies and we will use the same information and communications technology methods and strategies to teach technical and vocational education as we use them to teach the academic subjects. This year for the first time from the Community College we have eight students going away to take courses, degrees and certificate in technical and vocational studies. Some are scheduled to go to the British Columbia Institute of Technology; the others are going to the New England Institute of Technology. So while we are working from the top we are also working it from the bottom to strengthen the curriculum.

We will have an articulation agreement between the High School and the University College which will ensure that the High School sends to the University College a cohort of students who are prepared and who appreciate technical and vocational studies. So it is not as if nothing is being done.

The difference is we are taking a modern management approach to the problem so that when we get the results, they will be sustainable, continuous and quantifiable. I am not into applying a Band-Aid just to stop the bleeding, and then underneath the wound is still festering. These things take time. They have to evolve over time and if you study the countries that have these successful programmes, one will see that that is the same approach they took.

So we are working on these things. I did not hear the Leader of the Opposition talk about what exists now – a gender gap between male and female students in performance. It was brought home to me most clearly it is not only a Caymanian phenomenon but a Caribbean phenomenon that we as Caribbean Ministers of Education and educators have to work to solve. Girls outperform boys in significant and alarming ways and we have to redress that, but I did not hear him talk about that. He does not know about it! It was brought home most clearly a few nights ago at the George Hicks graduation where there were 18 students who would have qualified as honour students, and among them there were only five males which is not even one third.

The same phenomenon existed when I went to the University of the West Indies graduation last December. Among the cohort of honour students, 80 per cent were female. Among the graduates, 60 per cent were female and 40 per cent were male. It is one of those things I have down as a priority to address if I am to return in the November Elections because it has to be redressed. I did not hear him speak about that.

I did not hear him speak about programmes we have such as the Cadet Corps. Our Cadet Corps is chosen as a pilot by the Cadet Corps of the United Kingdom so that our cadets have the possibility of taking GCSE; four subjects in things that they do. This Sunday evening we will be having a passing out parade of some 40 cadets.

I did not hear him talk about the mentoring programme, the coaching for success programmes that the United Democratic Party under this Minister brought in to offer as constructive activities so that our young people could have alternatives away from criminal gang activities.

The Cadet Corps was started in 2001. It was a vision of this Minister and happily it is still going well. It is growing from strength to strength, as well as the National Mentoring Programme which we operate in conjunction with the Chamber of Commerce. For the Coaching for Success Programme we recruited from Birmingham a special person who had experience in dealing with these kinds of youth. These programmes are working.

I never heard the Leader of the Opposition talk about this. He is only talking that schools are overcrowded and there is a crisis and the buildings are dilapidated. It is true that we have at the George Hicks School a challenge, but minds are being developed. We are moulding successfully the future leaders of this country, the future Ministers of Education, maybe even the future Speaker of the Assembly. We are moulding and doing well and working to staunch the flow of those who fall through the gaps.

The Education Department has a closer liaison now with the Community Development Services because we have taken a holistic approach. We want

to identify these students from the earliest stages so that we can work with them and rehabilitate them.

Mr. Speaker, God willing, in September we will have an opportunity to have a modern Education Law. I promised in 2002 that I would give the country before my tenure was up a new Education Law. The Bill is now ready, only to be approved by the Cabinet, and then to go out for public information, comment and criticism. I will table it, hopefully next week or the week thereafter so that it can be a public document that people can see.

It sets out in clear and modern parameters the responsibilities of all the players involved in the education establishment: the Ministry, the Education Department, teachers, parents and the students themselves. It is an important modern instrument of which we can all be proud, developed under the auspices of this Minister, with the support of the United Democratic Party.

This year, a record 76 tertiary level scholarships have been granted. Every year since 2000, there has been a record number of overseas scholarships given and also scholarships to our Community College, which will soon be a University College, and that itself is another achievement. Why do we have to do this? It is necessary because at the rate in which we are sending our qualified students abroad for tertiary level education, it would soon become unsustainable under our system of financing.

On each student, we expend, on average, US\$20,000 per year four years. When you consider that the tuition fee in the United States rises by an average of 10 per cent per year... at one time I calculated we had 199 students studying abroad on government scholarships. So when we calculate that, we would find that it would soon become unsustainable and we have no reason to believe that there will be any decrease in the numbers. The trend shows that there has been a steady increase. In my most recent research, I found that over the last year university tuition fees in the United States have increased by 35 per cent, so we realised that something had to be done to make available to our students the same excellent opportunities for tertiary level education.

So when the board of governors of the Community College wrote to me in 2001 requesting that consideration be given to transform the Community College into a University College, I took the request on their advisement, research and study and I discussed with them what they had in mind. I am happy that tonight will be the last commencement exercise of the Community College as an entity of the Community College.

Future commencement exercises will include the University College of the Cayman Islands offering Bachelor of Science degrees in economics, finance, accounting, and information and communications technology. Next year will include teacher education and some other disciplines, the most popular disciplines according to the surveys that we have, which

are in demand in our economy. The degrees will be offered in association and upon licence of other universities, which the Community College has articulation agreements with, not unlike the evolution of the University College of the West Indies when it started as an associate institution of the University of London.

So, Mr. Speaker, education is moving, but it is moving in a systematic and planned direction. Every facet and aspect of education is moving in that direction. I am confident that my stewardship is the stewardship that the country, when it comes to make assessments, will see and understand.

I want now, Mr. Speaker, to address the business of the lack of Caymanians for skilled areas. As I have said, we have just had this work skills assessment survey, which the Employment Relations Department commissioned and which we hope to use as a basis to arrive at some comprehensive training policy and strategy for persons in the technical and vocational area. However, I caution—and it is a caution based upon experience—that when we have our students trained and prepared, they are going to come upon the same obstacle which many of our students returning from universities in the professional fields come upon now. Employers are going to tell them that they do not have the experience. They are not going to make way by getting rid of the people on work permits to give the Caymanians a chance.

Mr. Speaker, there is a kind of hypocrisy which exists in this society and it frustrates many of our young people. I am incompetent, unable, as the Minister of Employment and the Minister of Education, to deal with this because it seems that there are forces greater than mine. What happens? Someone has expatriate employees and for their own reasons they do not want to get rid of them. When a trained and qualified Caymanian employee applies for the job, all kinds of excuses are given. We have to find a way to rid ourselves of those kinds of hypocrites and that kind of hypocrisy in this society because it is not going to bode well for the continuing cordial relations which we have. So any successful, technical and vocational training plan will have to be balanced by the guarantee that when we have trained Caymanians they will get the opportunity to exercise their training by getting employment.

I do not know how we are going to deal with that. It is a situation to which I grant the greatest level of seriousness and I am well aware of the games that are played. I have had opportunity to summon, on occasion, several persons to my office and to let them know. However, as I said, in many instances, I am unable to successfully address the situation because these people have their ways and means and sometimes they have a way of gravitating to higher beings than me.

Mr. Speaker, I am satisfied, and the records will bear me out, that at the end of the day it can be truthfully said the United Democratic Party is a party which supported the establishment of a sensible,

credible, effective education system and I welcome the challenge of further developing our system. As I said, I have set for myself this business of redressing the gender disparity.

I am also concerned about the fact that not enough is being done in the schools as far as HIV and STD education is concerned. I am in dialogue and contact with the Red Cross here, and the Red Cross officers tell me about their efforts to promote awareness in the schools. I believe that we have some work to do given the fact that outside of sub-Saharan Africa, the Caribbean is the next major affected region.

I would like to see a robust educational awareness programme in all our schools. I give a commitment, if I am returned that I am going to work with the Red Cross to develop that programme because we have to prepare our young people for this awareness. We have to educate them to take the best care of themselves. I am concerned because Cayman stands on the confluence of a rapidly traversed geographical area from all points and the best protection that we can give ourselves is to educate our young people, and it should start in the schools.

I will continue my robust schools improvement programme. Permit me to bring closure to this business of education and education developments by saying if our system was as bad as the Leader of the Opposition makes it out to be, if our system was in such chaos, you tell me, Mr. Speaker, how the Government of Morocco can make enquiries about our ITALIC programme. You tell me how Anguillian educators would travel to the Cayman Islands to learn about our model of transforming the Community College into a University College and ask us to help them set up their college along these lines. You tell me if our education was in the chaos and crisis that the Leader of the Opposition would have it to be, why the Minister of Education for the Bahamas would travel to the Cayman Islands to meet with me and why we would go there to consult with them about our educational initiatives. If what we are doing is so bad, you tell me how the people from the Turks and Caicos Islands would want to study our labour legislation as a model for modernising theirs. Tell me how the people of the British Virgin Islands would send their representative, Ann Hale-Smith, to look again at our ITALIC programme.

Finally, Mr. Speaker (this is the kicker!) when I came to the Ministry I told the United Democratic Party that part of my educational policy would be to establish a citizenship and human rights module in the curriculum. I did that and I am proud to say that Mr. James Watler and Ms. Bobeth O'Garro are two of the developers recognised by a Commonwealth organisation in the United Kingdom. If our system were so bad, you tell me how the Cayman Islands Citizenship and Human Rights curriculum would be chosen as a model for the whole Commonwealth. I want the Leader of the Opposition, and any pretender that he

may be in association with, to answer these questions and then come deal with me one-on-one as an educator.

I could be uncharitable but I will not because I know him well and I know how close he skirts to the wind. If I were thin skinned, I would regard many of the things he said as personal affronts, but you know what? I have him out. You see, he is not here today because he can give but he cannot take! I am ready to meet him and any cohort that he may have with him and to debate with them. The difference between me and them is the only paper you see me read off of is when I read the facts and the figures. Everything else is in my cranium! I know about democracy and I know the risks. I tell people I live like a soldier. Any day you go to battle you can be shot. So any election you go in you can lose; that is the democratic right of the constituents. However, I tell you this: the country will see that they had a good Minister and they will understand that the United Democratic Party Government was interested in education because they brought forth, not only the best in the party but the best that was available!

That is the difference. I have confidence in what I do, I believe in what I do and I do not go around politicising civil servants. All I ask of them is, perform and carry out my policies. They do not have to love me. I wish that he were here so that he could see the level of my righteous indignation for him.

Mr. Speaker, I would love to win again and I am going to fight hard and I am not surrendering to the (PPM) People's Progressive Movement. That is out of the question. I will fight with my colleagues as a phalanx moving forward, to give this country the kind of representation we believe it needs that we can deliver, because actions speak louder than words! The UDP has left a legacy of action.

I know that when you are a Minister, you are tied down. It is not like when we were MLAs and we were available and could visit our constituents every day and every week. We do not have so much time now, but we run surgeries in the constituency when we can. No one can say that our constituencies are neglected. For the first time we have been able to accomplish things in Bodden Town that needed to be accomplished. In a few weeks' time we will open a computer learning centre, second to none, with the best equipment and programmes available, a pilot programme.

I traverse every day with certain realities, but I am not going to let detractors propagandise the country into believing that the Minister of Education squandered his time and that his party did not give him support. Nothing could be further from the truth. I say this: I do not see anywhere that I would be now except firmly in the ranks of the UDP because the PPM does not hold any future for me, and by inference it does not hold any for Cayman.

So as I said, although it was not like when I was an MLA, that I could be traversing every day the

highways, byways and back roads of Bodden Town, I have still delivered for the people of Bodden Town. I have delivered good schools, good education system, scholarships and I have even ensured that they have proper health care and affordable insurance by supporting my colleagues. I have supported my other colleagues in the other Ministries to make the Cayman Islands the place it is today, where everyone who wants to work, can work and where we have certain freedoms.

I will tell my people these things. I will remind them and there will be many who will come, because this is the time of talking with promises and platitudes and swaying arguments and maybe even songs, but the discerning people will understand.

I hope when all is said and done that those who follow talk sense. I hope when all is said and done that those people who would wish to assume the Government realise that talk is cheap. It is easy to sit on the Back Bench and criticise; I did that for 12 years. It is much more difficult when you have to prioritise, make plans, juggle objectives and decide which policy should be implemented first.

Before I take my seat I would wish to say, for me it is nothing personal, it is just politics and the defence of an immaculate record and a declaration of association; that is all it is, spoken with the sincerity and commitment of one who believes in what he says.

I look forward to the next little while. I think that Cayman is in good hands, despite what detractors and naysayers may say. The record of the performance of the United Democratic Party is unchallengeable. We have done things that needed doing that no one dared to do, and sometimes when you do that you expose yourself to criticism. But thank heavens I have never been one to sit around in that grey area, inhabited by timid minds and feeble souls.

I want to leave on this note. I would humbly seek the support of my constituents for myself and my colleague, and my policies are not the timorous etchings of an uncertain artist; mine are the bold stroke of a maestro. I say that until the PPM comes up with a more credible education plan, the plan that I espouse is the plan.

Thank you, Sir.

**The Speaker:** Honourable Members, I propose to take the morning break at this time and resume in 15 minutes.

**Proceedings suspended at 11:34 am**

**Proceedings resumed at 12.05 pm**

**The Speaker:** Please be seated. Proceedings are resumed. Does any other Member wish to speak? Does any other Member wish to speak? The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, prior to the resumption of this Honourable House this morning, my colleague from the other side reminded me, in a nice way, of the adversarial nature of the business called "politics" and I took it in good faith. It was said jokingly, but I recognise the seriousness of that statement.

In starting my contribution to the 2004 Throne Speech, I echo a closing comment by the Minister of Education when he said that it is not personal; it is all about politics. I trust that we do not take it personal as it is all about politics.

Since the topical subject matter is education, maybe I should start on that subject so that we do not lose the train that has been going on.

The Minister of Education ended his contribution on the defence of the UDP Government, and I think that it is quite appropriate that I begin mine on the defence of the People's Progressive Movement.

This Government which came to power, quite controversially, on 8 November 2001 has, in my opinion, missed the central piece of the jigsaw puzzle when it comes to governance. Priorities are wrong, contrary to what the Minister of Education said that the Government supports his every effort towards education. It certainly is not borne out in what he is doing.

The Minister spoke of how incompetent he was when it came to trying to get employers in this country to hire young Caymanians who have been recently trained but lack the experience. That incompetence is exactly why he has to say to the UDP, *'You make your bed, you lie in it.'*

His very subject of the inability to protect young Caymanians has been going on for a very long time. In particular, there are very large law firms in this country, who in recent times as I understand it, have gotten rid of at least three young professionals and Government has done nothing about it! Absolutely nothing! The managing partner of that particular law firm seems to be god in this country. That is what the UDP Government needs to work on. If you stop one, the others will not do it. Put the brakes on one.

You know what we did in response to their actions and their indiscretions? We went and gave all of them Caymanian status! That is what the UDP Government did. I say today that a Government made up of PPM Members will not address it in that manner. I understand politics.

I know that the Minister of Education spoke of the separation between politics and civil servants and I agree with him. But I know what, there is no separation here and contrary to his belief I can take it as good as I give it, and when they are ready to reply to me it is entirely up to them because I am saying what I have to say. So I want to make that clear. They can say what they please in reply.

Let me stop for a second and talk about the Minister of Education. Last year the Minister of Education brought a report and it was entitled, "Report

Card". Mr. Speaker, as I recall it, the Minister said that report card would be what he would be measured on for his stewardship. I am here to tell the Minister that there is a big 'F' in red across that same report card that he brought here. How that came about I do not know. He claims to be a professional educator, he claims that he is capable of dealing with education and he also claims that the Government has supported him in everything he wanted to do. It is not showing up. One of those has failed. It is either the Government is not providing him with what he needs for it for education, or he is not a good administrator. The country has to decide that, and I am going to show that either one of them is his fault, it is not mine. I am going to show that most of what he got up here and replied to the Leader of the Opposition, the Leader of the People's Progressive Movement is total hogwash.

It is quite interesting to compare the Throne Speech of 2003 with that of 2004, keeping in mind that the Throne Speech of 2003 was delivered some 16 months prior to 2004. We take a glimpse under "Education" and compare them. I am going to show you where the hogwash comes in from the Minister.

Under Education Law in 2003, I read, **"In 2003, the Ministry will focus its efforts on the need for a revised Education Law. This was recommended in the Millet Report, tabled in the Legislative Assembly in 2001. The Revised Law will constitute the Schools' Inspectorate and its powers, address the issue of home schooling, establish an Appeals Tribunal and incorporate other recommendations from the Report."**

In 2004 under "Education"- **"In 2004, the Ministry will also build on its work in school improvement, with the establishment or continued implementation of the following key initiatives:**

**1. The introduction of a comprehensive and modern Education and Training Law. Drafting instructions for the new law are to be scheduled shortly, and the Ministry aims to present an Education and Training Bill to the House in September 2005."**

In two years all we have ever heard from the UDP are promises and goals to better, the lives of the people of this country and they are yet to be realised. The Minister also said anyone who wants a job in this country can have a job; that is how buoyant the economy is. I am here to tell him that he is not in touch with the local man, the small man, because I hear it every day. There are many people in this country that are not working, but I have a dream that one day these people will be liberated from the governance as such they have now and only the PPM can bring them out of that bondage.

I think what has happened with the UDP Government is that they have missed the fundamentals of democracy governance. One of the fundamentals is that the people elect representatives albeit to tax them, the same people who voted for them. However,

with that authority comes the responsibility to utilise that money to provide the services for the betterment of their lives. The UDP has missed that. They want to boast of the \$40 million that they have accumulated as a result of those taxes, the surplus. Then we turn to the issue of providing facilities for our children, and I am going to go very parochial at this stage.

Just in case anyone in this country thinks that I am not doing what I was elected to do, I will enlighten the general public and remind the Minister of the education woes in East End. Mr. Speaker, I beg your permission to read from some letters that I wrote the Minister. In October 2002 I wrote:

"Dear Sir,

"Re: East End Primary School.

"Further to our conversation concerning the East End Primary School needs, I confirm the following. The school is in dire need of a cafeteria which will allow for the proper preparation and consumption of meals in an environment that is conducive to proper hygiene.

"Currently the kitchen comprises of equipment suitable for home use only and meals are served and eaten outside under a passageway.

"There is a need for proper staff offices. Currently staff is occupying a small one room office which is limited in space and does not facilitate the efficient and proper management of the institution. As you are aware these issues have been outstanding for many years and on our visit during 2001 we were both sympathetic and committed to addressing the situation. It is my understating that the Public Works Department is in possession of proposed architectural drawings detailing these enhancements.

"I hereby request your attention to these very important matters which once addressed will enhance the school, pupils and teachers success."

Mr. Speaker, to the Minister's credit he replied to my letter. This is the key and he writes:

"Dear Mr. McLean,

"Re: your letter dated October 17, 2002 East End Primary School.

"I have read your letter and write to inform you that at the earliest convenience I shall be taking up your request with the Permanent Secretary and the Chief Education Officer. While I give my undertaking that every effort will be made to be as accommodating as possible, I also remind you that we are in a time of fiscal constraints.

"As soon as I have completed discussions with regards to your request, I shall communicate the decision to you."

The decision has not been made, Mr. Speaker. Now, the Minister talks of how if there is any fault to be levied it should go to him. He said that in his contribution to the Throne Speech earlier. He also said that the education policies of this Government are alive and well. In 2003, the Minister budgeted \$5,000 for the canteen in East End for plans, and at the recent Finance Committee for supplementary

funds it was removed. Is the Minister telling us that he has a policy in place, a plan in place to give the people's children the proper facilities? He talks about the plan in schooling and how we as Opposition constantly bemoan it. The programmes cannot be done without the plans. We cannot implement the educational programmes without the plans.

Going back to the East End school, this school is 30-odd years old and here we are with no canteen. The Minister in early 2001 toured the East End school with me and other members of his staff, and to this date there is no canteen. Tell me where the policy and the plan are from the UDP for our children in this country? Someone needs to tell me that. Or, is it because it is East End? Again, I remind them of that fundamental right of every citizen of this country to share in the proceeds from the taxation.

East End is no different. Yes Arden McLean has a big mouth, but it is not me. It is not my money; it is not for me; it is for the same people that we tax and ask to share in providing the services of this country and for them. Yet, the Government and their select few is where it is done. That is where it is shared.

So the Minister cannot get up in this Honourable House and try to convince the people of this country, in particular the people of East End, that he is doing everything for education. It is absolute hogwash! He must have plenty of pigs on his farm!

Mr. Speaker, it was I who went and begged for the computer lab in East End, and you are telling me the Government is doing things for the people of this country? No, it is a select few.

I bring another incident to your attention on education again. On 28 June of this year, again I wrote the Minister and I read:

"Dear Sir,

"Re: East End Primary School.

Further to our conversation of Friday, 25 June 2004 regarding the repairs being carried out to the East End Primary School, I confirm the following. I had discussed it quite briefly with him by phone prior to writing the letter.

"During an unrelated visit to the school on Friday I observed certain repairs being carried out, in particular the retiling of the restrooms. Upon enquiring of Mr. Bodden of Public Works Department and Mr. Smith of the Education Department as to whether any of the toilets would be replaced with the lower profile type and if the full doors to the cubicles would be changed to lightweight half doors which would be more suitable for the children, I was informed that there were no plans for such changes.

"Upon additional review of the premises, I further observe that there are a number of windows to be replaced of which I also enquired into and was told that there are no immediate plans to continue the change-out programme which commenced some two years ago.

"As you are aware the East End Primary School has been lacking repairs for many years. The

toilets and doors thereto have been in place since it was built. In recent times the school has added a reception class with children from the age of four years.

"To expect these youngsters to continue to use these high and cumbersome toilets would be inhumane and unconscionable. I therefore see no reason why during the repairs that at least two in the girls and one in the boys bathroom cannot be changed to low profile type and the full doors changed to lighter half doors to prevent the children from being locked in accidentally.

"Additionally it seems commonsensical that we should have the windows in the school changed to hurricane ready type as soon as possible.

"Other than new windows being more energy efficient, the school is designated a hurricane shelter; thus the need to have these windows installed.

"In view of the school closing shortly for summer, I respectfully request that you intervene and have these necessary repairs effective prior to the start of the new school year.

"Yours sincerely,

"Arden"

Mr. Speaker, the Minister did not have the opportunity to reply to me but that is fine. What I am saying is there is no plan. These toilets in East End have been there since it was built. They have to be at least 18 inches high. I have never, in my adult years, seen toilets of that nature.

I will tell you what happened. They returned every one to the original spot. We all as adults have lower profile toilets in our homes, but our four-year-olds in East End cannot have them. Do you think that is right? Do you think there is a plan? There is no plan! Or, if there is one it excluded East End. In any event, I am here to defend East End and someone is going to hear it over on that side. They may not adhere to it but they are going to hear it. The Minister has failed the government as a result of his association with the UDP, and as soon as the principal and the senior staff with authority in these schools starts complaining in public, it is like they want to lynch them from the nearest tree. Well, lynch Arden McLean now because they are going to hear it. I have had enough.

The Government would not provide the playground set in East End. I had to go out and beg for it. That is the nature of the beast. They have carried the politics too far to try and damage me, but they are damaging our people.

The Minister and the UDP Government are treating the people of East End like step-children, and it is really ridiculous and unreasonable. When I was elected to this Honourable House, the principal and the deputy principal of East End School had just arrived and the school was not doing as we would have liked. Today, it is one of the better schools in this country thanks to the principal, the deputy principal, Mr. Tibbetts, and the other faculty. They have had to use everything in their personal arsenal to get that school the way it is today and I thank them.

There is a change coming soon in the staff. The principal is leaving to go on to the alternative education section and Mrs. Frederick will now be principal. Mr. Tibbetts, who is the little golden-eye young man in this country, has had to struggle. He is everyone's golden-eye boy and the whole country needs to use him as an example. The Minister needs to use him as an example to encourage other young Caymans to go into the time-honoured profession. But do you know why they are not going? It is because of the same Government. They went into power promising to give the teachers of this country better conditions and better salaries, but they are not doing it. What we have to understand is that three Members of Cabinet have been through those hard times, with a lack of proper compensation for teaching. I cannot understand how the three of them can be so insensitive and not control Cabinet and say, *'We need to increase people's wages.'*

I know that it is the responsibility of the government, but the political directorate can recommend it. However, I will bet you that they have not recommended it and they got to vote and bring the funds here. The UDP Government, and in particular the Cabinet, are not in tune with what this country needs. The PPM is.

Mr. Speaker, the Minister went on to talk about his ITALIC system. In 2001 the Minister promised that he would have computers on every child's school desk in this country. I do not see them yet, but nevertheless, they are embarking on an ITALICS (II) and have not finished (I) yet. What kind of governance and management is that? Three and a half years later and the Minister and UDP Government have done absolutely nothing!

The people of this country must leave them in here with the stranglehold they have on them. My appeal to the people of this country: get rid of them. The Minister is going to jump up here about his abilities, and he will not be coming with the PPM after the Election. We do not want him! We have no need for him if he is going to be doing with us what he is doing over there. He can stay there and languish in the Opposition the next time. That is where he going to go. We are going to do him what Mr. Haig said he was going to do him, leave him up there in Bodden Town.

He is out of hand and he comes talking about this grandiose pilot project in Bodden Town with a computer learning centre. The irony of that is, when I opened mine in September 2003, that was the pilot project in this country and he called it that at the opening. However, all of a sudden, now it has become Bodden Town has the pilot project in the country. You cannot have two pilot projects. Maybe you will have one for Bodden Town, but not for the country.

It is not a pilot. He is pirating mine but that is good because I have an obligation to the rest of this country, not only East End. Anything I can do to help the rest of this country I will, but he must not come in

here about "pilot project in the country" Besides, while I commend them for doing it—

### Point of Elucidation

**Mr. Lyndon L. Martin:** Point of elucidation, Mr. Speaker.

**The Speaker:** There is no such thing, unless the Honourable Member wants to give way. Is it a point of order you are asking for, or asking the Member to give way for elucidation?

**Mr. Lyndon L. Martin:** I am asking the Member to give way for a point of elucidation.

**Mr. V. Arden McLean:** No, Mr. Speaker, he can sit down.

**The Speaker:** The Honourable Member refuses. Please continue, Honourable Member for East End.

**Mr. V. Arden McLean:** He has two hours to refute anything I have said on this side. He can wait over there and get up after me, but I have had enough of it!

I commend them for doing this, and as I said, anything within my power for the people of my country is what I swore to protect and to serve. They have forgotten that because they have forgotten East Enders, but they will not be there long. Then East Enders will have someone in the position capable of delivering for them.

My record stands the same way the Minister of Education can get up and appeal to the people of Bodden Town about hope when he gets back in. I hope that the people put enough trust in me to return me to this Honourable House also, but it is their choice, not mine, and if they are not satisfied with me they will elect someone else. However, he got up in here about how much he has done, promises, many promises that never came to fruition.

I applaud the Cadet Corps, these are the type of things, but if the Government is only going to get one out of a million, that is poor management.

Mr. Speaker, the Minister spoke of how the UDP will leave a legacy of action. I would advise him to review that because it is leaving him in a position of inaction. That is what is happening with him and it goes for many others on that side too. He must learn to take it as good as he can give.

He spoke of how weak the education plan in this country has been for many years. He seems to have weakened it even further. Nothing of any substance has been done to help our children. The grandiose scheme of turning the Community College into a University College, oh yeah! No egos to stroke? He has said that many times. There is serious caressing somewhere.

The job of the Opposition, as he quite rightly said, is to show the lack of priorities on the part of the

Government; it is for them to say what they have done. I know what I feel and see, and I know that the people of East End are suffering under this Government and the people in the wider community of the Cayman Islands are suffering under this Government! Very few people can go out and defend the UDP Government, but we must succumb to them? No, I have the right to say, with respect, what I want in here. When the time comes for them to reply they can do so. If they so choose to call it the beginning of the campaign, so be it because with God's help and the help of my colleagues and the people of this country, I am going to see to it that they do not return. They have failed us and our country suffers as a result of their governance.

I think another issue I would like to turn to is— it is unfortunate because of my illness I did not get to reply to the Budget Address; therefore I have to bring everything in now and I will.

The Government went off recently to start talking about a dock and airport in East End. Let me first address the dock. I would like to take us back in time some 20-odd years ago when the owners of Quarry Products came to this country. They proposed a quarry right where the Leader of Government Business and his cohorts are proposing a dock. The people of East End objected to it then. When the subject came to the forefront again sometime during 2002, I went out and I tried canvassing the people of East End. I would venture to say that 95 per cent I spoke to said no.

The people of East End asked me to assist them in writing a petition to the Governor and I did that. Mr. Speaker, some 500 signed against the dock being placed at Half Moon Bay. It is not for me to tell you the reasons why all of these people signed, it is their personal position which I need not try to determine.

I wrote the then Governor, Governor Smith, with the petition and signatures attached, albeit a couple of days prior to his departure, thank God. The Governor replied the day before he left saying that he would pass it on to his successor. It seems to have died a natural death. I am yet to have anyone sit me down and say this is what it entails, and I believe the same is true for the majority of East Enders. There were a number of questions asked: Who is going to pay for it? Is it going to be the Cayman Islands Government? Where are we going to get this kind of money? To top it off, the Government then said they would build a main arterial road from East End to West Bay from the material dug.

Personally, I do not support a dock in that pristine area of East End. I support development but very importantly, we as a country, Government, Cabinet over many years have had a policy that we do not dig over the fresh water lens and I support that. This piece of property is close to the fresh water lens. I cannot say that it is over the lens but I know it is extremely close, if not over. I do not support it. That is

one reason. The other reason is it is pristine. On any day, you can find at least five dive boats from the diving industry in East End and George Town within that immediate vicinity, right where they would have to cut a channel through. They come all the way from George Town to East End for the diving.

Anyway, it died a natural death and all of a sudden the dragon rises again. The papers reported—and I do not think I am speaking out of turn but as far as I saw in the papers—that Mr. Imperato had bought the property and there were plans to again revive the dock issue. It is my opinion (and I will hold fast to this) that the purpose of digging up there is not to build a dock. There is some rat here and it stinks. I am going to prove my theory.

Since then the Leader of Government Business has announced that the Government is looking favourably at putting an international airport somewhere on the eastern end. It is my humble submission that no dock is going up there. It is my position that the intent is to put another crater in the middle of East End, but I will tell this Honourable House it will not be on my watch. It is up to the UDP Government to make sure that my watch finishes soon if they want to put a dock in East End. They really need to do that; and until I get an indication from the people of East End that they are supporting a dock in East End, I am not going to support it! I will not! If the majority of people in East End say, 'Yes we want the dock,' then I will have to eat crow, like the Minister of Education said he wanted the Leader of the Opposition to do. It will be a big pile of crow for me to eat, but I will eat it because that is what representation is about and that is what I call representation. Personally, until I get that, no bulldozer will be starting.

**The Speaker:** Honourable Member, is this a convenient time to take a break?

I propose to take the luncheon break at this time and resume at 2.30 pm.

**Proceedings suspended at 1.00 pm**

**Proceedings resumed at 2.43 pm**

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

The Elected Member for East End continuing with his debate. Honourable Member, you have one hour and five minutes remaining.

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

Although that is not going to be enough time to finish what I have to say and finish this indictment of the UDP, I will try my best.

When we took the luncheon break I was on the subject of the dock in East End, and I will like to come back to a section of that but I would also like to go back, very briefly, to education.



While we were taking a break the Sarjeant delivered a letter to me, which in reply to that letter I spoke of concerning the repairs being done to the East End School. It is the Minister's reply to my letter and I thank him for that. However, in his usual way, it does not give any comfort to me or anyone else. If I may, I will read it because it is only two lines.

Dear Mr. McLean,

"Thank you for your letter 28 June 2004 regarding repairs being carried out at the East End Primary school." That is one line. The next one is, "I will investigate your concerns and respond to you shortly.

Yours sincerely."

If I follow 'response' from anything that the Minister is going to investigate as history will prove with regards to East End School, the cows will all come home before I get that response. That has been the way that it goes so I guess we will have to deal with that one.

Three years or thereabouts, I have written him about the canteen and this year we are no closer to getting a canteen in East End. The PPM Government will do that. We will ensure that the people of East End, and in particular, their children are in comfortable surroundings.

I would now like to conclude my remarks on the airport. There seems to be something in the Government's way of managing this country that says to me they throw these things out just to hear what people have to say and then they use that as a means to reverse their proposals.

Mr. Speaker, personally I see no reason for an airport to go to East End. However, I will support an executive airport in the eastern districts. Demographically, the airport should remain where it is. I guess this is another red herring to dig a crater in the middle of East End in order to build this airport. It takes a long time to build an airport so the country need not worry about that now. I believe we need to upgrade the current airport facility. I believe we need to ensure that the airstrip is longer to accommodate aircraft from further distances so that we can expand our tourism market, and I support that but I believe it can be done satisfactorily where the airport is at. That will be a subject of another debate.

I mentioned at the beginning that all the Throne Speech did, in my opinion, was repeat everything that was to be done in 2003, which were the promises the Government made and it has taken them 16 months to realise that they could not fulfil the promises; unfortunate but true.

There are many things in this Throne Speech that repeats the 2003 objectives and goals. I would like to point out a few of those in order that the country and those who did not have the opportunity to read the Throne Speech and compare it with the one which was delivered in Cayman Brac and Little Cayman in 2003. For instance, under "Culture", in 2003, the Government gave us a glimpse into the main library in George Town. It says, "**In 2003, work will begin on a**

**3-story extension to the George Town Public Library. In addition to tripling the usable floor space of the current facility, this will include internet-enabled computer labs. Students will finally have access to a library whose mandate is to be the "local centre of information, with all kinds of knowledge and information readily available." These additional facilities will allow the library to better complement other ministry initiatives such as ITALIC.**" Then in 2004 under "Library", the Governor has reported, "**With the contributions of private sector partners, the Ministry is anticipating that construction will commence in 2004 of a three-storey extension to the George Town Public Library**" again 16 months later.

The Government continues to make these promises and not fulfil them. This is the same management style that the Minister of Education talks about that is alive and well and the UDP is the best thing since sliced bread. He talked about the action legacy that they will leave behind. When that same Minister was on this side of this Honourable House, on 16 June 2000 said, and with your permission I quote from the Hansard of 16 June 2000.

**The Speaker:** Please continue.

**Mr. V. Arden McLean:** "Has it not also struck you, Mr. Speaker, that we don't have a national library per se? We don't have a sophisticated building where we could in a quiet sober atmosphere concentrate and do some extensive research on a project? Have you ever wondered, Mr. Speaker, why? Yet, we had a big debate here (you will recall, Mr. Speaker) when it was proposed that we set up a National Gallery. We are building a National Gallery but we don't have a national library. Have you wondered why?"

"Mr. Speaker, has it ever dawned on you that there is a contradiction of sorts in saying that we have a perfect educational system but we don't have a library where somebody can go on a Saturday morning to satisfy his curiosity in a particular subject, where he can read a journal or go and research a particular text in an area in which he may have an interest?" Four years later we still do not have the National Library that he envisioned then.

I have always said and I continue to hold fast to the belief that there is a thin line that separates Opposition and the decision-making process.

I go now further to say that the UDP has not made that transition well. We can speak of it here, but are they still in that mode of opposition over there? It is a different ball game; they have to now make the decisions that are in the best interest of the people of this country; that is what it is all about. They ask us our plans. How are we going to produce plans, as the Opposition, for them to do? It is their job to find innovative, creative initiatives for the betterment of the people. They assumed that position on their own voli-

tion, nobody pushed them there. Nevertheless, they are talking about the decisions that they have made; the action. They left off the 'in' on the front of 'action'.

Under PPM administration, all these things will come to fruition. Is it not a downright disgrace there are four computers with internet access in all of our public libraries in this country? I did not say so; the UDP Annual Plan and Estimates for the Government of the Cayman Islands for the financial year ending 30 June 2005 said so. Now let me help the UDP Government. I am going to put internet access in the East End Library. I have already secured the computers, and with the permission of the Minister of Education I will do that. However, I hope that he does not have to make a decision on whether or not we can do that because we will never get them in there. I have them; they are in my office in East End. That is what good representation is all about; if you do not get it one way, you do it the next, getting things done. I hear they are up in East End trying to revive one of those old 'has been' politicians too, campaign coming.

One thing I can say in defence of the Minister of Education, he sits here and takes it as well as he gives it, although he is leaving now but I did not intend to run them all out of the Chamber and I am not going to call for a quorum. I will not do that because, at the end of the day, it is all about politics. So if they do not want to listen that is fine. I will sit and listen when they are ready to reply. You know, when it burns you, you have to leave. Two out of nine is not a good record.

Let me go on to another glaring example of how this Government has made promises and is yet to fulfil those promises.

Under Community Services, Youth, Sports and Gender Affairs—

**The Speaker:** Honourable Member, if you could refer to the pages as you go along it would be helpful to follow you.

**Mr. V. Arden McLean:** On page 13 of the Throne Speech of 2003, the Governor reported on Cayman Brac and Little Cayman, "**After much delay, a revised Children's Law will be presented to the Legislative Assembly during the first half of 2003. This will replace the 1997 law, which proved administratively cumbersome. The review of the current Adoption Law will also be finalised. These legislative advances will allow Social Services to concentrate more clearly on children's services, the goal always being to solve the problem in a way that allows the child to remain with the parent(s) where possible.**" And on page 19 of the 2004 Throne Speech, the Ministry is going to, "**Develop appropriate legislation to safeguard the rights of dependent persons, review legislation governing the Adoption Law and the Review of the Maintenance Law, and develop regulations for the Children's Law 2003.**" Here we go again; the Government sits

down and does not try to fulfil the promises and the goals of our people.

We recognise the urgency to have some of these laws reviewed. What have they been doing? Where have they been? Is it jet-setting all over the world? Europe, Cuba, America, Canada? It is too much jet-setting. We must concentrate on the needs of our people and the UDP Government has failed—another big 'F' for them too.

Now that we are on that subject, the Ministry of Community Services, Youth, Sports and Gender Affairs, I think it is necessary that I turn to housing issues.

Mr. Speaker, when the current Minister assumed responsibility in late 2001, he made a promise to this country that within one year he was going to have 200 affordable homes available for those who could not, under normal circumstances, own a home. I have always applauded any initiative for those less fortunate people that he was referring to.

Two years later on 20 May 2004, the Minister reported as an update on the housing initiative that the estimated latest date of occupation of the homes in West Bay would be 15 July 2004. That date is fast approaching and I hope they are available. However, what is unique about that is that the homes in Windsor Park, in George Town were the first to start. I wonder how the West Bay homes will be completed before those in Windsor Park. Is this the power of the great one? The great one has instructed that those in West Bay be completed first? More power to him. Thus our contention of a long time ago is that the Government consists of five different Governments and one leader, who directs the others as to what to do and the others sit down and close their mouths and he does as he pleases. That is what this country is faced with. The country has the opportunity on 17 November 2004 to stop that, and I plead with them to remove the Government because they honestly need to be removed.

After the much delayed housing initiative, I waited like everyone else for these homes, and on 11 August 2003 I wrote the Minister. With your permission I would like to read that letter.

It said:

"Dear Sir,

"Re: Affordable Housing.

"Having had to opportunity to examine the building materials being used to construct the affordable houses in the Windsor Park area, I wish to make the following observation and suggestions on materials suitable for building as it relates to the district of East End.

"As you are aware, the district of East End is extremely vulnerable to the easterly prevailing winds which brings with it air borne salt spray. The situation invariably causes corrosion with the resulting long term effect of extensive maintenance costs. The materials used for the housing initiative seem to be of a composite of metals not widely used in the Cayman Islands and thus without any proven resistance to

these harsh weather conditions necessary for longevity.

"For this reason alone, the material being employed in the current initiative may not be suitable for construction within the district.

"In view of the foregoing I respectfully ask that you and I discuss at your earliest convenience a suitable housing initiative for the people of East End. In addition, upon review of the housing needs of the district it is my position that a start with approximately 30 affordable homes will suffice at this time.

"I look forward to your earliest reply."

That was 11 August 2003. On 16 September 2003, which I suspect was the earliest possible reply time, the Minister replied.

"Dear Mr. McLean,

"I am late in replying to your letter of 11 August partly because it challenge Government's Affordable Housing Programme in so many ways that I could not figure out whether you were just being political. However, after listening to your Leader, Mr. Kurt Tibbetts, speak on 6 September I must now conclude that the remarks in your letter were very much along the lines of his criticism of Government's initiative.

"If your Party is not satisfied by what we are doing to make housing affordable, there is very little, if anything I can do about this aspect of the PPM's political strategy. Nevertheless, I will await with great anticipation the suggestions you will make for your district and I look forward to your suggestion in writing as soon as possible.

"Yours faithfully,

"Dr. the Hon. Frank McField."

Suffice it to say, my letter did not warrant such a reply and I did not reply to him. Therein lies the problem that this country faces under the administration of the UDP. Everything they do is political and about their re-election, unlike the Leader of the Opposition, who is a statesman, politicians they are made up of, look about re-election. The Leader of the Opposition looks for the next generation!

[Applause]

**Mr. V. Arden McLean:** Therein lies the difference between the UDP Government and the PPM Opposition. One day because the PPM, the same way the UDP is not going away—except they will come back in smaller numbers, that is a maybe—the PPM will also be on that side and then we will lead this country into that same millennium that the Minister of Education talks about.

Mr. Speaker, we cannot have politics involved in this. My job is to represent the people of East End, and when I write a letter the Minister of Housing needs to understand that we went through the same process to get here. There is no difference in me and him and our election to this post and it has nothing to do with me. It has to do with our country! This is our country, but the UDP Government seems to think that

it is theirs to do what they want. No such thing! They are mere trustees for four years and this is the last of the four years. It is over!

The fat lady has reached the stage and I am handing her the microphone and the song she is singing is, *'Shall we gather at the river to say farewell and cast our wreaths into the water to be carried away into oblivion.*

[Laughter]

**Mr. V. Arden McLean:** This is the attitude of the Government of the day. Everything the Opposition proposes or asks for is denied. My pockets are not lined with anything other than emptiness; it does not go into my pocket! I do not know whose pocket it goes into, but I know it is not mine and I am not asking for anything for me. I have come here with one promise to the people of East End; to do the best I could while I can. I believe that I have brought to the attention of the Government of the day the needs of the people of East End. However, the UDP Government have worked me right to death. I had to go out and beg for everything.

There are two truths about life that I know: hard work never killed anyone and crying never killed anybody either. I am going to cry because I will stop crying one of these days when we get on that side. Hard work and crying never killed anybody and I am not afraid to do either of them.

You know what is true about the UDP? Many of them are afraid to lose. Too much at stake! Too many promises made and to the wrong people too! I trust they understand that they will not be able to fulfil them after 17 November; we are going to see to that.

Some may think that I am poking fun at it, but that is not the case. Sometimes one should not take kindness for weakness. That is not true because if it is anything Arden McLean has, it is the ability to talk. If it was left to some of them on that side they would have my tongue hanging out of my head and cutting it off, but then I will mumble it and write it down.

The Government will tell this country anything, but if the truth be known, very much has been done in the form of assisting the greater numbers of the people. I will not blame them when they get up and say that people have been helped, but I want the people of this country to understand that they are talking about a select few.

I move on to the issue of policing and protection of our people in this country. A recent spate of crime in a particular area in George Town brought to the forefront the lack of properly equipping our Police Force. On page three of the 2004 Throne Speech under "The Royal Cayman Islands Police Service", the first sentence says, "**The Police Department will commence this financial year with a full establishment of officers.**" The third paragraph down, "**They are also considering ways of strengthening our capability for coastal surveillance with the**

**possible purchase of new equipment for drug interdiction and search and rescue.”** At least they are warning us that it is only possible. The Government is warning us that this time it is only possible and they might buy it. With the PPM, it is going to be done!

Mr. Speaker, I have begged and beseeched the Government to do something about drug interdiction. We know that our coast line is about one hundred miles. It is impossible for me to appreciate why we cannot cover our coastline more adequately. It takes political will. It appears that the political will now is that that can wait; there are other things that we need to do. It cannot wait! This is endangering our children, the same children that we have no classroom and canteen for. This is an extension of disenfranchising them by the Government not doing something about it.

The whole country knows where the drugs come in yet we cannot catch them. The occasional time we find 2,000 pounds on the beach, we recognise that was already delivered and we were fortunate to pick it up.

Again I make the call to this country and this Government, the same \$40 million that is in surplus let us buy a helicopter, boats and a fixed wing plane, and forever the response has been too much recurrent expenditure. How much is too much? No matter what it is, if it saves one life it is worth it. The Minister says it is Alice in Wonderland; he is coming out the door, I am only just going in.

I must commend the Commissioner of Police publicly for the three officers that we now have in East End. I have some very enthusiastic young men who are ready and geared up, getting introduced to the residents of East End, and they are approaching it from a different perspective than many other police who have arrived in the district of East End; not that I believe they did wrong, they had no other way of doing it. The relationships are now being developed with these young men and I am thankful for that and I applaud the Commissioner and the three young officers in East End. They are doing a tremendous job and I think it will continue because some of them are even helping us with projects within the district.

The Budget this year makes provision for the renovation of the Police Station in East End, and I am sure that is as a result of my asking a question about it on this honourable floor. I want to see when repairs will commence.

Mr. Speaker, on a different note, that is also a requirement of the people of East End with regard to Public Works and the likes, we have asked the people and so have I, it was reported in the papers today, a caption on Thursday 8 July 2004 states, “East Enders Slighted”. We have asked for traffic calming devices, particularly along John McLean Drive and there is no response from Public Works and I trust that the Minister will respond to that.

There are many other needs, like roads, in East End. Last year the Government used the main-

tenance vote to try and repair the main road at Tortuga Club, but this year they have gone elsewhere. That road needs to be properly paved. I know that it will not be in this fiscal year or under this administration, but under the next we will get there.

Before my time is expired there is another subject that I need to get in prior to—

**The Speaker:** Honourable Member, you have 21 minutes remaining.

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

There are a couple of other subjects that I need to get in before I conclude. However, the one that is very important and dear to my heart at this time is the appeal that your good self made to this country about the separation of the legislature. I wholeheartedly support you with your position on that matter. I believe we may be the only country in the Commonwealth. I am not certain about this so I am subject to correction, but certainly if we are not the only one, there are not many more sharing the same fate where the Speaker has no autonomy.

The Speaker must have autonomy and the staff must be managed by the Speaker. You cannot have the Speaker, who has the responsibility to manage the affairs of the highest office in this land, with no administrative responsibility nor authority. The most appropriate place to put it is under the Speaker. I am not calling for anything new; this is the way it is done in any jurisdiction. The Speaker must have full authority and responsibility. He sits in the Chair and manages parliamentary procedures, but he cannot manage a budget. We need to remove that quick o' clock; not only quick o'clock but before the next General Election. If they do not do it, when we are returned, the first order of the day will be to separate the legislature and let it have full autonomy.

Another area which I would like to touch on is that of the ICTA (Information Communication and Technology Authority). I was as excited about deregulation, liberalisation in this country as anyone else and so the country knows it was started under your and the now Leader of the Opposition's watch in ExCo (Executive Council) at the time. In recent times, however, I have become a little concerned about what has transpired particularly in the telecommunications industry. I thought what we would have done while formulating the liberalisation process was to say to the incumbent provider, *'You cannot and you will not, in the interests of anti-competition, put your rates any lower than providers that are coming in.'* That is the commonsensical way of doing it, but it appears like that is not what we did. I know the problems we will have with dominance in the market and the abilities of that established provider and the possibility of them dominating a particular market; but it appears to me that the only persons being disenfranchised here are the people and they have no choice but to go to another provider.

I believe that the services should have dictated who the consumers go to. I want to make it abundantly clear that I hold no brief for anyone other than the consumer, unlike many people who appear to hold briefs for other people. One day, we will all have to disclose our interests.

I do not have all the information on it, but I certainly know from the perspective of seeing the headlines of Wednesday, 23 June 2004, "Cable & Wireless Prices Hiked". The ICTA is ordering them to hike their prices and they are going to court. I recognise I am on thin ice with sub judice but I do not hear it cracking yet.

I am concerned that we may very well be in a situation where, in the not too distant future, many of the services that Cable and Wireless were providing to liberalisation will be higher than what they were pre-liberalisation. I am concerned about that and I draw that to the attention of the Government because they have to be extremely careful. You cannot expect one provider to tow the line on the basis of advice from another provider. I will watch it very keenly.

#### Point of order

**Hon. Gilbert A. McLean:** Mr. Speaker, on a point of order.

**The Speaker:** Honourable Member, would you state your point of order?

**Hon. Gilbert A. McLean:** If I heard the Member speaking correctly, he has said that the ICTA is regulating telephone rates here on the advice of another, and I think that is extremely erroneous and if that is what he intended to imply, he should withdraw that statement.

**The Speaker:** I think you have a very valid point, Honourable Member. Having been involved in the process myself, I do know that the ICTA is in collaboration among major providers—Cable & Wireless (CI) Ltd, AT&T Wireless and Digicel—and they have discussed these matters. However, the basis of cost is not on the basis of what another provider is providing but on the basis of what it costs the provider to produce a particular service and that is how it is done.

It would not be done on the basis of one provider recommending to ICTA that they adopt a particular price. That is, in fact, not the proper procedure that is followed and I happen to know that that is indeed a fact. I know that reference is made to the newspapers, but here in Parliament we do not accept the report of newspapers as authentic and that is indeed not the correct procedure.

The Honourable Member may state that, in his opinion, that is the way that it goes, but to say that it is indeed authentic because he has read it in the newspaper is not indeed proper.

So, Honourable Member for East End, if you could qualify what you have said by stating that was the information you received in the newspaper. You cannot prove that is indeed a fact but that is what was published in the newspaper.

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

With your permission I would like to qualify what I said and I would like to read from the *Caymanian Compass* of Wednesday, 23 June 2004.

**The Speaker:** Honourable Member, when you say that you are qualifying what you said is to the extent that the information you have passed on is not categorical but in accordance with what has been published in newspapers.

**Mr. V. Arden McLean:** Yes, Sir. I have no empirical evidence in my hand, but what I do have as empirical is the fact that ICTA did not object nor refute what was said in the papers.

There has not been any retraction as yet but please allow me to read a section of this paper.

**The Speaker:** Please continue, but try to move on.

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

On Wednesday, 23 June 2004 *The Caymanian Compass* says, ICTA on the other hand said that the latest rate reversal was ordered based on not only Digicel's protest and consultation with other telecommunication rivals but also on late information supplied by Cable and Wireless which pointed to earlier faulty data given to the Authority. I am saying that part and parcel of the decision was based on the protest that Cable and Wireless was anti-competition. That is all I am saying.

**The Speaker:** Honourable Member, I think we have dealt with this particular issue. If you would please continue...

**Mr. V. Arden McLean:** Thank you, Sir. I will keep a keen eye on the future of what happens in the telecommunication area.

On the subject of CUC, while that is my forte, I am yet to see any final agreement so I cannot, with any authority, comment on what the final results are going to be. It may be a perfect time for me to pause here and pay tribute to Mr. McRob, who was the manager of lines at CUC who passed away a few nights ago doing the job that he does best and loved. He is a good friend of mine and I pay tribute to his contribution to the continuing electrification of this country and to his commitment to contributing to the society. He was always out in the forefront, especially in the CUC community team effort and I pay tribute to my good friend, Mr. McRob.

**The Speaker:** Honourable Member, you have five minutes remaining.

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

On the issue of CUC, I would like to hope that there are a number of issues involved in the final agreement that will further reduce rates in this country.

We saw in the papers recently that CUC released 11 of its employees and that is a fact, but that is a result of liberalisation not only in the Cayman Islands but anywhere. All shareholders want the same bottom line, so that is what we can expect. I do not know how Government is addressing that, but certainly we now have Caymanians, as a result of liberalisation, out on the streets without a job. Hopefully, they will find jobs soon.

The price of liberalisation has reached us. I would warn the Government in the competition for power generation to be extremely careful with those who would come to compete in this market; be careful with the types of equipment that they bring into this country. I know there are people out on the periphery waiting to bring in used equipment in our county. That is a serious matter and used equipment comes from different sources such as many companies in America that no longer have contracts and are closing down and they have the equipment there with no returns being made on it.

The other issue the Government should consider is removing some of the taxes on diesel to CUC. Right now the tax is 50 cents per gallon on fuel and the cost of fuel makes up about 20 per cent of your bill. It always ranges between 18 and 23 per cent, depending on the cost of fuel. If we are really in tune and want to ensure our people get the benefits, that is where Government can do it; give the country back because CUC was burning around 24 million gallons of fuel. That is \$12 million a year that the Government puts in its coffers at 50 cents per gallon.

The Government need to look at that and give back to the people. In other eastern Caribbean countries (I am very knowledgeable of this) there are no duties on fuel, albeit that Trinidad makes fuel. There has always been a concession on import duties for the generation of electricity, and I implore the Government to look at that. If we need to find taxes elsewhere, then we need to do it because this is the one utility in this country that affects everybody. Many people do not have telephone or running water, but they have electricity and that is where the greatest benefit from deregulation, liberalisation, or whatever we want to call it, can be derived for the people.

Mr. Speaker, I thank you and this Honourable House for your indulgence. I know that this is the house of politics, I sincerely respect that. It is a house of debate and counter debate, a house of opinions and I have tried to get my opinion across as best as I can, and I will continue to do that as long as I remain a representative of the people of East End and the wider community.

I take my seat and I expect to take it as well as I gave it. I have no personal animosities against anyone. Whatever they refute it is up to them.

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

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

I rise to make my contribution to the Throne Speech delivered by His Excellency the Governor, Mr. Bruce Dinwiddy. I will restrict my contribution to the subject matters brought forward by His Excellency and to those added by those who have contributed since his delivery.

I first start my contribution by joining the others by congratulating all that has been part in the renovation, remodelling, refurbishing of the Legislative Assembly. I would like to especially give thanks to you for the final touch that you have added to this beautiful Parliament of ours. I safely say that once more we show that, collectively, we can bring about great things for this country. The original design of this building still stands and we have just added a degree of elegance to the Parliament to make it befitting to the role that it plays within our country.

With that said, I must say that it is unfortunate that within the first sitting in this beautiful, elegant Legislative Assembly that the Elected Member for East End has demonstrated such hogwash as he added to our allowed dictionary in Parliament. He stood here over the last couple of hours and delivered what I can say has been probably his most articulate delivery during his tenure here in Parliament. It is unfortunate that it had such little content.

The people of the good district of East End are very close to me simply because the district in which I represent, we share a lot in character, in culture, and in tradition. I recall when I first moved to Grand Cayman in 1987, when I felt extremely homesick, I felt I needed to go to East End whether that was because I was a little closer home or a little closer to people that I felt were like my people.

The people of the good district of East End deserve good representation. They deserve to have a Member in Parliament that comes and argues on their behalf and represents their issues. They have grown accustomed over the many years of having strong representatives, but more importantly, statesmen. More importantly, individuals who understood the art of politics; understood that when they came here that it was much more than simply writing letters with wish-lists, but came here to Parliament representing the issues of their district, understanding the issues of the nation; understanding the restrictions fiscally as well as understanding the numbers in Parliament.

They understood that relations were an important part in gaining for their district. They understood that diplomacy was extremely important in obtaining

good for their district. They did not come here and simply read off what their computer printed out and sent through Her Majesty's mail, but they came here and worked within the political arena; worked with the Government to say, *'I will assist you by supporting the money that you need in order to deliver the service that I am requiring.'* They did not come here with a wish-list printed out and at the same time saying, *We should also reduce duty to CUC; we should also not increase licence fees on banks.'* To simply come and say, *'These are the things I need and I have done my job because I have put it in writing to the Minister,'* is inadequate and the people of East End deserve better.

The Member from East End stood here with his folder, outlining the numerous letters that he has written. However, the one thing he cannot outline to the people of East End is that he has actually delivered because he has failed in utilising diplomacy, utilising the art of negotiation, utilising the skill of relation-building to gain for his district. He has proven what they have said about him, all over the years, that Arden is a little too hardened.

Mr. Speaker, the Member stood here today and delivered evidence to this fact. He stood here and showed his parochial politics as he stood here and talked of something that will affect everyone in East End – the school. It is an important issue. It is an issue that I share his concern with; it is an issue that is important for the representatives of each district to look at the education institutions that mould and create our young people into young adults.

I am here to say that this Member stood up here and talked with such vigour and zeal about the need for a cafeteria. I understand, of course, that the people of East End deserve a cafeteria at their school, but it is important that what the Minister of Education has always said is that we should not over focus ourselves just on the physical plant but we must look at results.

We must look at the fact that East End Primary School, under the leadership of the Minister of Education, in the Key Stage Examinations have improved year after year. Why does he not get up there and mention that the UDP Government has equipped the school to bring about results that are positive to the people of East End? Why is it that we do not mention that East End Primary School is considered a "Star School" for the ITALIC Programme, all achieved under the UDP Government, who, he claims, because of him are trying to victimise the people of East End? So far could be from the truth. Why does he not, when he is making those claims, talk of the fact that the good Minister of Community Development (the one he likes to call cousin from George Town), drove across Bodden Town, which does not have a community park, to put a community park in East End? Yet this is the Government who is victimising the people of East End?

I understand that the Member is a little bit edgy about the cracking ice under his feet come 17 November, and looking for all political avenues to strengthen that ice, but the facts are the facts. We have done a lot for East End. Oh! Mr. Speaker, I really apologise for making the Member so nervous he turned up his water, and I will continue.

I would like the people of this Country, especially the good people of East End, to remember that we have identified the concern of East End; we have identified that we need a cafeteria. I remember the list even including new pianos. I remember all of the issues for East End, where we put them in a grand-priority listing. No one could have predicted that the roof would have caved in at our Middle School. No one could have predicted that these things would have altered your priorities, shift around money.

I would like to remind the Honourable Member from East End, the Member of the People's Progressive Movement, that along with his colleagues on 31 December 2001, in this Honourable Legislative Assembly a division was called on the vote of the Appropriation (2002) Bill, 2001, by the Minister of Tourism, Environment, Development, and Commerce. That particular Appropriation included money for the East End cafeteria. The votes were 12 Ayes and five Noes against a budget that included the cafeteria that he stood here and said was so important for his district. The Noes against that budget were the First Elected Member from George Town, the Leader of the Opposition (Mr. Speaker, he was not the Leader of the Opposition at that time, he is now), the Second Elected Member for George Town, the Third Member for Bodden Town, the Elected Member for North Side and the Elected Member for East End.

In representative democracy, the voice that we have in this Parliament on the needs for East End, we would normally hope to rely on this Member here for East End. Luckily, we are a little bit wiser to understand that we cannot rely on the Member from East End to represent all the issues from the district of East End because we know it is important, and we are still committed to bringing about that cafeteria. If my memory serves me correctly, the last budget, the one that just ended on the 30 June, also included a token amount.

*[Inaudible comments]*

**Mr. Lyndon L. Martin:** I make my statement accurately. There was a sum of \$5,000 for the development of plans for the East End cafeteria, in which, I agree Members, it was withdrawn during Finance Committee. At the time it was presented in the Budget, were the Members present to vote for it? Mr. Speaker, as I said, if my memory serves me correctly—and I challenge the Member for East End to show me wrong—at the time of the presentation, even the token amount of \$5,000 for the plans for East End, the Member from East End was not present.

*[Inaudible comments]*

**Mr. Lyndon L. Martin:** The Member for East End who spoke on behalf of the Opposition, as they have adopted as their normal practice, stood up here and talked about the need for a National Library. This is the Government that has delivered a plan for a National Library. We have approval in principle for a National Library. We have taken what they can only talk about and put it into action. We are simply, at this moment, awaiting the necessary logistics over the ownership of the buildings, which will have to be demolished and the bus depot will have to be relocated in order to carry out this joint public and private sector partnership for a National Library to bring about what this country deserves, and what the United Democratic Party is in a position to be able to see that it is needed, not only to talk about it, but to deliver it.

Mr. Speaker, when that Member stands in this Honourable Legislative Assembly and talks about how bad things are in this Country, how poor the governance and management the United Democratic Party is delivering to the people of this country, who is he expecting to believe him? The people out there who are now in work when they were not working under his PPM leadership? Is he expecting the many hoteliers who saw their figures declining, the workers who saw the lack of development in this country under their leadership, under their style of management, to believe him? Or, the United Democratic Party who is now delivering jobs, who is now delivering an economy that is robust? The people of this country can feel secure about their future.

When we remember back in 2001, there was just negativism all over. Everybody felt it. All of us felt it because we were concerned about it. He cannot certainly be expecting the intelligent community of this country to believe that because he gets up in this Legislative Assembly and screams that things are bad, that they are going to believe it when they know differently. Mr. Speaker, we are gifted to have a population that can see through such political rhetoric.

The Leader of the Opposition spoke and in his contribution he started by saying that funds are required to put plans into action. So true! We accept that on this side, but we quantify it even further, because funds alone do not put plans into action. From our side, it is funds derived from the correct source. Simply going out and borrowing against future generations, where my children, your children, your grandchildren will have to pay for our benefit here today is not adequate.

It is important that we always match the project that we are doing to the financing that we are funding it with. If we are going to fund the road that we are going to get benefits for the next 20 years, yes, it is okay to get a 20-year loan to fund it, to distribute the cost along with the period of the benefits – basic finance principle. I really wish that under the leadership of the now Leader of the Opposition that he had un-

derstood that to go out and fund day-to-day activities through borrowing way into the future was simply a disaster, a recipe for failure.

I am so happy that the United Democratic Party, which I am a founding member of and a proud founding member of, saw an opportunity to save this country from that type of leadership and within a very short timeframe has turned the country around into what we can now boast about, and he criticises, a surplus position.

It is simply two different philosophies of governance. We believe that we must live within our means. We believe that if our means need to be increased to bring about the benefits to our people, that then we must look at ways of doing that in a sustainable manner through responsible and careful consideration. We picked, we selected to increase licences on financial institutions because we believed, and time has proven us correct, it was the way that we would be able to fund the very same things that we are talking about here today without having an overall negative impact.

The people of this country have seen the results of that action. We here in the Legislative Assembly who are willing to admit—and I am not expecting the Opposition to be willing to admit—will see that it has proven to be correct. The country is in a much better financial position, so now we can address the issues at hand. We had three years to clean up the mess that they created in one year. I will not put all the blame on them because they inherited a lot of it from a colleague out in George Town and in West Bay.

It would be a fearful day; it would be a day that I would really dread if those who were responsible for that inherited problem in 2000, when we came in here that we all know about and those who were there from 2000–2001 and worsened that problem were to get together and form a government.

Mr. Speaker, I really hope for the sake of this country that we call home that we do not see that happen. I have great trust, great hope and great belief that the wisdom of our people will not allow for that to happen.

So much of the PPM's political rhetoric centres around education. So much centres around the only Minister of Government that has been supported by both sides of this Chamber to become Minister of Education. He is the double Minister of Education. So much has been attacked. So much has been said about his style of managing education resources of this country.

When I was an Opposition Member, elected in 2000, when I sat on the other side, the Minister of Education at that time gave me an opportunity to be part of the education process of this country by appointing me as a Member of the Education Council and Chairman of the Cayman Brac and Little Cayman Education Board. This provided me an opportunity to work side by side, in many cases, with the Minister, to



understand his education policy and his direction for education in this country.

Mr. Speaker, I will be the first to tell you, there have been many cases during that tenure of time that we have had our differences; but I am the first to tell you also that the one thing that I have never disagreed on is that education now has direction. The Minister has a plan for education and he has achieved a tremendous stride towards his ultimate goal for education in this country. Just within my district, in my constituency, I see the benefit of having the combined Spot Bay and Creek School.

I do not partake in cross-talk, but it was a point that I was going to talk on anyway. As I stated, throughout the tenure of time that I have worked in education with the Minister, we have had our differences. One of our differences was about the combined school with Creek and Spot Bay; with the closure of Spot Bay. The records of this Parliament and the records in the *Caymanian Compass* and CITN that carried the public meeting in the Brac will show that I fought vigorously against the closure of Spot Bay Primary School. I stand on that record strongly.

However, what is now in place is a completely different ballgame. All schools are open; all children are benefiting. There are no more double classes in Spot Bay and Creek. Everyone is benefiting and we are seeing positive results. That is the type of management of education that the Minister brings along. When he walked into that office after being elected as a Minister of Education, he walked in with a briefcase, but more importantly, a head full of knowledge about education and a vast amount of experience over his shoulders.

We have an opportunity to transform education through the passage of a new education law in this country, which I have spent many days in the Education Council along with the other hardworking Members of the Council working on this law with the Minister who chairs the Council; working diligently. I am sure that the Members who got up here and talked about the long time that this law has been talked about, once they see the comprehensiveness of this piece of legislation, once they take time and read it, they will truly understand why something that is so dynamic would take a lot of time.

I can tell you and I can tell this Honourable Legislative Assembly that the Minister of Education is committed to transforming education; is committed to ensuring that the students who come out of our high school are well prepared for the workforce. He is a Minister who is committed and understanding that there is much more than just the academic side but also the vocational side. He is a Minister who has seen, during his tenure, record numbers of tertiary scholarships granted, an opportunity to develop the University College of the Cayman Islands where our young parents can go and further their education without going overseas; where those in the workforce can go and pursue higher learning without going over-

seas; where even you in your spare time may go and lecture in accounting in our University College. It is a fabulous development. It is one that should never be belittled. It is one that should never be overlooked, and that happened under the leadership and through the desire and hard work of the Minister of Education, our Minister of Education.

Questions have been put about the support to the Minister. The Minister receives all the support necessary from the Back Bench and from the Government. The Minister of Education is the first to get up and argue for education, but he also understands that for the country, as a whole, there are priorities all over and he ensures that, at all times, education remains the paramount importance to the United Democratic Party.

So I take this opportunity of sharing with you and the Honourable Members of this Legislative Assembly my experience in dealing with the Honourable Minister of Education, a man who is shiny with words but even more profound with action, a man who is committed to ensuring that his children, your children, all of our children get a good education, a man who is committed to ensuring that parents take responsibility for their children.

I am saddened by the quality of the Opposition that they could come up in this Honourable Legislative Assembly where they know better and the centre focus of their debate would be on the poor job that the Minister of Education is doing. They know better; they see the results; they see the Key Stage Examinations; they see that our children are performing.

Mr. Speaker, three Fridays ago I attended the first and only graduation in Little Cayman. What an opportunity that was to see one student graduate from the education service of Little Cayman!

I would like to remind this Honourable Legislative Assembly, as I reminded the people present at the graduation service which was well attended in Little Cayman, that that education service was first created by a Member of the United Democratic Party and is now being supported by the Honourable Minister of Education. So, I feel great pride when I see the results in Little Cayman because a school is absolutely important for any community to develop. We now have young people in Little Cayman, living in Little Cayman and building their homes in Little Cayman because there is an education service present there.

The Member from East End also spoke of the proposed dock for East End and, as he termed it, the proposed airport for East End. He talks of his 500 signatures on a petition against the dock. I think the petition was limited to the dock, not the airport. Mr. Speaker, in the same instance when he stood and talked of why he does not want the dock, why he does not want that development in East End, he talked about the hardship of the people of East End. He talked about the neglect the United Democratic Party gave to the people of East End. Mr. Speaker, how could he do that all in one breath?

We are focusing our attention on bringing a major development to the district that would create many jobs, not just the jobs at the dock but the many auxiliary services around, the gas stations that would benefit and the restaurants that would benefit from having that increase in population in that area during the work day. How can he say that this Government is neglecting East End? So far could be from the truth. However, the Honourable Member is a friend of mine and I am confident that he knows better, nevertheless, politics make people say strange things. I urge the Honourable Member for East End to give careful consideration and reconsider what he has said here today, reconsider the attacks that he has made on the good Minister of Education and remember that he himself previously supported the very same Minister for the Minister of Education.

I would like to now move briefly to a subject even more important to me, but I thought it appropriate to deal a little bit with the Member from East End – the district which I have had the privilege of representing for the past three-plus years.

The district of Cayman Brac and Little Cayman has bestowed upon me one of the greatest privileges that I have had in my life. I spent many years of my life pursuing tertiary education to that of a Master's level, but I can easily say that the three and a half years that I have spent here have taught me more than any degree could teach me.

It is an obligation that I feel within myself to continue to offer myself as a candidate in the upcoming election for re-election on 17 November 2004.

I looked carefully over the past three and a half years at the major developments and achievements that we have made. I would like to focus the remaining contribution to this Throne Speech on what I consider to be the major achievements for Cayman Brac and Little Cayman and the ongoing plans for its continual development.

I take this opportunity to thank you, Mr. Speaker. During your tenure as the Minister responsible for Planning, you brought about the ad hoc Development of Cayman Brac 2003 – 2007 report. From that report and the follow-up report done by Deloitte & Touche, as well as ongoing work done by the Tourism Enhancement Committee and the District Administration Office, there is much wealth of information at our disposal to understand better what is necessary to make Cayman Brac and Little Cayman a sustainable, viable partner in the Cayman Islands.

For the remaining time, I would also like to look at the Constitution issues and how they affect Cayman Brac and Little Cayman. Mr. Speaker, I will beg your indulgence and beg this Honourable Legislative Assembly's indulgence that we look collectively at ways that we can support the Government in ensuring that Cayman Brac—especially Cayman Brac—is put on strong, firm economic standing.

Currently, the people of Cayman Brac are looking for ways of improving its economy, and I hope

to focus the remaining time on some of those ideas. I also look forward to those who speak after me to not focus on ways that they can attack me, but ways that they can make positive contribution to the debate and dialogue on the economic development of Cayman Brac.

I bring to your attention that we are approaching the adjournment, and I will be moving on to a new section in my contribution. I am happy to commence a new section but I leave that to your discretion.

## ADJOURNMENT

**The Speaker:** I think this is a good time for us to take the adjournment. We have just five minutes to go, but we would like to accommodate the Honourable Member. So, I would now call on the Deputy Leader of Government Business to move the Adjournment Motion.

**Hon. Gilbert A. McLean:** Mr. Speaker, I move the adjournment of this Honourable House until Monday at 10 am.

**The Speaker:** The question is that this House do now adjourn until 10 am on Monday, 12 July 2004. All those in favour please say Aye. Those against No.

**Ayes.**

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

**At 4.26 pm the House stood adjourned until 10 am Monday, 12 July 2004.**



**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**12 JULY 2004**  
**11:00 AM**  
*Fourth Sitting*

**The Speaker:** I will invite the Elected Member for East End to lead us in 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 Cabinet 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 11.02 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 arrival of the Minister of Education, Human Resources, and Culture, the Honourable Leader of the

Opposition and the First Elected Member for George Town. Also apologies for absence from the Second Elected Member for West Bay.

**STATEMENTS BY MEMBERS OF THE  
GOVERNMENT**

**The Speaker:** I have received no notice of statements by Members of the Government.

**GOVERNMENT BUSINESS**

**Debate on the Address Delivered by His Excellency the Governor on Friday 2 July, 2004**

*(Continuation of debate thereon)*

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman continuing with his debate.

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

I would like to first commence by apologising to you and the Honourable Members of the Legislative Assembly for my late arrival to the Legislative Assembly this morning. It was beyond my control as the plane was delayed in Cayman Brac. However, Mr. Speaker, I am happy and express my gratitude to the Legislative Assembly for awaiting my arrival to allow me my opportunity to continue this very important debate and contribution to the Throne Speech.

Mr. Speaker, when I concluded on Friday I undertook that my housekeeping exercise of cleaning up some of the inaccuracies conveyed by the Member for East End had been concluded and I would go on to dealing with the issues of my district of Cayman Brac and Little Cayman. However, Mr. Speaker, one more point. During the Member's debate, on the Throne Speech, I attempted to rise on a point of elucidation. However, he exercised his right under our Standing Orders of not giving way and encouraged that I deal with that point of elucidation during my contribution.

Mr. Speaker, I was a bit dismayed at the Member's claim of the Learning Centre of East End being the pilot programme. I do not dispute the fact that it is the pilot programme, but he claimed it as his learning centre. I take great disrespect to that Member for proclaiming that the Learning Centre is his rather than that of the people of East End. I think they equally contributed to its development and formation

and ultimately should be the beneficiaries of that learning centre.

Mr. Speaker, the Member also went to great lengths to attempt to paint the United Democratic Party (UDP) Government as one who was ignoring the people of East End, referring to the United Democratic Government as treating the people of East End as stepchildren. Mr. Speaker, in my contribution on Thursday, I stressed the fact that one part of the evidence of the inaccuracy of that claim is the contribution made by the Ministry of Community Development to that district's quality of life through the development of a very beautiful park. Mr. Speaker, that Member, who rightfully so in an election year attempted to play a lot of parochial politics – district based politics – I would like him to remember the controversy that surrounded the naming of that beautiful park in the district that he represents. I understand from the Minister, as well as others very involved in the district of East End, that there could be no more appropriate name. I think it is the grandfather or great-grandfather of the Member for East End, yet we are the ones who are being claimed as victimising him. The United Democratic Party is punishing the people of East End because of him. Mr. Speaker, nothing could be further from the truth.

I celebrated my 34<sup>th</sup> birthday yesterday. I am very happy to find myself in this position at this very young age, with an opportunity to represent what a good friend of mine, Mr. Steve Foster, refers "God's gifted land of Cayman Brac and Little Cayman". I find it a great privilege to be along with such great company in the United Democratic Party as I undertake to fulfil my commitment to the people of Cayman Brac in providing them with strong, fair, reasonable, representation in the Legislative Assembly.

Mr. Speaker, I ask and invite this Honourable Legislative Assembly to take the issue of Cayman Brac's development very seriously. Understand that this goes beyond just politics and who has the upper hand. Cayman Brac is a beautiful Island with a population of somewhere around 1,400 or 1,500 people with modern telecommunication service with a great, modern road network; with jet service coming into the Island three days per week, and on many occasions, four days augmented by two Twin Otters and Cayman Airways three times per day; Island Air Service three times per day. It is a recipe for success. The Island's infrastructure is greater than you would expect for an island of that size. We have a hospital in Cayman Brac, the Faith Hospital that has a full array of service – it is not just a clinic, it is a full hospital – with, and the Minister of Health can correct me, I think four or five doctors. There are four doctors, specialists at Faith Hospital.

Mr. Speaker, it is an Island with a modern dock facility, all of the ingredients for a successful Island economy. However, in comparison with the people of Grand Cayman, the people of Cayman Brac are not enjoying the growth, the prosperity that we

would have expected given the infrastructure. It is every individual's goal, aim, and aspiration to leave behind something greater than he inherited. That is a challenge for everyone in Cayman Brac because the economy of Cayman Brac is not as strong; the population is not as large as it was twenty years ago.

Mr. Speaker, we must search deep and hard to understand the roots behind the problem with the economic situation in Cayman Brac, and it requires dynamic management and change to the economic structure of Cayman Brac to bring about the type of recovery necessary. Just a few weeks ago, 14 graduates from Cayman Brac High School all faced the challenge, Monday morning, following their Saturday graduation, of how do they earn a living. Inevitably, 60, 80, 90 per cent of them will have to leave.

Mr. Speaker, it is a problem, one that should concern every Member of the Legislative Assembly, because an island economy such as the Cayman Islands, it is so small and our land mass and in our population and all of our resources must attempt to utilize every component of our resource, including Cayman Brac. We must seek ways as a Legislative Assembly, collectively, to bring about that recovery, to bring about a change in the whole economic structure, because to simply allow what is there to grow is not enough. We must ultimately change the whole platform to which the economy stands in Cayman Brac.

The people of Cayman Brac are proud people; we are hardworking people; we are people that have been able to stretch our dollars and all of our resources farther to meet the multiple needs of this small economy. It hurts me, not only as a representative but as a Cayman Bracer, when I hear constant questions and concerns. I remember it being voiced by the same Member from East End of why such large percentage of the road budget should be allocated to Cayman Brac and Little Cayman.

Just this past week Friday when we were in Little Cayman driving through the unpaved roads, it hurt me that these Members do not understand that we are on a completely different level of economic development. That it will require a greater proportion than normal to bring Cayman Brac and Little Cayman to the same economic platform as that of Grand Cayman. I urge the Honourable Members of this Legislative Assembly to thoroughly familiarize themselves with the needs and issues of Cayman Brac. I will attempt, in the remaining time to outline some of those as well as some of the options available and attempt at any occasion to highlight the contributions made to Cayman Brac and Little Cayman's economic development under the leadership of the United Democratic Party.

Mr. Speaker, I want to briefly touch on the Constitution. I will not attempt to go into all of the details of the Constitution, just that of which I would like considered and potentially debated during the upcoming election to provide us with some good working

information; once we the United Democratic Party, return to office on 17 November.

Mr. Speaker, Cayman Brac and Little Cayman are very different from Grand Cayman. The events, the challenges that they face on a daily basis are very different from what you face over here in Grand Cayman. Mr. Speaker, I am of the strong view that the Islands of Little Cayman and Cayman Brac need to have, within the Constitution, some availability, some provision that allows for a district council; that allows for a group of individuals who select two representatives or if the Legislature of the Cayman Islands is kind enough, maybe three to come over to represent the issues of Cayman Brac and Little Cayman.

This Council would be the body that is drawn from all the districts of Cayman Brac and Little Cayman and ensure that all of the opinions, views and issues are dealt with on a domestic basis that it has some power, some authority that allows for some of the decisions that now have to be made over in Grand Cayman to be made by this district council. This is no new concept but it is a concept that I think needs to be added to the array of subjects to be debated under our Constitution and the need for a modern Constitution. Mr. Speaker, from the time I entered the Legislative Assembly, I have constantly thought about the difference in our economy that is brought about by the fact that Grand Cayman operates on a twin-pillar economy – that of tourism and financial services.

Our entire structure of taxation, or the absence thereof, our basic consumption tax is predicated on the need of protecting and ensuring the financial industry and I believe it is absolutely necessary to continue that structure. However, as you will know (and this Honourable Legislative Assembly will appreciate) that particular structure is one that does not discriminate against those who have wealth and those who are in our lower income level. A consumption tax system is one that taxes across the board, which has a negative impact of the economy of Cayman Brac and Little Cayman. That is, we have a significant percentage of our population in the lower income level and we still have incomes at our hotels in the Brac that are in \$2 or \$3 an hour. However, the benefits from the financial industry that creates the need to have this system are not realised in Cayman Brac, they are simply centred in George Town.

In 1996 and in 2000 I advocated the need for looking at creating a separate registry in Cayman Brac; one in which is aimed after the other sectors of the Global financial industry that our premium financial centre is currently not attracting. There are many financial structures that need to be created on a short-term basis that currently the Cayman Islands does not benefit from simply because we are a premium centre. We are a centre that is not the most cost effective – not the least expensive centre to form companies—so we lose some of that business which

goes to some of the lower-cost jurisdictions. I believe that we can have the best of both worlds because there is a lot to be said about having a company registered in the Cayman Islands. That company earns international respect.

At the same time I do believe that there is a market that could allow some of the financial services business to be done in Cayman Brac at a lower cost, as is the structure of most Government licenses and registrations. Mr. Speaker, this would create some white-collar work, much needed in any economy. Currently, our domestic economy in Cayman Brac does not allow for (I would not say) healthy or mediocre domestic commerce. Mr. Speaker, the population is too small and the income levels earned within that population are too little.

Over the years there have been many studies conducted that have one common conclusion. If action is not taken urgently the economy is faced with many challenges and the Governments are faced with many decisions. The provision of the offspring financial services business . . . and we would not be any originator of that thought. Many twin-island states who offer financial services will have different fees, different rules, different regulations that will govern them according to the two or three different islands that make up that island state.

Mr. Speaker, recently I had the privilege of travelling with my good friend like I often do, the Member from East End, and we were in Nevis (the year before we were in St. Kitts) and we learned of the uniqueness between those two islands that carry one government. They have the ability to actually offer a full array of financial services each and independently, and in many cases competing with each other. I think there is much to learn from that type of structure and I think it is something that we need to look at and pursue.

I mentioned the financial services at this time when we are talking about the Constitution because for this to occur, the district council is necessary. The district council in Cayman Brac would be responsible for the establishment of the regulations for the industry in Cayman Brac. Additionally, the mention of the financial services is important when talking about the Constitution because as we have seen over the recent years, many of the initiatives that are imposed upon us by our Mother Country or other entities such as the (Organisation for Economic Cooperation and Development) OECD, are based on the financial industry. They are based on imposing regulations according to the sponsor of these that will create an even playing field. Mr. Speaker, where currently in Cayman Brac and Little Cayman there is no financial services, we are exposed to all of the same pressures that is felt in Grand Cayman because of the financial industry. We are not in a position to be able to predict the future. We do not know what manoeuvres, what decisions will have to be made in the future to protect the financial industry. I think it is time that a provision

is placed within our Constitution that allows for Cayman Brac and Little Cayman to determine its future on its own.

A provision is allowed in the Constitution that allows for Cayman Brac and Little Cayman through some form of referendum; make their own decisions about its future, where decisions are made in Grand Cayman to protect its financial industry or to protect some other form of interest that might not be in the best interest of Cayman Brac and Little Cayman that currently do not have the financial industry.

Mr. Speaker, as I commenced my contribution I stated that Cayman Brac's recovery is not a simple one. If it was simple it would have been done a long time ago. Many governments have tried it over the past twenty years and have not been successful. It requires some dynamic changes.

I would like to move on to a very important sector in Cayman Brac and, to a lesser extent, Little Cayman, the agriculture sector. Mr. Speaker, in an earlier occasion in this Honourable Legislative Assembly, I had an opportunity to thank the Minister of Agriculture for his contribution to that particular sector within Cayman Brac. For the first time, under his leadership, we now have an agriculture ground; and an annual agriculture show that has just seen its second successful year under the leadership of the Honourable Minister of Agriculture. That in itself, of creating an opportunity for our farmers to showcase their produce, their animals; is an opportunity that has worked on encouraging agriculture. However, the Minister and the United Democratic Party did not stop at just creating the show; the entire Department has been revamped, retooled. We have seen the produce during the yam harvesting double, quadruple, because of better pesticide programmes.

We were plagued in Cayman Brac with various diseases that were eating away at the yams. Due to the retooled Department of Agriculture an intensive programme was carried out to spray thousands of gallons of pesticides to bring this disease under control. We have now seen the benefits of this programme. This is the sort of thing that goes with the fundamentals of agriculture – it is management, understanding the issues that are being faced by your farmers and aggressively providing the expertise and the resources to counter some of those challenges.

We have seen under the leadership of the United Democratic Party, a large animal pound developed on the Bluff and a small animal pound developed behind the Agriculture Department. These two facilities together allow the Agriculture Department to better manage the stray animal population on Cayman Brac. This does not only affect the livestock farmers, it also affects the produce farmers, who experienced these cows getting out and eating their produce. Under the leadership of the United Democratic Party and the Minister of Agriculture, a large animal pound has been completed, developed, it is there. It is working and a small animal pound is op-

erational and now the Humane Society has what they have been requesting. I take the opportunity to give credit for the lobbying efforts made by the Humane Society of Cayman Brac to have these pounds in place.

These are some of the developments that have been done. We have a programme by the development of a holding tank that is about to be embarked on to assist the farmers on the Bluff with water. The public will be able to get water with a floating valve system, hooked to a small motor to a well that will keep topping up the holding tank and allows the farmers to get access to better quality water for their animals on the Bluff. Mr. Speaker, as you and everyone else in this Legislative Assembly can imagine, the challenge of getting water on the Bluff is a daunting one, and many of our farmers, especially during the prolonged drought, had many challenging days. This is an opportunity that I understand will be available to them within the very near future. The exact location and the mechanism of doing so have been identified, and I look forward to seeing it.

Mr. Speaker, I call upon the Government to continue their efforts in providing abattoirs in the Cayman Islands. It is my opinion and my position that adjacent to the large animal-holding pound is the ideal location for the development of a small abattoir for Cayman Brac. We have the facility already in place, property is already owned; it does not have to be extravagant, it just has to be a hygienic environment for our local farmers to butcher and properly hold their livestock. Mr. Speaker, I know that this is not an original idea, because I know it is one currently being looked at by the Ministry and the Department. So much of farming and agriculture is about education and the more farmers know about their particular produce or animal and how to care for those animals, the better you will get in product.

Cayman Brac is still free of liver fluke, whereas we have a controlled problem here in Grand Cayman. Liver fluke is one that is still not present in Cayman Brac and Little Cayman and it is important that we educate our farmers along the way of how important that is; why it is necessary to quarantine animals when they are shipped to our Island. It is hard sometimes to understand. You are coming from within the country. Why do you have to quarantine them? However, it is important. We have farmers that are keeping animals too long, too old. We need to continue to educate them. We must understand that farming is about gaining a greater yield than the cost put into that animal. There comes a point where the growth of that animal multiplied by the price per pound does not exceed the cost of getting that pound of growth.

Mr. Speaker, I hear many arguing that the Government needs to do more in agriculture by providing lower cost animal feed. The feed in the Cayman Islands is subsidised already, and in Cayman Brac it is double subsidised because it is sold at the

same price here in Grand Cayman, which is already sold at a loss. It is provided. What we need is an education programme to ensure that the farmers are feeding the appropriate feed for their animal. There are only two types of cow feed provided in Cayman Brac, and there are over eight provided in Grand Cayman according to the different growth rates of the animals, types and requirements. It is important that we educate our farmers along the way to ensure that agriculture continues its positive development.

Mr. Speaker, de-worming is a necessity in farming because an animal infected by a worm can be fed as much as he wants and he will not grow. We need to educate our farmers along the way to ensure that there is a proper systematic programme in place to de-worm our animals.

As I started on the subject of agriculture, I stated that the new Agriculture Department (and I term it as new because even the old school building that they occupy looks new) is nicely painted up; the yard has been redone; it has new sand, addition, air-conditioned; and more importantly, it is now tooled and equipped to address these issues. It has its resources available. Mr. Speaker, I was amazed recently at some of the abilities that are available right there on Cayman Brac, some of the capabilities of the Agriculture Department to scientifically determine particular species so they can better select the remedies.

Mr. Speaker, I take this opportunity to once more thank Mr. Telford Miller for his contribution to the development of agriculture over the last couple of years. He has done a lot of work in Cayman Brac. I also would like to thank the long-term serving member of Agriculture Department, Mr. Melvin MacFarlane, who is the most skilful human being I have seen in the field. There is no one who can herd up a group of cows, sneer them and put them in the trailer, and treat them like I have seen Melvin do on several occasions.

Mr. Speaker, I conclude my section on agriculture by once more thanking the Honourable Minister who has taken agriculture to a new level in Cayman Brac through the introduction, for the first time, of an Agriculture Show on an annual basis, and I thank the United Democratic Party for supporting this venture and the agriculture sector of Cayman Brac. Mr. Speaker, not to neglect Little Cayman, because, as mentioned recently in Finance Committee, there is a request before the Ministry in which I understand will hopefully reach some positive result for a pig farm in Little Cayman adjacent to the garbage dump area. Farming agriculture is an important sector for any economy.

I now move to our single pillar, our foundation for survival in Cayman Brac and Little Cayman—Tourism. Mr. Speaker, so much has been done and it is important that I take the opportunity to outline some of the achievements for tourism in Cayman Brac and some of the things in the works in tourism for Cayman Brac and Little Cayman. I urge the frequent callers to

the talk show that have nothing more to do than to complain and to take an opportunity to attack the Leader of Government Business about tourism, about cruise ship business for Cayman Brac, to take time and understand what is being done and what is in the works. Mr. Speaker, it is my opinion that one of the greatest opportunities available to tourism in Cayman Brac right now is an initiative that was authored by the Leader of Government Business, the Minister of Tourism. The day trips of cruise ship passengers I have mentioned in this Honourable Legislative Assembly before, but it is one that needs to be elaborated upon.

When I first had the opportunity to meet with the Florida Caribbean Cruise Ship Association (FCCA) on the invitation of the Leader of Government Business, the Minister of Tourism, I will never forget it because the Honourable Leader, the United Democratic Party Leader, suggested very strongly to the FCCA; you need to talk to the Second Elected Member for Cayman Brac because you need to do something over there to assist them with getting cruise ship business to Cayman Brac.

I mentioned in this Honourable Legislative Assembly last Thursday the importance of diplomacy, negotiating skills and highlighted the absence of those skills in the Elected Member for East End—the man who is termed as being too hardened. Mr. Speaker, the Leader of Government Business, when negotiating with the FCCA utilised every form of negotiating skills that the textbook would describe. He utilised every form of diplomacy to say, *'You want to continue to do business with us, and we want to continue to do business with you. However, we need to ensure that all of our people benefit.'* As a result of his effort and the continual effort of the United Democratic Party, we had a visit from a team from the FCCA to Cayman Brac. They viewed the proposal and made a report back to the Government to say that, *'We see what you have and your proposal is one that would better augment the offerings of the Cayman Islands and one that is workable.'* I think 6 October is the date of the Florida Caribbean Cruise Ship Association conference to be hosted here in Grand Cayman, and it is the position of those involved in the project of daytrips to be represented there to showcase this project and to have it launched.

Mr. Speaker, the daytrip is one that has so much offspring; so many positive side effects. These passengers would arrive in George Town—and we looked at the statistics of how many passengers on the cruise lines are repeat customers who came last year and saw Stingray City; went on the Hell tour; went to the Turtle Farm and are looking for something new. This is an opportunity where they could board a bus in George Town and take a ride way out while getting an orientation of Cayman Brac to the terminal to be boarded upon one of the jets to fly over in the only opportunity, the only tour in the Cayman Islands that allows you to see the three Cayman Islands. We would fly over Grand Cayman; Little Cayman; the



east part of Cayman Brac as they come back to land at the west end of Cayman Brac and then to board and undertake one of two tours.

The tours are defined by the level of excursion – two different levels – one being a hiking tour and one being a more tranquil museum and heritage house, some of the scenic sight tours. However, Mr. Speaker, it means that the plane that went over at nine o'clock in the morning to carry these passengers would then be available to bring passengers out of Cayman Brac [between] 9.30 and 9.45, an ideal time to catch into the traffic hub here in George Town for our passengers who are living at our hotels. It is important to see the positive impact that this programme could have on stay-over visitors because they would not have to leave out at 6.30 in the morning, they could leave out at 9.45 in the morning and catch into their ongoing traffic. Then the plane that would be coming back over to Cayman Brac to pick up these passengers at 2.30, 3.00, and 4.00 o'clock in the evening would then be available to bring passengers over who arrive in during your midday hub of arrivals.

Day trips do not only have a potential of creating some ten jobs – and ten jobs in Cayman Brac is a major, major achievement – but also assisting the restaurants because they would buy lunches at the restaurants; souvenirs, t-shirts, spend money in the economy; and what an opportunity that would be for us to advertise our product; to showcase our product for the four, five or six hours that they are on our Island.

On the way going back over to Grand Cayman on the 18-minute flight, they would be told of ways that they can come back and spend a week; spend two weeks; possibly be given a token that they could use towards their return trip. Mr. Speaker, it is a fantastic opportunity to build upon the tourism industry for Cayman Brac, and it also has positive impact on your domestic traffic because it is a good time to fly.

I have stated in this Honourable Legislative Assembly before that when you start from nothing and you increase, it is okay, it is good. When you start from a history of having jet service, it is hard to adjust backwards. So, Mr. Speaker, I understand: the figures; the need to make it viable; why it is not viable to have jet service five days, seven days of the week to Cayman Brac; why we needed to refocus on the days that we have enough traffic. I understand that, however, this programme would allow for Cayman Airways to make jet service to the Brac a viable option every day of the week when they are carrying the cruise ship passengers to and fro Cayman Brac.

Mr. Speaker, continuing on with Tourism, my good friend from East End always converses with me – and he has said it in this Honourable Legislative Assembly – that domestic tourism is very important to Cayman Brac. He is so correct in this instance, as we all know there are many instances (most instances) he is not. However, in this instance he is very correct.

Mr. Speaker, domestic tourism. This upcoming weekend is *Jet Around Cayman Brac*. I assure you and I assure this Honourable Legislative Assembly that all flights will be full; all cars will be rented; all hotels will be occupied, when you have an event like this that draws traffic from Grand Cayman; and this is just one event. We have the Agriculture Show for which you have special jet service to carry people over and bring them back because of the amount of people that want to go. We have Pirates Week celebrations. We have ongoing events such as the fishing tournament.

It is absolutely necessary that we plan every long weekend with a theme. Every opportunity, every seasonal downturn in our economy, in our tourism figures we should plan an event to supplement that by domestic tourism because, I can tell you as an entrepreneur within that community, domestic tourism pays, domestic tourism spends. When the visitors come from Grand Cayman we feel the impact – the grocery stores, the supermarkets, the gas stations, the car rentals. Everyone experiences the benefits of that domestic tourism. We must understand that when the very valuable stay-over visitors come from North America or wherever, most of the time they are restricted or they stay at the hotels and most of the benefits are accumulated at the hotels. However, this domestic tourist business . . . and I must once more highlight the impact of when the footballers come over . . . the sports people, the cricketers come over, it is a major, major contribution to our society. When we have domino tournaments and the East Enders come over to play, we can feel it. It helps, it contributes to our survival.

What we need to do is to ensure that we have the capability, the resources that allow for us to target particular weekends, particular periods of time throughout the calendar year and have it well promoted in advance that this is going to be the Brac Jackpot; the Barracuda Bonanza; the time for the Jet around Cayman Brac; and it is well known. A community calendar is produced in Cayman Brac and these events are highlighted and there are special air, accommodation and rental packages that are put together to encourage visitors to come over. Many of the 40,000 plus people in Grand Cayman have never been to Cayman Brac. Many of the visitors that come here, if they knew about these events and about Cayman Brac and Little Cayman, would take that opportunity to include it into their visit. There are many work-permit holders and retirees here in Grand Cayman that have never been to the other parts of the Cayman Islands, and in my opinion, the most precious part of the Cayman Islands, the jewel that is unspoiled. Mr. Speaker, I say that and I am sorry if I offend anyone, but it is how I feel.

We need to see bulletin boards at the airport promoting Cayman Brac and Little Cayman to our stay-over visitors here in George Town. We need to see them visible in the Caymanian Compass promoting them right here in Grand Cayman, and to do so

we need to have an organisation, an entity physically present on Cayman Brac to deal with this. The Department of Tourism has gone a long way under United Democratic Party Leadership by having an officer devoted to Cayman Brac and Little Cayman. As I am here to advocate for employment in Cayman Brac and Little Cayman, I would like to see those officers responsible for the promotion and the maintenance of the tourism industry, physically present in Cayman Brac. I take it even further. When you leave Cayman Brac's airport, in front of you is a small sign that says, *'Welcome to Cayman Brac,'* and a site that was previously occupied by two old buildings that has recently been reduced to one old building that is not occupied. I would love to see the Department of Tourism building that is currently all the way to the west point of the Island (which was previously a Port Authority building) transported down there. I would like to see that relocated on this piece of property, and as you exit the airport with a nice white-sand yard [you see] this old Cayman-style building with a white-sand yard with some conch shells and some hibiscus plants that says, *'Welcome to Cayman Brac. Bring your comments, suggestions or concerns to the Department of Tourism'* and we would have dedicated tourism officers within that unit that would see about things, like promoting domestic tourism, better orchestrating our marketing campaign internationally.

Mr. Speaker, although I do not have any empirical evidence before me here today, when it comes to spending on promotion for Cayman Brac and Little Cayman, I can risk saying that we the United Democratic Party, have put more in the coffers for promoting Cayman Brac and Little Cayman than any Government in the past.

Mr. Speaker, I thank the Leader of Government Business, the Minister of Tourism. I have made these suggestions for ways that I think can improve our administration of that very important industry. It is not a large industry. In total we have some 300 rooms available. It is imperative that we continue to promote the full occupancy of those rooms and we continue the effort made so far by the Leader of Government Business, the Minister of Tourism and attracting new rooms, new hotels. It is absolutely necessary that the industry grows. If we stay stagnant, we shall die.

There is an ongoing concern regarding who is interested in providing a new modern facility. The two hotels that have contributed to our success to date are dive resorts, with a focus on dive. We have all accepted that the dive industry is one that we need to grow beyond. We need to have diving as a strong pillar, but we need to have nature tourism as our second pillar within tourism.

It is commonly accepted and much has been done to improve upon the attraction of Cayman Brac and Little Cayman for nature tourism. I believe that within the international arena, when you look at the growth of tourism, the development of tourism, that nature tourism is a major growing sector in the tour-

ism industry. I believe that Cayman Brac and Little Cayman offers some of the greatest opportunities for the Cayman Islands to capitalise on some of that nature tourism business.

I believe that the ongoing efforts by the Honourable Minister to attract European visitors, who spend long times on vacation and are greatly appreciative of nature tourism, would also be a great benefit to Cayman Brac and Little Cayman's nature tourism project. I believe that the various arrangements of routing European passengers through neighbouring destinations to get them here is a viable option and one that could have positive impact on the nature tourism product of Little Cayman. However, Mr. Speaker, once you get them here, you must have proper accommodations in which to put them. Some of our European visitors or some of our U.S. visitors may want a five-star hotel.

We need to continue the efforts and we need to roll out the red carpet for these developers who are coming forward with various projects including the most recent of the development on the Bluff, and that goes on to the next point I would like to mention. Mr. Speaker, for the red carpet to be laid out, we need to have the investment officer for Cayman Brac appointed immediately. We need to have an investment bureau officer who will be that person to lay out the red carpet; to remove some of the red tape. Mr. Speaker, I assure this Honourable Legislative Assembly that all efforts are being made by the Government to see that happen as soon as possible.

It seems that governance is very good as a theoretical basis, however in reality you buck into many obstacles and I want to stress that we need to have that investment officer. There is a vacuum, there is an absence there. We need to have someone who is the buffer between the admin building and the investor. Once we are able to attract a visitor to Cayman Brac we then need to ensure that that visitor, when he is leaving, is planning his return.

We have a major problem with ponds on Cayman Brac and Little Cayman. The scent that is emanating from these ponds that are the natural linkage, the natural cleaning mechanism, is now not operational. We need to manually clean these ponds out. There was a Dr. Ricardo Jones who was affiliated with the Water Authority, consultant of some nature to the Water Authority, who visited and went to each of these ponds in Cayman Brac. (He did not, to the best of my knowledge, visit the one in Little Cayman.) He looked at these ponds and carefully reviewed the cause of the problem of the stench and made recommendations to how to remedy these ponds. I look forward to some of these actions coming into place.

There is much bureaucracy to go through when you want to actually physically go in and clean the pond in which the National Trust have some ownership over. Mr. Speaker, it is an issue that is facing us daily. It is an issue that every time I drive across the pond I wonder how our tourists do not complain

more about it. Mr. Speaker, the saltwater pond has such great potential, such great opportunities. I have seen an artistic rendition of that particular pond cleaned out with fishery added to it with a water fountain in the middle of it with lights to aerate it, to move it, to circulate it. I have seen it with a walkway, a running path around that pond with rope railings. It had a coffee shop on one corner and I do not consider these things outside of the remit of reality. I think it is so easy.

We need to look at the salt water pond. We need to look at the West End pond in which man fought nature by blocking off the pond. We are putting in the asphalt plant with the road that went through the middle of the pond and stopped the circulation. We need to address those issues. Those ponds are right in front of our hotels, in our hotel district, so we need to look at them carefully with a degree of urgency.

I will not forget the verbal recommendations made by the visiting specialist and I can safely say they were all very affordable, very simple options and we need to look at them.

Cayman Brac is gifted with an opportunity for cliff climbing. We had a book published recently, maybe a year or two ago, on cliff climbing on Cayman Brac. It published all of the paths that had titanium anchors placed in on these paths. It is my understanding from those in the know in this particular industry that we offer world-class cliff climbing in Cayman Brac. I was present at the Sister Island Tourism Association meeting when one of the hoteliers expressed that they had qualified instructors on staff and all they needed was authorisation to pursue this.

When the visitors came from the Florida Caribbean Cruise Association, they expressed that the Carnival Cruise Line and some of the other cruise lines had vertical walls that they could do cliff climbing onboard the ships and their passengers would welcome an opportunity when they come on their day trips to turn their very controlled cliff climbing environment into a practical hands-on one on some of our novice routes on Cayman Brac. The face of the Bluff is Crown property and there are various liabilities associated with individuals relying on these anchored bolts in Crown property, however, Mr. Speaker, diving to the bottom of Crown ocean is also risky and we do that through a liability waiver.

Mr. Speaker, I beg upon the Government to articulate a particular policy for cliff climbing. I can tell you, without doubt (because I have had this conversation on numerous occasions within the Department and the Ministry) the Ministry clearly understands the importance and significance of cliff climbing as an opportunity to improve our offering on Cayman Brac and the Minister of Tourism is supportive of any initiative that has positive impact on tourism on Cayman Brac.

What we need is a formal written policy to the Department of Tourism for the promotion of cliff climb-

ing as a viable alternative on Cayman Brac. I can see young guides. When I look at Mr. Civic, the tour guide in Cayman Brac, how committed he is to that job; how knowledgeable he is as a young Cayman Bracer to carry people around our nature offerings and showcase our product in Cayman Brac, I can see more young men like him offering guides along the cliff climbing routes. I look forward to this introduction and development.

None of Cayman Brac's problems, challenges or issues can be solved until we have more people. An increased population is absolutely necessary. I live there; I love it; and I would not want it to change either, but we need a greater population base. Now I would not want to see it overpopulated, I am not advocating that, but we do need an increased population. Mr. Speaker, 3,000 people on Cayman Brac, we would not notice the difference.

We need an increased population base, and the United Democratic Party is not just talking about it. The new immigration regulations that came out also on 18 May (the Law came about on the 31 December) specifically provide for incentives for permanent residents in Cayman Brac and Little Cayman by reducing the dollar value of the non-mobile assets necessary and reducing the amount of disposable income required in order to make it more advantageous for individuals to assume permanent residence in Cayman Brac – permanent residence where they can build their home, live there, but not as tourists that have to keep going to get their passports stamped every month, two months, 16 weeks, 18 weeks, whatever amount of time that they get. They could build their homes; shop at our grocery stores; support our gas stations; support our domestic commerce. These are not individuals who are coming to take away jobs. Because of the age stated for permanent residents, most of them are retired.

Considerations include the amount of dependents under the age of 18 to ensure that these individuals are not coming in to take away jobs, but are coming to create jobs. It took the United Democratic Party to bring about this fundamental change, and it is there. Now we need to find a way of packaging that information and promoting it to the right audience; to quality individuals that we want to come and become a part of our community. I believe strongly that this same very entity in the Department of Tourism . . . because these individuals will need information they could call an established 1-800 number and hear a friendly Cayman Brac voice at the other end of that line, in that beautiful Caymanian-style building in front of the airport. They could get information about Cayman Brac. Your investment officer would be able to assist them with information also to ensure that when they come they come fully ready to be a productive member of society.

I recently had an opportunity, an experience that I would like to share with this Honourable Legislative Assembly; and it is appropriate to share. Mr.

Speaker, there were two individuals, a husband and wife, whose attorney (a friend of mine in Grand Cayman) called me to say that they were coming to Cayman Brac on their seventh visit last year. They were visiting with the intention of creating Cayman Brac as their permanent place of abode. That individual was able to give me some background information and when they landed in Cayman Brac, they were greeted, they were provided with an opportunity, they met with the Leader of Government Business, who took the opportunity to shake their hands and welcome them to Cayman Brac. Then the ambassador of Cayman Brac, Mr. Linton Tibbetts, took them on a tour of the Island, and then took them out to dinner that night. Mr. Speaker, what a welcome that was for that couple. Now they have their home completed in the Brac; they are driving a car with yellow license plates – not white; they are there; they are part of our community; they are supporting our community. They are not there to take away any jobs, they are there to help. It is through such proactive initiatives that we will gain that goal of having a larger population base.

Mr. Speaker, I would never expect or plan that for every visitor that comes to Cayman Brac that I would have the opportunity of having the Leader of Government Business greet them. However, it was much appreciated and it shows the quality of that individual that he took that occasion to do so. However, Mr. Speaker, it does not say that that same unit, that entity, that Department of Tourism, and that beautiful Caymanian-style cottage could not have greeters to assist with these individuals in making their transformation, coming from their society where they are used to different availability of resources to learn the society, learn the system. We could have greeters, Mr. Speaker. When I talk about greeters, I do not want anyone to create the image of people with flowers around their necks and dancing to music. I am talking about Department of Tourism officers in their beautiful uniforms greeting these individuals and welcoming them to Cayman Brac and offering opportunities to assist them.

Mr. Speaker, being small can be advantageous. It can be very advantageous because it allows us to do things that the big Islands cannot do, and one of those things is greeting our visitors and saying, *'Welcome to Cayman Brac'*, or *'Welcome back home'*. I am strongly of the view that the new provision in the Immigration Law will see positive benefits.

Additionally, the United Democratic Party has seen to it that the duty concessions on building materials are extended again for Cayman Brac. Therefore, we now have concessionary requirements for you to become a permanent resident and we have duty concessions on your building materials to allow you to build your home. Then we have people calling in to the talk show and standing in this Legislative Assembly that say the United Democratic Party is not doing anything; so far from the truth.

Mr. Speaker, the unfortunate part of the political arena that we stand in is that those with wisdom, like the United Democratic Party, that invests in the long-term development of Cayman Brac may have to wait two, three, or four years to see the true benefits of this increased population, but we are going to be judged on 17 November. I trust that the people of Cayman Brac and Little Cayman will see the future; will see and share in the vision of a better improved Cayman Brac and Little Cayman where we can all raise our children and hope that when they graduate they are going to still stay on our Island and become productive members of our society.

Mr. Speaker, when we are looking at improving and increasing the number of permanent residents, increasing the size of the population of Cayman Brac, we must look at various quality of life issues. I try to imagine myself as someone coming from a busy New York life or from the streets of London or somewhere else and coming to Cayman Brac and making that transformation. What would I want? I would want nice parks that I could go and picnic. I would want good access to the beach to ensure that I can always get to the beach. I would want to know that I have a society that I am becoming part of that is welcoming to me. All of those things are present in Cayman Brac. All of those things are available in Cayman Brac. We have the recipe; we have the ingredients to make this work.

It has been recently confirmed to me that the Ministry of Lands is currently charting the beach access to ensure that those are protected in Cayman Brac and Little Cayman. That is very important. I have heard Members of this Legislative Assembly make comments about the great number of parks in Cayman Brac. Mr. Speaker, it is very important. On the 28th June I enjoyed celebrating my son's birthday at the West End Park; a beautiful facility with the barbecue grills and restroom facility. I enjoyed seeing the other cabanas with some of our permanent residents and some of our senior citizens sitting back enjoying the cool breeze. Cayman Brac even has a public access pool that the community shares. All of this goes into the package of what we offer. However, one other ingredient goes into it – the Health Services that we offer.

Individuals looking at retiring and establishing permanent residence want to ensure (and some of them are actually required through their overseas insurance providers) the availability of good medical service. Mr. Speaker, it is the United Democratic Party that has seen Faith Hospital transformed, and there is much more to be done. There is much more to be done. We now have the equipment, we now have the facility, we now have the doctors, but we need to change the culture. I say that without attempting to offend anyone at the hospital, but we need to ensure that there is a welcoming culture. There is a culture that is ready to accept change. There is culture that is simply necessary in the provision of health

services. Mr. Speaker, when the United Democratic Party took office, there was no dentist in Cayman Brac. Mr. Speaker, I must also give you credit because it was under your watch that you started to talk about a permanent dentist for Cayman Brac and now he is there. I had the unfortunate experience of having to utilise him, however, he is there.

These things all come together to improve what we have as a society and to be able to attract a larger population that is absolutely necessary for the economy to be at a level that we can ensure that our young people have jobs when they graduate. The United Democratic Party has made those connections and understands that you do not simply get up and talk about creating jobs for graduates. You talk about the cause of the problem to ensure that jobs are available for graduates; and those who have had to leave Cayman Brac to return home.

We have two beautiful young ladies who have left Cayman Brac probably a decade ago, who will be returning shortly, one to take up employment – I think both are at the hospital . . . one for certain at the hospital. These are great achievements and, as I said earlier, being small is advantageous. Having two people with their kids come back home makes a difference in Cayman Brac. I remember as a young man when one family left – Mr. & Mrs. Tibbetts and their children – and you could feel the difference of one family out of the society. It is so small that everything matters.

So the United Democratic Party addressed the health issues of Cayman Brac. We also looked at the other issues that affect the quality of life, that affect the Island's ability to grow, and that is the education system of Cayman Brac and Little Cayman.

Mr. Speaker, we have seen the first graduation in Little Cayman. A young man graduated under the United Democratic Party from the nice education services offered in Little Cayman.

We have seen major transformation in how education is administered in Cayman Brac because the greatest challenge that we were facing was double classes. It was articulated to us that, *'We do not want double classes because it is too hard for one teacher to teach two curriculum.'* Mr. Speaker, we were wise in how we went about it because we understand the permanent cure for removing double classes is a larger population base that allows you to have a teacher for every class. We understood that that is not something you can just leap to overnight, so you needed to have remedial action. You needed to have action today to ensure that the students that we were producing were leaving school ready to go on to high school and the double classes were a challenge.

Therefore, the Minister of Education saw it necessary to combine the Spot Bay and the Creek School to remove double classes. However, we have not altered our capacity so that when we come about future population growth, which is predicted through

the various changes put in place by the United Democratic Party, the capacity is there, the school buildings are still there, the class rooms are still there. It was an ideal remedy for a bad situation and I give credit to the Minister of Education for his leadership in seeing that done. I stress, once more, that we did not assume that the declined population was final and reduce our capacity of accepting enrolment in the future. No, Mr. Speaker, we solved the problem and maintained the capacity. It is through such dynamic management, as the Minister of Education talks about, that the Member for East End had the inability to understand the dynamic management that he was referring to.

Education is also being looked at by utilising some of our technology. The Minister has seen about the University College of the Cayman Islands, but he has not forgotten about Cayman Brac. We know that through some of the achievements of the (Improving Teaching and Learning in the Cayman Islands) ITALIC programme and the ability of having on-line learning with the requirement of coming over for a weekend here and there to supplement your on-line learning, that much of what is going to be offered at the University College could be made available in Cayman Brac and in Little Cayman to some of our lifetime learners. We have many in the community that would like to get a degree, but they have bank loans, they have children. We need to pursue every initiative to ensure that they have an option. The Community College already has a representative in the Brac by the name of Mr. Lazzari, and this would also just be an extension of that service. Mr. Speaker, it offers great opportunities and we look forward to pursuing it jointly with the Minister of Education.

Recently, I had the privilege of sponsoring a motion in the Legislative Assembly that called upon the Government to consider acquiring acreage of land to be used for agriculture purposes. That was accepted by the Honourable Legislative Assembly and I truly believe that this type of availability would offer . . . not simply for development within agriculture because there is a sector of our community, there is a group of young men and women that are entrepreneurial by spirit. They have inherited that and are looking for ways, looking for initiatives that they can get into something. One thing we must accept (when we talk about the Cayman Islands as a whole, but more so when we talk about Cayman Brac), we have a very mercantile community.

We have a community which, historically, families have controlled the business sector and they pass that on to their children and on to their children's children. I do not accept that every young person in Cayman Brac cannot have a dream or a vision to own their own business, to own their own venture. I do not accept that only those of a select few—and, Mr. Speaker, with the greatest of respect to those families because they have made great, great contributions to the Island that I have called home over the years.

However, I am of the strong view that we must find ways of ensuring that capital, advice and expertise is made available to various young people to ensure that they can pursue a venture, and one of those ventures might be an agriculture-based venture. We have seen the impact on these young people in the schools as they have gotten exposed to hydroponics. Maybe one of them would like to lease a small piece of land and run a little hydroponics plant on in.

Mr. Speaker, I would like to return briefly to the day trips. Mr. Speaker, once you have day trips, once the passengers have come over and we have developed our capacity to handle visitors and we have demonstrated to the Florida Caribbean Cruise Association that we can handle the visitors, we can then incrementally build the business by saying, 'Okay, not just one jet, maybe two jets,' and then we can say it is time to actually dock a ship off of West End, Scott's Pier. Then we will be at a capacity because we have slowly built the industry to ensure that we do not have a failure because within that business one failure is all it takes.

Mr. Speaker, can we not see a day when those passengers come and our entrepreneur utilising little agriculture properties leased to them by Government, could be growing fresh fruits and selling to that same industry? This could be set up at the Heritage House or some other site selling fruit juices from their papaya trees. Can we not see young people in Cayman Brac with the ambition, desire, and availability of capital to launch some of the electronic telecommunication or some of those other high-tech business ventures? Mr. Speaker, when we look at the opportunities available in this country, I do not limit those in Cayman Brac and Little Cayman who can take advantage of them, or only to specific families. Anyone should have those dreams; anyone should have the ability to pursue them.

Mr. Speaker, continuing on to the lifestyle, quality of life issues that will affect the desirability of making Cayman Brac and Little Cayman one's choice of a permanent place of abode. Recently, and included in the Throne Speech, is an undertaking by the Government to conduct a feasibility study on piped water through Cayman Brac. The discussion of this issue was as a result of a question posed by myself and an answer provided by the Honourable Minister of Community Development. It was suggested that the feasibility study be done on incremental stages. We looked at whether it was viable. Is it feasible to pipe water to the hospital? Is it viable to pipe it up to the high school? Is it viable to pipe it up to Tibbetts Turn? We will keep looking at it until we find out where it is viable, and I urge the Honourable Ministry that when we look at viability and feasibility that we do not only look at financial returns. We should also look at some economic returns, at how the provision will affect the availability of good quality water; affect the economy of the country? How would it affect the quality of health in the country? We look at some of the

non-financial variables in determining whether it is viable, whether it is feasible.

Mr. Speaker, I have great confidence that the Member for East End, who stated that the United Democratic Party treated East End like stepchildren, will appreciate that we do not have piped water in Cayman Brac. However, a priority was put to pipe water to East End. That seems to be a reasonable Government; one that is not victimising the people of East End. I see that it is now down to go to Frank Sound. This seems to be a government that is very, very reasonable and very, very thoughtful towards the people of East End.

Mr. Speaker, the United Democratic Party also looked at air service as being a very important concern for Cayman Brac and Little Cayman – the availability of reliable, cost-effective air service to Cayman Brac and Little Cayman. Currently, we are realising the benefits of the decision made by the United Democratic Party to lease two Twin Otters. I flew down on one today; I fly back on one this evening. Mr. Speaker, they are comfortable, conveniently scheduled, not as affordable as I would like them but they are priced to be competitive as well as to realise a reasonable break-even on the aircraft. I believe we must continue to look at the air service. However, I can stress, and I assure the people of Cayman Brac and Little Cayman and the people of this country, that the Twin Otters introduction has made a major, major, positive contribution to Cayman Brac and Little Cayman. Gone are the days that we were slaved or hung on a monopoly providing service during specific days or where we could be held at ransom. Mr. Speaker, this Government carries one characteristic throughout its body: it is that we like competition and we believe it brings about positive results. All airlines are now smiling and welcoming their customers. Competition brings about great results. All of these ingredients go into making us attractive.

Mr. Speaker, I need to now turn briefly to an obligation I feel I have, one in which I will pursue with great sensitivity. It is imperative that I clarify the situation to the Members of the Legislative Assembly and to the people of Cayman Brac. Mr. Speaker, a year ago – one calendar year ago – I made a statement to the *Caymanian Compass* of the need for Government to look carefully at the licence of Cayman Brac Power & Light Co Ltd. It was my recommendation to only issue a one-year temporary licence until the review of Caribbean Utilities Co Ltd (CUC) is completed in Grand Cayman; the price model determined (be it price cap, be it competition) where the prices and rates charged by Cayman Brac Power & Light Co Ltd could then be capped to reflect the rate established in Grand Cayman, plus an acceptable difference for the difference in cost of operating in Cayman Brac.

Mr. Speaker, it was within hours of the appearance of that statement that mechanisms went in place that I was told that I was seeking for Cayman

Brac Power & Light Co Ltd to be closed for (CUC) to take over the provision of power in Cayman Brac. Nothing could be further from the truth. The mechanisms went in place to say that with a one-year licence, depending move, relocation of Cayman Brac Power & Light Co Ltd from Stake Bay up onto the Bluff could not be done because they needed to go and raise capital to make the move and they could not do it on a one-year licence. So my suggestion would prevent the move from Stake Bay up to the Bluff. The mechanism was saying that I had a vested interest in (CUC) and was seeking to gain by punishing Cayman Brac Power & Light Co Ltd so that (CUC) could take over.

Mr. Speaker, I have a vested interest in no power company. These mechanisms went out. We remember the full-page advert was put out. When I see one year later when that licence would now be coming in for renewal—that one-year licence that I suggested—the power company is still at Stake Bay, has not been relocated on the Bluff (although they have their licence), they still have not gone out to raise money). So the doom that was being spread by my advocating that they only be given a one-year licence (so that the people of Cayman Brac could benefit from having the reduced utility rates as we are seeing in Grand Cayman and capped); that could not be done because they needed to raise money. A year later, I understand that conceptually the move has now been approved.

**The Speaker:** Honourable Member, you have three minutes remaining.

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

Mr. Speaker, I strongly believe, wholeheartedly believe, that when we look at Cayman Brac and Little Cayman's economic situation that it is important that we understand that the second largest sector of anyone's budget is the payment of electrical bills. I believe wholeheartedly that if the Company had co-operated with the Government and a one-year licence was issued, we could have an opportunity to enter into a capping mechanism, not competition. The market is too small and to cap at the reduced rate rather than what is currently accepted as a price would be way above that of (CUC). Mr. Speaker, it is my view that that provision, that statement and claim that I made, is one that would have been to the benefit of the people of Cayman Brac and Little Cayman. I have even been told with the mechanisms that because of my stance against Cayman Brac Power & Light Co Ltd that they are going to even attempt to take my seat. If I have to lose my seat because I stand up for the people of Cayman Brac, I will lose my seat.

Mr. Speaker, in conclusion, I would like to say that Cayman Brac—

#### Point of Elucidation

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker.

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

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, by virtue of Standing Order 34(b), on a point of elucidation. I wonder if my friend and colleague would give the—

**Mr. Lyndon L. Martin:** Certainly, Mr. Speaker.

**The Speaker:** Honourable Minister of Planning, the First Elected Member for Cayman Brac and Little Cayman has given way for you to elucidate.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Speaker.

Mr. Speaker, seeing that the point that the Second Elected Member for Cayman Brac is making is such a significant one, I wonder whether he would inform, for the sake of clarity, the Honourable House who put in place the mechanisms to which he is referring.

**The Speaker:** Thank you, Honourable Minister. The Honourable Member has one minute remaining to clarify, but since some time was taken away we will just stretch for two minutes, the maximum.

**Mr. Lyndon L. Martin:** Mr. Speaker, I thank you for the extra minute, and I think that is very reasonable.

Mr. Speaker, I would like it to be very clear, the mechanisms that I talked about of creating and spreading the propaganda are mechanisms that I consider to be directly affiliated with the company in question. Mr. Speaker, I say that with whatever risk it exposes me to. However, the company that provides electricity for Cayman Brac—and has done so at a very good quality for some years, and I appreciate the role that that company has played—when I took my stance against Cayman Brac Power & Light Co Ltd, the company came out at me furiously. So, the mechanisms that I refer to are simply those of the Company and I do not in any way suggest that anyone currently politically oriented was responsible for that. The mechanisms were the Company.

Mr. Speaker, in my remaining minute and a half—

**The Speaker:** Honourable Member, you have used up your two minutes, so if you would take the half minute and wind up, please.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. I just want to thank the people of Cayman Brac and Little Cayman, and I have used this opportunity to share with this Legislative Assembly some of my views. I also would like to thank the staff in my office for assisting me in collating some information.

Thank you, Mr. Speaker.

**The Speaker:** Honourable Members, we would normally take the luncheon break at 1.00 pm. We have 15 minutes and I wish to . . . if it is the will of Members, that we take it at this point, we would do so and return at 2.30 pm. This House is suspended until 2.30 pm.

**House suspended at 12.45 pm**

**House resumed at 2.38 pm**

**The Speaker:** Please be seated. Proceedings are resumed. Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

The Fourth Elected Member for West Bay.

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

Mr. Speaker, as I rise to make my contribution to the Throne Speech delivered by His Excellency The Governor, I first have to take note (like other speakers before me) of the much more pleasant surroundings that we now have, and give credit to all of those who have worked so arduously to make sure that the Chamber and the building were ready for the opening of the session. I know there was a time that some of us were not sure that it was going to be ready. However, with the commitment of all those involved, we are happy to see that we are in such nice accommodations.

I want to give special credit to you, Mr. Speaker, for the change that was made at the end that has brought such an enhancement to the other fine work done. That final touch, Mr. Speaker, and I guess I had the pleasure of speaking a bit later, because there has even been a lot of work done since last week and it looks like every day that we come in here it is just getting better and better. Therefore, Mr. Speaker, even though there has been much criticism, I must say that I am quite happy to be in a building that is so befitting a Parliament for the Cayman Islands.

Mr. Speaker, since we are in an election year, and since the United Democratic Party Government (of which I am so happy to be a part of), has done such a fine job, I was kind of hoping that the Opposition would not have had a lot to say and we would have had a short sitting. Although there was not a lot of substance to what was said, they made a lot of accusations, which I think it would not be right for us not to answer, just in case there are members of the general public out there who might not be sure as to how incorrect those statements were.

Mr. Speaker, before I get started on my contribution, I also want to make mention of and give congratulations today being 12 July, and also being the first day that one of our local West Bay young professionals has started up the important role as Chief Immigration Officer. That is, Mr. Franz Manderson, of whom we are all very proud.

Mr. Speaker, we have those criticisms of the Government that Caymanians are not being prepared and the education system is leaving our people and not preparing them to take up the right role in our Caymanian society. There we have evidence again, Mr. Speaker. We also have a Chief of Police, Mr. Buel Braggs, who is a Caymanian, the Commissioner, and we are very proud of him. I guess I have a bit more pride in the fact that he is from the district that I represent, the district of West Bay. We also have, just today, Mr. Franz Manderson taking up his role. This is a good example of a Caymanian and the important role through the preparation that the Government has allowed our Caymanians to reach the heights of leadership in the country.

While we may be thinking that it is just the upper echelon that are getting promoted and taking up their role as civil servants in Cayman, I am happy to say that the information that I have been provided with says that as of the 10<sup>th</sup> January 2004, the civil service was made up of 70 per cent Caymanians. That has increased steadily from 2001, where it started out on 10<sup>th</sup> January, the percentage of Caymanians was 56.7 per cent, and on the 10<sup>th</sup> January 2004, Mr. Speaker, the civil service, with a total of 3,199 employees, 70 per cent is now Caymanian. I also know that those that get up after me will say that the Government had no part in that. It appears that if you listen to the Opposition, anytime it is anything that is bad it is the Government; but anytime it is anything that is good it is the Governor. However, Mr. Speaker, again I feel confident that the general populous will understand that with such an increase —and those figures bear repeating, Mr. Speaker. The 10<sup>th</sup> January 2001, 56.7 per cent, and the 10<sup>th</sup> January 2004, 70 per cent is quite an accomplishment, Mr. Speaker, once again, under the leadership and direction of the United Democratic Party Government.

Mr. Speaker, I hope that my contribution today can be a short contribution. What I intend to do is to (using the Throne Speech as delivered by His Excellency The Governor) go through and show the commitment of the United Democratic Party to the enhancement of life for the Cayman people since coming into power some three years ago. Mr. Speaker, the Members on the Opposition seem to be keen on criticising the Minister of Education.

Thankfully, the speakers before me have cleared up, I think, some of the accusations that were made. However, one that comes to mind is a criticism that has been tried continually. I guess it started in September of last year, and now it has continued right up until the Leader of the Opposition spoke. That is, they keep referring to the overcrowding of the schools. A few days ago at their public meeting on the Court House steps, they were telling people how the schools were going to be overcrowded because of the status grants. They continued throughout the year saying how detrimental the effects were going to be, leading right up until this Throne Speech.



In Finance Committee, there were still accusations as to whether they were going to be able to register all the school children and how the children were not going to be able to have space. In Finance Committee, the Minister himself was sick and the Leader of the Opposition and the Second Elected Member for George Town went to great details, grilling the Permanent Secretary for the Ministry of Education regarding the enrolment. She answered all the questions admirably, I would say, especially considering the late night that we were in. As far as I remember it was around 10.30 or 11.00 o'clock when they were giving her the grilling on education, and she had the statistics available based on registration.

Mr. Speaker, she explained to them that, first of all, there were no children that had attempted to be registered that were not allowed to be registered; that there was no crisis, they were preparing to deal with some 1,100 children in the high schools, and at that stage when registration was closed there was some 1,080. She answered all the questions that were put to her and what I thought would have allayed any of the fears, if they were genuine fears, which the Opposition may have had about the situation that existed with the schools. Mr. Speaker, she even went into the primary schools and showed that in most of the primary schools, there were fewer children that were being enrolled than those that were graduating, so the number was actually decreasing. Now, after she did such a good job, we could have given some credit to the Leader of the Opposition, and if he had left it there we could have said he had a genuine concern.

Politics being what it is like, he did not accept the explanation from the politicians and so he was not satisfied. So, he had to get an explanation from the civil service (namely, the Permanent Secretary) and we would have expected that if it was genuine that he would have been satisfied with the explanations that were given.

Instead of that, Mr. Speaker, he comes to this Honourable House and starts the same line that they have been out there promoting; that there is a crisis in the education system, that the schools are not going to be able to accommodate the many children that are there and so many people that were new recipients of status grants cannot get into school and saying again, some of the children in the primary schools will probably not be able to get an education. Mr. Speaker, it is obvious that that Honourable Member is not interested in the truth. It is obvious that that Honourable Member only wants to stir up problems, even when the person—the Chief Officer—that is directly responsible sits and gives a commitment, an explanation, that there is no crisis, no problem. He still gets up here and criticises the Government and talks about the crisis in education.

A foundation that they have used for the crisis in education has been what they call a “schizophrenic” or “haphazard” approach to the immigration situation with the long-term residents. On many [occasions]

they have criticised the Government for taking an action which gave Caymanian Status to many long-term residents of the Cayman Islands. They have said that it was done with no consideration for the effects that it will have on our education system or on the social system. Mr. Speaker, when the decision was made, everyone recognised that this had been a long-growing problem, and a decision was made that while this might not be a perfect solution, something had to be done and that the situation was not getting any better with time and so it was important that the Government take some action.

In doing the research for this Throne Speech, I decided to look back up in the *Hansards* because I know much had been said for many, many years by different Governments and Members on the Back Bench concerning the critical stage that our immigration situation had evolved to; how the lack of action by any Government had added to that crisis that we had found ourselves in. While I read quite a few of the Members' speeches, one that really stuck me, Mr. Speaker . . . and I am going to ask for your indulgence so that I can refer to the *Hansard* debate of the 28<sup>th</sup> February 2000, of Mr. D. Kurt Tibbetts.

**The Speaker:** Twenty eight February, what year?

**Mr. Cline A. Glidden, Jr.:** Two thousand.

**The Speaker:** Two thousand?

**Mr. Cline A. Glidden, Jr.:** Yes, Sir.

Mr. Speaker, to make my point, I will have to refer a bit extensively to this *Hansard*. I am reading what would have been his final contribution to the Throne Speech in 2000, prior to the election.

Mr. Speaker, I will start where he says, **“But, I am also known (as I will say today) to have a belief that the many long term residents in this country—and when I say ‘long term’ I mean long term, people who have made here their home; people who have been accepted in this community; people who have bore children here; people whose children have gone through the school system here, have grown up here and are working here—cannot be left as they are. I hold that view out of a sense of natural justice, but also because the fact is are we going to tell them they have to leave the country?”**

**“We [have not] done so thus far. In fact, it seems pretty obvious that government has found itself in a situation where it is such a difficult task to tackle that in its eighth year as the government it [has not] done anything about it at all.”**

Mr. Speaker, he says, **“Here are the facts as I know them. While many of us will agree that these very long term residents should be dealt with, because they are not going anywhere, and if they are going to be part of this society they may as well feel themselves part of the society, to be**

**able to be the productive members of society we would like them to be,”** he says, **“then if we even take those away, and we want to talk about, let us say people who have lived here between five and 15 years...”**

Now, Mr. Speaker, I need to stop and make the point that one of the criticisms that have been made is that they did not have a problem with the people that had been here, what they called the “deserving people”, people over ten years. However, in this debate, he has gone down now to talk about people who have been here between five and fifteen years. He goes on to say, **“...but who may not have permanent residence at present, but who consider themselves to be permanent residents of the country because they are acting the role of permanent residents—they are buying homes, and all of those types of things, those people in that category are several thousand people.”**

Mr. Speaker, he says, **“In fact, I believe that we are looking in excess of 10,000 individuals—not counting children. They are making children! We are not talking about one person.”** Mr. Speaker, he goes on to say, **“... when we look at that type of stuff, Mr. Speaker, we have to consider how we want our country to be within ten years, within 20 years.”** The keynote that he said is, **“We have to begin to make some decisions.”**

Now, Mr. Speaker, he acknowledges that we have, in his own quote, an excess of 10,000 individuals, not counting children. Mr. Speaker, this ties in exactly to where the criticism was made that there was no consideration by the Government and that there is no consideration now being given in the current Throne Speech, which is the Government’s policy on education for the masses or for the many new Caymanians. Mr. Speaker—

**The Speaker:** Honourable Member, if I might make the point . . . I know you are quoting from the *Hansards*, and I assume it is perhaps an unedited version of the *Hansards*. However, I have seen a number of requests from Members from the *Hansard* Office asking for unedited portions of the *Hansards*. Therefore, the same latitude I give on those I will give to you; but I will ask you to bear in mind, if it is an unedited version of the *Hansard* . . . it is an edited version?

It is indeed an edited version of the *Hansards*, but I have had requests for up-to-date *Hansards* which, of course, would be unedited, so the same latitude I will give to all Members.

**Mr. Cline A. Glidden, Jr.:** Thank you so much, Mr. Speaker.

Mr. Speaker, I need to repeat, it does not say “Unedited”, it just says “*Hansard*” and it is from the 28<sup>th</sup> February 2000. So, we are assuming that it is the edited version.

Mr. Speaker, to continue the reference that I am making to the contribution by the Honourable D.

Kurt Tibbetts on 28<sup>th</sup> February, 2000, and his position on one of the main concerns, which was the long-term residents that were here. He says, **“When we look at the kind of numbers we are talking about, we will have one arm of the society saying, with a valid fear, that Caymanians are already beginning to be outnumbered. Then, you look at the wider ramifications and you think of the business world in this country. While the people involved in business may want to agree on the one hand about Caymanians being outnumbered, if the facts are put to them, for those businesses to function the way they are now, and to have any chance of continuity, you cannot displace these people out of society. Not only do these people work in these businesses, but their earning power is just as important as any other segment of this society to keep business rolling. It’s not an easy task.”**

He goes on to say—and this is the part that I find really ironic . . . in 2000 that Member recognised how important this was, or I can only assume again that he was genuine in recognising that. He goes on to say, **“Some people will make political hey-day out of this situation...”** and here we go in the year 2003 and 2004, that same Member doing his utmost to make political hey-day out of this important situation, and the unfair situation that so many people have found themselves in.

The funny thing is that they criticise the numbers that were done. If my recollection serves me, it is 2,600. He made mention that as far as he was concerned, there was some 10,000, not including children that needed to be dealt with. Mr. Speaker, the only thing that we can call that would be hypocrisy. He said, **“Some people will make political hey-day out of this situation, trying to grasp opportunities when they hear certain things being said just for political expedience. In my view that is so irresponsible it is not funny!”**

*[Laughter]*

**Mr. Cline A. Glidden, Jr.:** Now, Mr. Speaker, I need to remind the Members that I am quoting from Mr. Kurt Tibbetts, the Honourable Leader of the Opposition, and I am having a little difficulty, because on the 28<sup>th</sup> February 2000, he was not the Honourable Leader of the Opposition. So, Mr. Speaker, as long as it is clear to all who I am referring to, I am referring to the current Leader of the Opposition, the First Elected Member for the district of George Town.

**“In my view, [Mr. Speaker, this is what he said] that is so irresponsible it is not funny! This is a serious situation.”** Mr. Speaker, how times have changed. **“We have people who have made their lives here over many, many years, who you find it difficult not to be willing to say we have to do something about these people. I don’t care from what angle you look at it.**

**“Let’s get this very clear now.”**

Mr. Speaker, I need to repeat the point that he made that this was such a critical situation and that even though people were going to use it for political expedience that, in his view, it was not funny. **“This is a serious situation.”** He says that, **“... we have to do something about these people. I don’t care from what angle you look at it.”**

The Government has now come along and made a decision (exactly what he was calling for in 2000) however, with much less numbers and therefore much less ramifications than he was expecting it to be. From his own words, some 80 per cent less than the 10,000 that he expected it to be. Mr. Speaker, 10,000 and he specifically said, **“not including children”**, and yet here he goes on now. I guess all of a sudden he has decided that it is funny. Although he said it was irresponsible at the time to try to gain political expedience, we all recognise that he has decided that it is something to make political hey-day out of.

Mr. Speaker, he goes on. He says, **“Let’s get this very clear now. Government has taken it on its own to put some fancy thing in the paper about this interim report...”** He says, **“The fact is that the report is just that—a report.”** He says, **“But no one is saying that there is a hard and fast circumstance coming out of that report, which is what any amending legislation is going to bring.”**

Mr Speaker, he was so strong at that time in saying that he was not happy that the Government just had a report. A report was not satisfactory to him. Something had to be done for those poor people. The people were poor in 2000; however, now that something has been done, it is a terrible thing that has happened; it is the worst thing for the country. All of a sudden, the education system cannot accommodate it.

Mr. Speaker, he says, **“I will tell you that I think it is very important for everyone in considering this situation to have the ability to look at the wider picture to make sure that, as difficult as these decisions are, at least we get it as right as we can before we move on.”** Mr. Speaker, I could not agree with him more. His thinking in 2000—now I can see why I was willing to be part of a Government with him, because the way he was thinking in February 2000, I am sure that is the same way he was thinking in November 2000. He said, **“What would be the worst to come out of this is for nothing to be done.”** He did not say that what would be the worst is that the Government would give 2,600 people out of the 10,000 Caymanian status. He said, **“What would be the worst to come out of this is for nothing to be done.”**

Mr. Speaker, I will not get into saying that if he really felt that way, that in the year that he had as Leader of Government Business he would have done something. Again, talk about how hypocritical it is that he makes these types of statements. However, what is worse is if he cannot make the decisions and we all

recognise that he was not the type of leader that would make those difficult decisions, and after we moved him as leader and we got a Government that was able, capable and willing to make those difficult decisions for him to get up and criticise the Government for doing it. He should have been happy that he did not have the will or the wherewithal to make the decision and someone came along to do what he supposedly wanted to do. That is, take care of all of those people that needed something to be done for them.

Mr. Speaker, I need to repeat because even in repeating this I find it hard to believe that this is the same gentleman that I hear getting up, criticising the process. He said, **“What would be the worst to come out of this is for nothing to be done.”**

[Laughter]

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, you know when he said that—and I am quoting from the *Hansard*—even the Speaker said, **“I agree.”** The Speaker of the House at that time is quoted in the *Hansard* as saying, **“I agree.”**

The First Elected Member for George Town goes on to say, **“That’s what would be the worst, for nothing to be done—as has been the case for many years.”** So there he is criticising the previous Governments for doing nothing. **“I contend that because nothing has been done for many years is why the decisions that now have to be made are that much more difficult—simply because you are looking at larger numbers of people.”**

Mr. Speaker, now I am in a bit of a bind because he spent so much time speaking about the situation, so passionately speaking about the situation, and yet he goes on to be so critical. It is not only him. It is the (People’s Progressive Movement) PPM in general. Their administration is talking about how terrible the country is. They are not saying how the economy has picked up, how those people are now working and feel that they are contributing to a part of the country that they now call home. They are not saying that those people are now buying homes and land instead of sending their money off the Island. The banks are swamped with requests for mortgages; the economy is booming, Mr. Speaker. All of a sudden in 2004, they are not giving any credit now to the Government, who—like Mr. Tibbetts said made sure that what he referred to as being the worst thing that could happen, that nothing to be done—made sure that that was not the case.

The United Democratic Party Government made sure that even though Mr. Tibbetts recognised the worst thing, according to his quotes in 2000—when he got elected with an overwhelming majority in George Town when he formed a Government and was the Leader of Government Business—he had forgotten what the worst thing would have been. He forgot those poor people that he had spoken so pas-

sionately about, that when the United Democratic Government got a chance they made sure to take care of the inadequacies that were there. Instead of him being happy that someone else had the foresight and the courage to deal with what he called a “very difficult situation” that had been ignored by previous administrations, he should be giving the UDP honours. They were willing to do something that he recognises needed to be done but did not have the courage to do himself.

Mr. Speaker, I know that you are already aware, but as a young Member in this Parliament, I do the research and see what the country has been liberated from on 8<sup>th</sup> November 2001. I had no knowledge that the Leader of the Opposition had spoken so passionately. He would have convinced anybody that he was genuinely concerned about the situation of the long-term residents here. I need to repeat, according to the people that he is talking about, he was saying residents from five to 15 years. Mr. Speaker, now when I see that he did nothing about it and then criticised it so heavily, I realise now it was a good decision. It is a continual learning experience. You know when we had to make that decision in 2001, we were not sure if it was the best thing for the country, but now seeing the lack of leadership that was evident, I can only imagine where we would be now if we were still toiling under that kind of leadership for the last three years.

Mr. Speaker, this issue is such an important issue. The immigration issue ties in to the election process. I will quote again from another issue to show how important this was to the Throne Speech. If you are following along, Mr. Speaker, it is page 78 on the bottom of the page where it goes on to say by The Leader of the Opposition, **“But, on the other hand, if we look at the broader picture—and this is going to be shocking, but mathematically it is correct—and we do nothing for the next 15 years...”**. Now, Mr. Speaker, that was 2000. We are now talking about 2004, so we are four years into his 15-year crisis period. There is only ten years left to go, and he says, **“... and we do nothing for the next 15 years . . . if we do just as we have been doing now, we are going to have a population in this country where 70% of the voting age people will not be able to vote, but they will be residing here on what they call a permanent basis.”**

Mr. Speaker, I need to remind the Members because some are asking me. This was the Honourable Leader of the Opposition, First Elected Member for George Town, on the 28<sup>th</sup> February, 2000, making his contribution to the Throne Speech, just before the General Elections of 2000, and these are his views and opinions as expressed to get the people of George Town to elect him for another term.

Now we all recognise that that position has changed significantly because of the criticism that he has placed on this Government for doing something about the situation. He said, *‘regardless of whatever*

*angle you want to deal with it from; whatever you have to do, just be sure to do something.’* Those were his words, Mr. Speaker. He says, **“... they will be residing here on what they call a permanent basis. You will have a government and a Legislative Assembly that basically represents 30 % of your population. That’s the big picture!”**

Now Mr. Speaker, these are the same people that sit back and criticise the Government and say that they operate in crisis management. They do not understand the big picture; they do not understand the ramifications of the decisions they make and yet their current leader, only a short four years ago, talked about “the big picture”. He was begging, Mr. Speaker, for anything to be done. However, if nothing is done, as has been done in the past, this is “the big picture”. He says, **“I may not have all of those figures right down pat, but mathematically, the way the trend has been I am not far off.”**

Now, Mr. Speaker, it even gets worse, according to him. He was talking about “the big picture” then, however now he says, **“Let us examine the wider ramifications.”** I can only assume that he is expecting that to be bigger than the big picture. It goes on to say, **“Any country in the world (Cayman being no exception) cannot survive or function with a population with that type of ratio.”** Mr. Speaker, at this point I need to ask the good people of George Town that are going to be listening to this debate, if the Member in 2000 recognised that the country could not survive, recognised that something had to be done and said that regardless of what, something had to be done. Do they think that he is a responsible representative having tried to do nothing about the problem and now criticising? He said the country cannot survive; he was talking about the very survival of the Cayman Islands. In his own words he says the country, **“... cannot survive or function with a population with that type of ratio.”** He should be thanking the Government for saving the Cayman Islands.

**Hon. W. McKeever Bush:** You are right. You are right.

**Mr. Cline A. Glidden, Jr.:** The UDP should be heroes to him, Mr. Speaker. If he was genuine in his statement of saying that the country could not survive—

*[Inaudible comments]*

**Mr. Cline A. Glidden, Jr.:** If he was genuine, Mr. Speaker.

*[Inaudible comments]*

**Mr. Cline A. Glidden, Jr.:** He said, **“Let us look at some very basic problems that creates.”** Mr. Speaker, now we are going into the fundamentals of the Constitutional change – the democracy here in the Cayman Islands and the makeup of this Parliament. He said, **“Let us look at the makeup of this Legisla-**

**tive Assembly, if that were allowed to happen.”** He said, **“People who seek to be representatives are only naturally going to expend their energies in the areas that matter at the [polls]. That’s only natural.”** He said, **“Mr. Speaker, do we realise what kind of country we could have then? And then you look at 70% of the population that feel totally disenfranchised. How can they function in this society? How can they feel they are part of a society and still be expected to function by being good citizens, by making the sacrifices they should make to have their country in good shape?”** He says, Mr. Speaker, truthfully, **“You couldn’t expect that.”**

If I did nothing else in this Throne Speech, I felt it was imperative to show the hypocrisy and the type of people that are offering themselves up as being the leaders of this country. Mr. Speaker, I know I do not hear any challenges coming from the other side of the floor, because it is hard for them to challenge. This is the edited *Hansard*. I am quoting from his speech. This goes to show what that Member will do; what the PPM will do to try to get a political advantage. Mr. Speaker, I need to repeat. He said, **“Some people will make political hey-day out of this situation, trying to grasp opportunities when they hear certain things being said just for political expedience. In my view that is so irresponsible it is not funny!”**

Mr. Speaker, how can the people of George Town, how can the people of the Cayman Islands hear what this Member is saying on one hand. There are a few changes. Am I to assume then that his colleagues, the other Members of the PPM, have changed his position so significantly since the 28<sup>th</sup> February, 2000? I know that there have been some changes in his Members on the Opposition. If he was genuine then, Mr. Speaker, it is obvious that his position has now changed. What has caused that change? Why is it such a terrible thing? Is he complaining that we only dealt with the 2,600 people, whereas, he saw it as being necessary to deal with 10,000 plus their children? Is that his concern? If he was criticising the Government to say, *‘You know gentlemen, you did a portion of the job, however, there is still, according to my information, some 7,000 people out there plus children that you all need to do something about.’* then you could say that maybe he has a genuine gripe. At least it was consistent with his position, however, to now be critical.

Mr. Speaker, what did he expect was going to be the effect of (according to his numbers) something being done with the 10,000 people? What was going to be the effect to the education system if he had done what he was crying for the Government of that time to do for these people? Mr. Speaker, 10,000. He recognised it was a problem. It cannot even be that we are saying, *‘Well maybe the Member did not understand how serious the problem was. Maybe the Member thought that the system could accommodate them.’*

He was begging for something to be done; acknowledging that there are 10,000 of those people; and now he is criticising the Government for dealing with a quarter, or less than a quarter of those people, saying how detrimental and terrible it is and it is the end of Cayman.

Mr. Speaker, even though I am sure the other Members are telling me how enlightening . . . because four years is a long time, I guess, and plenty happens and you do not expect that people’s positions would change that conveniently. You do not expect that before an election people catered to the political directorate in 2000 sung so passionately about their care for all of those people and now get up and using his term **“making political hey-day out of the situation”**. It is not expected and I am sure that is why Members are surprised that we can have the Leader of the Opposition’s position so different from the one he had a few short years ago. He went on to say, **“Now, what I just said . . . chances are that half the world that might hear this statement will say that I am a mad man.”**

[Laughter]

**Mr. Cline A. Glidden, Jr.:** He said, **“I am not!”**

Now he is saying the same thing that the Opposition is saying now. The country is in crisis; the Government did not know what they were doing; the Government must be mad for making those kind of decisions. Here he is justifying his statements, Mr. Speaker, and saying **“I am not mad!”** He said, **“I am not known to make those kinds of statements off the cuff. I am much too cautious for that.”** Mr. Speaker, and this is the crux of the matter. I would like to hear the PPM’s position. He said, **“I am [much too cautious for making these kinds] of statements off the cuff. I have thought about this. I have looked at the numbers. I have been scared you know what, and still am...”**

Mr. Speaker, that is why we had to help him out. He got in the position and he was scared, he froze up, he did not know what to do. The UDP came along, relieved him of his scare. He should be happy he was not in the position. We gave him a year to make these tough decisions. We recognised that he was not capable of doing it and we decided that we had to make a change.

For that one year, I apologise to the Caymanian people. I was a part of the decision that put him in that position of leadership for the year. After knowing about these kinds of statements, I thought we were doing the right thing, Mr. Speaker. However, as soon as we recognised that he was not capable, we made the change. So, he acknowledges that he was scared. He said, **“I have been scared you know what, and still am, because I (admittedly so at this very minute) am still not 100 percent sure of the correct direction. But, as I said, what I know we can’t do is nothing.”**

Now, here he is telling us he is scared, he is telling us he does not know the exact solution. However, he does know that the one thing that we cannot do is nothing. Whatever angle we take it from, whatever the ramifications were, something had to be done, otherwise, the country was in a state that it could not survive. The well-being of the Cayman Islands was at stake.

Therefore, really the PPM's only criticism that they should have, according to them, is that we have not dealt with the full problem, because according to them there was 10,000 that had to be dealt with. We only dealt with 2,700, 2,600 whatever the number was. He admits that he was scared. They put him in a position . . . Mr. Speaker, in hindsight, I guess we heard him admitting that he was scared even when he was in that position and he was only criticising the Government. He was scared at that time. I can only imagine how scared he was when he actually got in the position where he was expected to do something about it. As soon as we recognised that he was not going to do it, we moved him. Along came the United Democratic Party and, in his own words, made a decision that allowed the country to survive. Mr. Speaker, for doing that, they have gone out and raised up all sorts of ruckus, made all sorts of noise, how bad the country is, how the schools cannot function, have the teachers talking about the overcrowding in the schools.

According to the Leader of the Opposition, there is 10,000 plus children. All I can say is that he did acknowledge that it is touchy. He goes on to say that, **"It's touchy. It's very difficult to deal with. And most of us are afraid to pass opinions for fear that we have more against that opinion than we do for it. But when I talk about the composition of society over an extended period, and I think if I am correct, the facts will be made known to the public in very short order."** He said, **"... let us look at work permits, and let us look at the numbers of those work permits and which categories constitute the larger amounts of bodies. These are just hard core facts, no emotion."** Mr. Speaker, because I have used so much of my time with this, I will try to go through. It says, **"... we have to create a balance in our society. We cannot simply look at if any decision that is made is going to perchance financially impact negatively any sector of society. This decision has to be made based on the big picture."** Therefore, Mr. Speaker, he says once again, **"We cannot simply look at if any decision that is made is going to perchance financially impact negatively any sector of society."**

Now he gets up in this debate and says that some of those people that were just granted Caymanian Status are competing with the local people, however in 2000 he was saying that it did not matter. Something had to be done. He said it cannot be made based on that; this decision has to be made based on the big picture.

Mr. Speaker, you know, all this brings to my memory is that he opened his statement with, *"By their [fruits] you will know them."* Here we have the Leader of the Opposition, his words in this Legislative Assembly some four years ago. It goes on to say that it is a very important part of it. **"But it also extends itself to our ability to educate the Caymanians. And not only the Caymanians, but also those others who are here to stay whether we like it or not."**

In 2000 the Member was even worried about those who were not Caymanians; he was even worried about their education at that time. He was worried about how important it was that we make sure, because they are here to stay whether we like it or not.

Mr. Speaker, it amazes me how a Member elected by the people can get up—and I am sure those people heard this statement. They heard him out there espousing his concern for those people in 2000. I am sure they went out, rallied, supported and did whatever they could do to make sure that this man (who was saying how concerned he was about the long-term residents here, the imbalance in society and about the fact that if something was not done, the country could not survive), and they elected him, Mr. Speaker, and what has he done?

What has he done to ensure the continued survival of the Cayman Islands that he is so concerned about? He says, **"People might not want to talk about this."** I need to remember this is the Leader of the Opposition; the First Elected Member from the district of George Town. **"People might not want to talk about this. They might not want to address it. They might think that because it is not looking at the day after tomorrow that we can just shove this aside and make somebody else deal with it. I ain't planning to go anywhere right now. I think we should have dealt with this a long time ago."**

**"Every day that passes and we don't try to make conscious and informed decisions about this situation makes it more difficult and makes it have less chance of us doing anything right about it."**

Mr. Speaker, he says, **"I, for one, hold the view that if we drew a line, created a perspective, and put the majority of the people in this country on a course with their lives, that everyone would want to protect the future of this country all the more. Right now, we don't have that."** Mr. Speaker, he says, **"We cannot create policy or direction in this area by listening to one person regarding a certain issue."** He refers to this thing he likes to refer as, Mr. Speaker. **"We have to be looking at the whole big picture."** He says, **"I don't think we are in a position any longer to simply just sit and hope for the best because the best will happen. It's not going to happen."**

He was telling us at that stage that you needed dynamic leadership, like the United Democratic Party. If I did not know better, I would think he is

a prophet. He was prophesying that he needed the UDP to come along and save the country, because if that did not happen, it was not going to happen by itself. Mr. Speaker, he says, **“We cannot make decisions any longer in an insular fashion just to get this person or that group off our back. Everyone’s responsibility—including ours—is to ensure that we look at the entire picture when we come to make these decisions, and we have to begin to make them. We can’t get scared and use avenues and methods to hold off on these decisions because it makes our life easier. That is what has been happening for too long.”**

Mr. Speaker, he said, that had been happening for too long. I could go on. The only other point that I need to make on this is that he goes on to say, **“I mentioned that I considered it to be one of the most,”** and he was speaking about immigration, **“one of the most aspects of consideration we have to deal with now as a country.”** He says, **“I would just like to make a point that it is of vital importance, from my perspective, that we decide the composition of the society that we wish.”**

**“I don’t subscribe to the view that we should only allow professionals to remain in the country for extended periods of time because they are ‘professionals.’”** Mr. Speaker, here he is going on to say that it should not only be professionals. At that time, the helpers, the domestics, the gardeners, the mechanics, all the people that help make up these beautiful Cayman Islands, that help build these Cayman Islands, he was being all encompassing. He said, **“That, in itself, can have a negative impact on your society because if we look at it from that point of view we could end up in both the medium and long term with a lot of dissatisfied Caymanians considering themselves displaced in certain types of occupations.”**

**“But neither do I subscribe to the opposite view that relates to the composition of the society we want. If we turn the coin and say that we don’t want the professionals, and all we want are certain other unskilled categories by numbers, that will create its own problems. It is not an easy decision.”** Mr. Speaker, we did recognise that he was aware of the problem. It was a scary problem, and he recognised that it was a problem. He did not have the full solutions to the problem either; however, what he did know was that it was such a significant problem that if something was not done the country could not survive.

I am happy to say that based on the Leader of the Opposition’s statement that something had to be done, I am happy to have been a part of the United Democratic Party Government that did something to make sure that the country survived. Mr. Speaker, he says, **“... it doesn’t necessarily mean that we plan for that rate of growth to continue. [At] the same time ...”** Mr. Speaker, this part of this I have a difficult time because it talks about the runaway development

train the country is on. He said, **“[At] the same time, we don’t want to talk about slowing the economy down to a grinding halt because the Caymanian society is not prepared for that, and that could spell more doom than anything else.”**

Mr. Speaker, since I have reached that far in immigration I need to make the point that when the United Democratic Party made the decision, it did not only deal with the long-term residence. It dealt with our future as well by putting into place an immigration law that had with it a fixed-term policy. It had a fixed-term policy that would ensure that we do not find ourselves in the same situation that the Leader of the Opposition was referring to us in that time.

It was a fixed-term policy that would say yes, we welcome people to come here and make their contribution. However, do not come here and sell your homes overseas or bring your children into the schools from overseas because you are here for a fixed period of time. It was a law that made it clear for those people that make a decision to come and work here. That unknown situation that occurred where some people were here for ten, 15, 20, years, it was so sad, Mr. Speaker.

Some of them would come on a one-year permit. Before you knew it they were here two years, three years and four years. Then they would say, *‘Well, I have been removed from my family, I do not know how much longer I am going to be here,’* so they bring their wife down, they bring their children out, they take them out of school. Before you know it they say, *‘Well, I am renting a place here and I own a home back where I am coming from. I might as well sell that because I do not know how much longer I am going to be here.’* Before you knew it, they had moved all their belongings. They had made Cayman their home, and they were here making a contribution but unsure of their future.

Mr. Speaker, the United Democratic Party has changed that situation – the Immigration reform. People now know that there is a fixed-term policy. You are welcome to come and stay here for seven years. In that time we expect you to train our local people. At that time you need to move on and hopefully, we have a Caymanian that can replace you, which ensures that our Caymanian people getting out of school now have the opportunity to still continue to receive their training and also have an opportunity for advancement. Mr. Speaker, that fixed-term policy did cause some concerns, because there are certain sectors of our society that Caymanians are not qualifying in fast enough. For example, I use teachers and I use our counsellors, and I use our preachers, and I use doctors, and those types of people, Mr. Speaker, who in seven years time we still will not have a Caymanian replacement for. Some people have a family doctor for 20 or 30 years. You do not want to be changing them every seven years, so it required some of those people needed to be given a security, because when you are talking

about nation-building and you are building a society, it takes all types to build a society.

So, in the case, for example, that there was a preacher that was not here the ten years or there is a teacher who may have looked at it and said, *'Well, I am only here for a seven-year period and so, these children are not going to be my problem. I am going to be gone after seven years and may have only taken it as a job.'* Now, to those people Cayman is home. They now have a vested interest in making sure that that child that they are teaching is going to be a productive member of society, because this is a society that they now call home. So, yes, there were some people that did not meet the ten-year requirement – a small percentage of the people who the Government of the day looked at and said . . . and taken into account the reasons for the grants.

Let us look at what is special to us. Let us look at what will help make Cayman a better society. Let us not look at . . . as the Leader of the Opposition said; at just the professionals. Let us look at those people (our caregivers, our caretakers) that we need to make Cayman a better place to make Cayman their home for, as he said, the country to survive. The Government took a wholehearted approach. They dealt with the long-term residents, and they dealt with the fixed-term policy to ensure that Caymanians—

Mr. Speaker, a person now . . . I hear some of the criticisms in the law firms and in the accounting firms. If we look at the average one of those partners or senior members there now in there (40 or 45) and they are going to be retiring around age 55. If we have a child in school now, he is graduating now, he has four years of college, will have to get his professional degree (whether it is law, his CPA or whatever), that is at least another one to two years. We are now at seven years. Then they have to come home and get at least three to five years' experience. Mr. Speaker, we are talking about a 15-year cycle as to when that person would be ready to take up their roll as a partner or the manager of those firms. We have said that people that are coming now can only stay for seven years.

Mr. Speaker, moving right on to education, the Government has also recognised the need to allow for further education, and because of the expense incurred with having to send students overseas, we created our own University College of the Cayman Islands. Therefore, when we were spending around \$3 million on 70 or 80 scholarships to send overseas, we can now use that same money and educate around three times that amount of people; our own Caymanians. Government can now afford for three times more the number to get an education, to get a college degree; to prepare them to take up the correct roll for our Caymanian people in society. That is a forward-thinking Government.

Mr. Speaker, I am also proud to be a part of the United Democratic Party Government, which has, continuously, issued a record number. Every year it

outdoes itself with a record number of scholarships for our people ensuring that our graduates have a chance to further their education. The Minister of Education went on and clarified his record on education. Before I come off of the topic of education, Mr. Speaker, I just need to make sure . . . because I was asked, only yesterday, by a Member for the district of East End if I could repeat what they had heard in the debate by the Second Elected Member for the district of Cayman Brac and Little Cayman, because they were so amazed and shocked they figured it had to be wrong. Mr. Speaker, I reminded them that the Standing Orders allow for Members to challenge if any of the statements are incorrect.

The area that they were concerned with was education, and they were telling me how they were sitting there and they were listening to the Member for East End, how he criticised the Government for not looking out for East End and for treating them like stepchildren was what he said. He explained to me, Mr. Speaker, how he was so amazed afterwards to hear that the Government in 2001, when they were putting together the 2002 Budget, they put \$25,000 in the budget for the East End Primary School renovation programme.

Where the surprise came in was not that the Member for East End was criticising the Government for not doing enough for East End. They were really surprised because the Member got up and criticised the Government. When the facts were written, when the facts were read, what came to light was that that Member, knowing that that money was in the budget for the renovations, voted against the budget. Therefore, Mr. Speaker, here we go. We have the Member for East End getting up, criticising the Government for not doing anything.

The Government, in its first budget, puts money in the budget to help the school in East End, which he again got up and talked so passionately about. However, when the Government tried to do for East End's primary school, the Member then got up and voted against. Mr. Speaker, what is scary about that is that there was a division taken. The division number is 22 of 01. There were the 12 Ayes (which was the Government); [under] the Noes were [recorded] the First Elected Member for George Town, the Second Elected Member for George Town, the Third Elected Member for Bodden Town, the Elected Member for North Side, and the Elected Member for East End. So not only is it that the Member for East End did not care about the Primary School, but the whole PPM administration voted "No" against the budget, knowing that there was a provision in there for the Primary School. If the United Democratic Party Government is treating them like stepchildren, what would the Member say about the way that the People's Progressive Movement is treating them? There was also money, I understand, in there for the Gun Bay Cemetery.



Mr. Speaker, it is important that the people of East End know that the United Democratic Party Government, even after its elected representative got up and voted against the money to fix their school, gave them an extension of their place for burial. Even though he got up and voted against it, the United Democratic Party Government still recognised the need, not because of the lack of representation that the Member for East End came with. The people of East End have to recognise that even though there was inadequate representation on the representative's part, the United Democratic Party Government still recognised the need of the people of East End and continued forward. I can only wonder if it was the Government—I hear them keep talking about under a PPM administration. Mr. Speaker, I dare say that the Member that talks about his good track record, the track record that is there will show that if the people of East End had to bear it under a PPM administration there would be that thing that we talk about, *'Dog eat their supper.'*

It would be a sad day for the country for the track record shows, Mr. Speaker. The track record shows that the People's Progressive Movement track record on doing things for the district of East End is "No", "No", "No", "No", "No". Five Noes, Mr. Speaker. What is sad again is that it is important, and I have to take my time to remind the people, because that Member got up, and once again, if you had heard how passionately he spoke about his concern for the East End Primary School, no one would believe that he then turned around and voted against the funds to try to do those same repairs. No one would also believe that in the following budget after that one, the PPM administration did not even debate the budget. They were not even there for the vote. You could not even have a division because they were not there.

**Hon. W. McKeeva Bush:** They walked out.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, and the Member has the nerve to talk about having a good track record because he gets up here and can read from the letters saying that he asked for it. He asked for it, the Government put the money in the budget, and he gets up and votes against the money; and he says that that is a good track record. It is really a confusing state. It is confusing to see that those kinds of things would go on in the House of Parliament, and if the general public did not know, Mr. Speaker, they would think that it was genuine.

Me, myself, Mr. Speaker, if I did not have the facts sitting in front of me when I heard him there with his loud, boisterous approach, I would have thought that it was genuine. However, records are a good thing and it goes to show—and that is why when we talk about a track record—the United Democratic Party Government, this same Government that the Member for East End criticises so much, has a beautiful park. I heard the Minister of Health and the Minister

of Education saying how the Minister of Community Affairs went passed Bodden Town and did a park in East End, a beautiful park in East End, that the residents in East End tell me they use on a regular basis. However, they talk that United Democratic Party Government has done nothing for East End.

I was up there a few days ago. I was there for the opening of the pipeline, the water, in East End. Mr. Speaker, the residents of East End now have access to piped water by the Cayman Islands Water Authority. The Minister that got so criticised doing nothing for East End. And the list just goes on and on.

I was at a function on Saturday night, the Cayman Islands Football Association awards function, 350 plus people at the awards, where the President of the Association said that a year ago he had sat down with the Minister of Sports and told him that he wanted some help for the district of East End. The Minister of Sports, with no hesitation, gave him a coach for the district of East End. He had given a challenge to the Minister to say that he wanted to have an under-14 football team. One year later, he announced that East End has a team in the school league (and this is from recollection, so I stand to be corrected) an under-14 team, and as far as I can remember an under-17 team, and for the next football season they will have a team in the senior league. In one year's time, under the United Democratic Party Government, under the Minister of Community Affairs, the same Minister that that Member gets up and says does nothing for the district of East End. Under the same Government that he says treats the people of East End like stepchildren.

**Hon. W. McKeeva Bush:** He does not know because he is not there.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, I do not know if that could be the problem. If that is the problem, I apologise to the Member. If it is that he does not know what is going on in the district because he is not there, then I cannot really blame him. The only thing I can blame him for is for getting up and talking facts that he does not know about then, especially, when he does it so boisterously and so passionately. Mr. Speaker, maybe this is an education for him as well. Maybe he does not know all the positive things that are happening in the district of East End.

In reference to the Football—

*[Inaudible comments]*

Mr. Speaker, I have to take away that credit that was given because the Member is now acknowledging he knows about it. So he is saying to me that he was being dishonest in getting up here and saying that nothing was being done—

**Hon. W. McKeeva Bush:** That is right.

**Mr. Cline A. Glidden, Jr.:** —because he just acknowledged that he knows that all of these good things are happening. He just did not want to give credit to the Government for doing the stuff. I kind of figured that is what is was, but I did not know it until he actually acknowledged it himself.

Mr. Speaker, while I am on football, it is important that I also quote . . . because sports are a very important part of my life. I have played football and had the pleasure of representing the country, worked on the football administration at an executive level and I am still active with my sports club, Scholars. Football and sport as a development and a continuous learning tool for life for our young people is something that is very close to my heart.

At the presentation on Saturday night, it was recalled to me how far sports have come in this country. The president of the Football Association was talking about how positive the Government is towards sports, how dynamic the Minister is. He even said that he did not want to give a challenge because it did not make sense to challenge, because if given the Minister has filled it before he could even recognise it. He said he challenged the Minister about a Sports Ministers' conference. He said within three weeks he saw an announcement on the front page of the paper that Cayman was hosting the Sports Ministers' Conference.

What was very telling to me is the direction that we have come under the United Democratic Party Government. That was in his speech. He said to the crowd that 20 years ago, when he first went with the late Ed Bush (who was the President of the Association, Mr. Webb was then the Vice President of the Association) and saw the then Minister of Sports to ask for some support for the development of football. Mr. Speaker, I cannot say who it was, but 20 years ago . . . Mr. Speaker, the Member is asking me who the Minister for Sports was 20 years ago. From the records in here it would show that that was Mr. Benson Ebanks, at the time.

**Hon. W. McKeeva Bush:** Yeah, part of the PPM. Part of the PPM.

**Mr. Cline A. Glidden, Jr.:** The same gentleman I think that is helping to put together . . . Mr. Speaker, helping to put together a team of candidates in the election for this year.

**Hon. W. McKeeva Bush:** It was not me.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, what Mr. Webb told us that was so telling, is that he said, when he went and sat down with the Minister of Sports at the time to try to get some support, the words that were quoted were that *'Any money spent on Sports was a waste of money.'* As a sports person, that really threw me for a loop. It threw me for a loop that only twenty years ago we would have a Minister of Gov-

ernment at the time with the mentality that any money that was spent on sports was a waste of Government money.

Mr. Speaker, thankfully, like the Minister of Sports, Dr. the Hon. Frank S. McField, in his contribution, said that, thankfully, again the good people of Cayman recognised the need for a change and they got the now Leader of Government Business who started a programme in 1992 that has made sports for all. We have playfields, coaches, and programmes in place that have been carried on admirably by the now current Minister of Sports, the Third Elected Member for George Town. When I hear the Member for East End compare and say he has a good track record—

[Laughter]

**Mr. Cline A. Glidden, Jr.:** I can only imagine what his track record is because he has made some requests. He could get up and read from letters that he had requested things to be done and, Mr. Speaker, it was clear he only requested things to be done for the district of East End.

Now, compare that with the record of the United Democratic Party Government. Compare that to the fact that now we have our swimmers competing at world levels. We have Olympians. Mr. Speaker, we have boxing. The only challenge I would ask for the Minister to do now is make sure that we have a nice professional boxing fight here in Cayman.

You see, that is why it is so scary to challenge that Minister. I just challenged him to have a professional boxing fight, and he tells me they have one scheduled with Charles Whittaker in August.

[Inaudible comments]

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, the United Democratic Party Government—

**Hon. W. McKeeva Bush:** Listen to what the man is saying. He runs the Government.

**Mr. Cline A. Glidden, Jr.:** We have Charles Whittaker, who is sponsored by the Ministry, and before I can even get the challenge out, the Minister is telling me that we have a professional fight, right here in Cayman in August so that all of those people who want to get a chance to see their very own, Charles Whittaker, fight who could not afford to go overseas could now stay at home and come out and support. That is the kind of Government that we have, Mr. Speaker.

Track and field. The Minister . . . Mr. Speaker, I am going to run out of time just on the Sports Ministry. The Minister has just announced upgrading of the track for our young people. We have softball, we have flag football, we have parks in every district and they tell me that the crown jewel of the parks is going to be in George Town on a waterfront piece of valuable

property that the Government has not used. The Government is giving that to the people of George Town as a community park, Mr. Speaker,

**The Speaker:** Honourable Member, out of your two hours; the two hours will take you to 4.38 pm. I propose at 4.30 to ask for suspension so that you may complete your speech if you are still speaking at that point. Please continue.

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

We all know about the great things, and I know the Minister of Health is going to be coming shortly to speak about how concerned and what the Government has done, by providing insurance for our senior citizens, people that were not able to get insurance; another milestone in this country. The Member for Cayman Brac and Little Cayman spoke of Agriculture and the fact that we also have a Caymanian taking up the head of the hospital. We were talking about Caymanians earlier on, Mr. Speaker. Therefore, I too just want to say how happy I am to be a part of a Government that has done so much in education and labour; has done so much for community affairs and sports.

Mr. Speaker, I did not even get a chance to speak on housing. I cannot pass without housing. With all the criticisms that are there, we have just been told that the houses in West Bay are ready to go. Hopefully, by the time the Minister of Housing gets up to speak, we will have some of the residents in those houses. I can only say what an excitement this has brought to my constituency.

I can only say how many people have come to me that now see themselves with the possibility to own a home (not what they see as being a life-long home, rather a starter home) something that they are now able to go out get and stop paying rent, and actually own themselves. They were so excited to say to me that if the economy continues under such a good Government, they only expect themselves to be there for a short time. However, they are happy to know that when they are ready to pass it on, the Housing Trust is going to be there willing to buy back their home. They do not have to worry about it being on the market, because sure enough the Trust knows that there will be somebody else coming along the ladder who needs a starter home.

Mr. Speaker, a well thought-out programme again. A programme again that might not be perfect, but something is being done for many people who had no other chance, no hope of owning their own house.

Mr. Speaker, I am now going to move on to Tourism just briefly. It is important once again, to show how removed the People's Progressive Movement is from the realities of tourism as with the other topics that have been addressed.

All we can hear about now is that the tourism numbers are up. When you look down West Bay Road, all you see are people walking the streets. Yet,

the Leader of the Opposition will get up, once again, and refer to a report that was made, I think it was in 2002 (I am not sure of the exact date), a report that he has referred to on numerous occasions. Mr. Speaker, the only difference with the reference at this stage was that up until about six months ago, when he would refer to that, and the punch line in that was that, as the numbers of cruise ship arrivals increase, the numbers of stay-over tourists—and, Mr. Speaker, I am quoting from my head, I have heard him say it so much that I can quote it—the number of stay-over visitors decrease. I could understand in 2002 when he was saying that, and I could understand sometime in 2003, but not for him to get up and use them in this Throne Speech to make the same reference. Earlier, he had said that tourism air arrivals/stay-over tourists were up as well, proving the fact that the report either has lived its time or was never correct.

What it has proved is that the Member needs to stop trying to scare people about mass tourism and that it is the cause of decline in stay-over tourists. What we have now for the last four or five months—actually, since January or November, I do not even remember the numbers—is an increase in cruise arrivals and an increase in air arrivals. So, Mr. Speaker, it is time for that Member to stop quoting from an outdated report. The facts are the facts now. He cannot use those scare tactics anymore to try to scare the people into believing. If the trend had continued up until November, he may have been able to fool some people.

However, every day we get a report in the newspaper saying the numbers are up and all projection is up in both, and that Member will still get up and start referring to a report saying that you cannot have one and the other. The cruise ship arrivals are proportionately deteriorating the product so much that the stay-over arrivals . . . is he saying that the report is faulty? Or, is he saying that the Department of Tourism, under the Leader of Government Business, is doing such a good job that he has reversed the trends and has even made the report faulty?

What is it that he is saying? He acknowledged that both were up. He acknowledged that air arrivals were up. Mr. Speaker, you know, the United Democratic Party Government is doing such a fine job that even when the Leader of the Opposition tries to criticise what they are doing, he gives them credit. He criticises using this report only to say that the numbers are up.

The Government . . . I do not remember who the author of this report was, but I would imagine it is someone that is renowned in tourism. The United Democratic Party under the leader of the Minister of Tourism, the First Elected Member for the district of West Bay, has proven the report wrong. We have arrival numbers up in stay-over and arrival numbers up in cruise, once again, showing you, showing the country what dynamic leadership will do.

We also are happy to see that investor confidence in the Cayman Islands is up. We have new developments going along. That Member said, in 2000 (I do not know if his position has changed since then, but he said) we do not want to slow down the economy because of the potential negative effects. Sadly, in 2001 the economy was slowed down, but happy to say we got out of that rut, we made a change. We got the United Democratic Party on board and now we have progressive Government, and the Island is moving forward.

Investor confidence is at its highest. Mr. Speaker, the confidence is so good that we have people like the Florida Cruise Ship Association (FCSA) willing to build and finance a port. That is great for the long-term future of the Cayman Islands. It shows that they are so confident in the Cayman Islands that they are willing to make long-term investments, long-term financial investments. I am sure it had something to do with the fact that they recognised the type of leadership the country was under now. They recognised that the country would take and do something innovative to help solve the problems, like the cargo operations at night do to relieve some of the congestion on our existing port.

Mr. Speaker, I am happy that the district of West Bay is also benefiting. I am happy to hear and to know that we have in place plans for a new school for the district of West Bay. I am happy to know that again, the Ministry of Tourism has been revitalised and we have a new project, the Cayman Islands Turtle Farm, a \$36-million investment going forward in the district. It is providing great employment, even in its construction stages and we look forward to future employment in the operational stages.

I am happy to see that we are moving forward with a dock in the district of West Bay, which again will allow some of the economic success from tourism to be passed on directly to the district of West Bay. I am happy to see that we have a new post office and that today, construction started on our new library in the district.

Mr. Speaker, regardless of what the Opposition tries to say, things are going well in the Cayman Islands. The people of the Cayman Islands are back on track. They are working, they see a chance, and I am confident that that hope will continue after the November election.

I now move on to another topic that is near and dear to my heart, and that is your previous Ministry, Mr. Speaker, the Ministry of Planning, Communications and Lands. I am happy to see that we do have a liberalised telecoms market. Obviously, telecommunications, the liberalisation of which is not without its difficulties and that there was never an expectation that it was going to be smooth all the way. We knew we were going to reach difficult times; however, I have every confidence that the (Information Communication and Technology Authority) ICTA will continue to over-

see and to regulate as they are allowed to do in the law.

Mr. Speaker, the only thing that I would like to say about that process at this time is that it is important that when people question the rights and the privileges and what some see as an abuse of power by the regulator, by the Authority, it is important to note that Cable & Wireless (CI) Ltd, the incumbent company at the time, was instrumental in the legislation and the law bringing into place the ICTA.

It is important for the public to know that the provisions for dispute resolution were agreed upon to the satisfaction of Cable & Wireless (CI) Ltd, that if the Authority was doing something that they were out of line with doing, that Cable & Wireless (CI) Ltd was satisfied that they would have recourse. That is where I gain my satisfaction. I do not know the day-to-day running or how it works. My involvement was at the negotiation stage with Cable & Wireless (CI) Ltd at the time while they still had a licence by the Government. I do know that Cable & Wireless (CI) Ltd was satisfied that if the Authority tried to do something that they felt was not reasonable to them that they do have ways and means of settling the dispute, which was satisfactory to them. Therefore, I feel that if the Authority is doing something that is outside of their scope, or outside of their authority, I have every confidence that Cable & Wireless (CI) Ltd will take the appropriate action to remedy that situation.

Mr. Speaker, I need to make a point on another key, what I would term, "success story" of the United Democratic Government. We have heard the criticisms earlier on how terrible it was going to be when the United Democratic Party Government, while you were the Minister, brought forward a proposal to change the heights of buildings. At the time, the Government felt that that would go a long way in stimulating the economy and allowing re-development. We have seen that that has proven to be the case. We have seen that those steps, along with others, have made development, once again, attractive on our beautiful Island and once again the country is reaping the benefits. Planning applications are at record levels.

Mr. Speaker, one of the things less talked about by the critics is that in allowing additional stories to the building, the Government also got greater setbacks from the sea. We have always been criticising and saying, *'We have made these developers build too close to the sea.'* Once again, through the art of negotiating what was said was, *'Okay, you can go higher but we need you to give back more space. We need to have more space for our residents to be able to enjoy the beach.'* We had some people who said that the movement of sand on the beach is because of the buildings being too close, so this Government again changed the regulations to allow taller buildings and made the setbacks from the sea greater.

Mr. Speaker, I now move on to Caribbean Utilities Co Ltd (CUC), another area in that Ministry. I

am proud to have played whatever part in allowing an agreement with (CUC), after difficult negotiations, that they were willing to give up an agreed rate of return of 15 per cent in return for a price-cap proposal, which does not allow them to be raising fees before May 2008. Mr. Speaker, before, every year (CUC) was getting a 3 per cent. I need to quantify that . . . with the price-cap mechanism, it is only if the cost of living increases significantly, which would mean that it would move somewhere more than 10 per cent. No increases. So, again, we can look at the future and plan. Businesses can plan; homeowners can plan, whereas, before they planned every year for around a 2.5 – 3 per cent increase. What this Government has achieved is a rollback of 3 per cent, a reduction of approximately 4 per cent, and the introduction of competitive bidding that would allow even further reductions again.

Mr. Speaker, yet the Opposition will get up and say that the Government has done nothing. You know, if we look at just the decrease, the 2.5 per cent reduction for this year, and we take the 3 per cent from last year, that would have been a 5.5 percent reduction. If we take the 3 per cent every year—and (CUC) has shown their figures to show that they were entitled under the existing agreement for another 3 per cent increase—the 3, the 2.5, 5.5, the 6 per cent that did not happen, is an 11 per cent swing. The United Democratic Party Government got a 5.5 per cent decrease instead of getting a 6 percent increase, even before the introduction of competition.

Now, I am not going to say too much on (CUC) because I was intimately involved with that and I do not want anyone to feel that I might be blowing my own horn. However, I do want to say that I am proud to have been a Member of the Government that gave me an opportunity to use my experience and my expertise to be a part of that group that negotiated the agreement for (CUC).

Mr. Speaker, what really concerns me—and if for no other reason why I find the need to run again, to offer myself for election—I listened to the Opposition side. I listened to their solution; I listened to the Member for East End and he was not quick to give praise to the reductions, or quick to come up with any great solutions. After coming with a wish-list and saying all the things that the PPM administration would do, his solution regarding the problem with (CUC) and the ever increasing electricity rates was that Government should reduce duty.

Mr. Speaker, how innovative is that? We are going to do everything and, like I said, be all to all, but a solution to reduce duties? I think he said the Government may be getting approximately \$12 or \$20 million every year from duties, which pay for our education, pay for our senior citizens and build the roads. His solution is not to get (CUC) shareholders to earn less on their investment; his solution is that the Government should take less. I have to ask the question: Where is his loyalty, to the people of Cayman, or is it

to (CUC) shareholders? A reduction in duty will have given a reduction, but is it to the foreign, majority shareholder, Fortis Company, or is it to the Caymanian people who elected him to represent them?

*[Inaudible comments]*

**Mr. Cline A. Glidden, Jr.:** To come out and ask for the Government to reduce duty as a solution to our high electricity bills. Where are we going to get that money from, Mr. Speaker? According to him, we need more schools; we need better roads; we need to do more for our senior citizens. Where is that makeup? That is what happens when you make hollow promises. There is no thought. You get up and say, under a PPM administration, *'We will do this. We are going to provide everything and then we are not going to charge those foreigners any duty either. We are not going to make our money from foreign investors, but we are going to make sure that Caymanians have everything they want.'*

#### **Moment of Interruption—4.30 PM**

**The Speaker:** Honourable Member, we have reached the hour of 4.30. However, as I said earlier, the Honourable Member speaking has eight minutes remaining in his speech, and I think it would only be reasonable if he is allowed to complete his speech with only eight minutes remaining. I therefore call on the Honourable Leader of Government Business to suspend Standing Order 10(2) to allow the Honourable Member Speaking to complete his speech.

#### **Suspension of Standing Order 10(2)**

**Hon. W. McKeever Bush:** Mr. Speaker, I move the suspension of Standing Order 10(2) in order that the Member making his contribution can complete it.

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow the Honourable Member to complete his speech. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed: Standing Order 10(2) suspended.**

**Mr. Cline A. Glidden, Jr.:** Thank you, Mr. Speaker, and I want to thank the House for giving me this opportunity to continue.

As we took that short break, I was questioning the rationale and the thought process behind the People's Progressive Movement. All I can say, I am happy that for the last three years, as a Caymanian with two young children that have a great future in the Cayman Islands, I am happy that we have had progressive-

thinking individuals. Progressive individuals by name and thoughts, who would look for creative and innovative solutions to the problems of and ending the existing monopolies, like the telecommunications and electricity monopoly; to still allow the company that has served the Island quite well, provided training for many Caymanians and who gave me my opportunity to go off to do my training.

What we have been able to achieve is a relationship with those companies where they can continue making a reasonable return on their investment; a return that they were happy to negotiate. We did not go into any court, or go through any court battles, and nothing was thrown on them by the Government. It was a mutual agreement that would allow them to continue making satisfactory returns while allowing the Caymanian people to have a new system. The system that was there had served its time. It was time for a new relationship. This Government was able to go in and negotiate an agreement that will benefit the people of the Cayman Islands and still meet satisfaction with the shareholders.

Mr. Speaker, that is a difficult thing. If I was the owner of (CUC) and I still had eight years left on my agreement where I was guaranteed a rate of return of 15 per cent, you can only imagine how difficult it would have and must have been to get them to agree on a different arrangement with eight years of a guarantee left. Mr. Speaker, you know how difficult and how hard those negotiations were, but again, with the support of the Government, we were able to come through that. I can only imagine—actually I do not have to imagine, I see the kind of line. If the People's Progressive Movement administration was in power, their solution would have been, *'Okay, (CUC), keep your guaranteed rate of return, but we are going to reduce duty so the Government is going to give up \$20 million, but we are not asking you to give up anything'*. No, Mr. Speaker, not the United Democratic Party, not the Government, that I am so proud to be a part of. I think that when the record is shown as to the accomplishments of this Government in the short time, in the very tumultuous and turbulent world condition, that this Government has stood up and represented its people well.

We expect the Opposition to criticise, and I guess truthfulness is too much to ask, especially, in an election year. I was hoping that by now we would have seen a difference. Mr. Speaker, I can remember the first relationship, the first exposure I had to that administration right after the Government was putting together the 2002 Budget. The Government, instead of going out and borrowing the \$56 million, decided to take another one of those hard decisions and to go out to the financial industry and to get the money from the financial industry. What the People's Progressive Movement (the Opposition) said at that time was that we were going to destroy the country—

**The Speaker:** Honourable Member, you have two minutes remaining.

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

The country was going to go. We were going to lose our financial industry. The banks were going to shut down. Their only solution at that time, I guess, was to borrow again. We have moved passed that. The banking industry is vibrant and strong as far as the local controls go. We do have international challenges. The banks have paid those fees; the law firms have paid those fees; the Government had some \$40 million to continue doing business that it did not have. It did not have to go out and borrow. It did not have to put additional debt that my children are going to have to worry about. At that time, the People's Progressive Movement was not progressive enough to see the benefit of that. I guess that is why they voted against it, because it was a balanced budget and they are not used to seeing balanced budgets.

Mr. Speaker, I assume that by now they would have been, with such good teachers as the United Democratic Party Government. I would have even felt better if the evidence showed that they had learnt something in their three years, for if we had to grade them, they would have a big failing grade. It is obvious that the country cannot afford to change the United Democratic Party Government and put the current Opposition in place. Mr. Speaker, we see that there are all sorts of games being played. The Lady Member for North Side told me about West Bay. We see that there are games being played there where there are two members of the People's Progressive Movement and two members that are not. Mr. Speaker, I have full confidence—

**The Speaker:** Honourable Member, you have 30 seconds.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, I have full confidence that the people of West Bay, the smart people of West Bay, have good common sense and will once again not be taken up with any of that kind of tomfoolery. They said no to the tomfoolery in 2000 and I am sure it is going to be the same in 2004.

Mr. Speaker, I thank you for your indulgence, and I thank all Members and I look forward to the continued contributions to the debate.

## ADJOURNMENT

**The Speaker:** Honourable Leader of Government Business, I call on you for the adjournment Motion.

*[Inaudible comments]*

**The Speaker:** Honourable Leader...

**Hon. W. McKeever Bush:** Mr. Speaker, I took a little while because the Lady Member for North Side was

aggravating me and we know what the PPM is all about—People Provoking McKeeva—and that is exactly what she was doing.

Mr. Speaker, I move the adjournment of this Honourable House until 10.00 am, Wednesday 14 July, 2004.

**The Speaker:** The question is that this House do now adjourn until 10.00 am. on Wednesday, 14 July, 2004. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**At 4.40 pm the House stood adjourned until 10.00 am Wednesday, 14 July 2004.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**14 JULY 2004**  
**11:45 AM**  
*Fifth Sitting*

**The Speaker:** I will invite the Honourable Minister for Planning to lead us in prayers.

Member for Bodden Town. I notice that that Member is present.

### PRAYERS

**Mrs. Juliana Y. O'Connor-Connolly, JP:** Let us pray.

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

*Bless our Sovereign Lady, Queen Elizabeth 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 Cabinet 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 11.48 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 absence from the Honourable Third Official Member, and apologies for the late arrival of the Third Elected

### STATEMENTS BY MEMBERS OF THE GOVERNMENT

**The Speaker:** I have received no statements by Honourable Members of the Cabinet.

### GOVERNMENT BUSINESS

#### BILLS

**Suspension of Standing Orders 45, 46(1), (2), & (4) and 47 to allow the National Roads Amendment Bill 2004 to be read a first, second, and third time**

**The Speaker:** I call on The Honourable Deputy Leader of Government Business to move the Motion for the suspension.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Orders 45, 46(1), (2), and (4) and 47 to allow the National Roads Authority (Amendment) Bill, 2004 to be read a first, second, and third time.

Mr. Speaker, in that other amendment, very briefly is to be included the words, "**and one shall be from Cayman Brac or Little Cayman**". This is being done. I could proceed on the Bill; however, I could not give you or the House the exact time when that will be available here in the Chamber for circulation. Thus I could begin, but if it would please the House or yourself, Mr. Speaker, we could pass over this perhaps and begin the debate and at an appropriate break in that time, we could deal with this. However, I am in your hands. I can start it because it is very, very simple and straightforward.

**The Speaker:** Thank you. The suspension will provide the sort of latitude that may be required for that to be accomplished.

The question is that Standing Orders 45, 46(1), (2), and (4) and 47 be suspended. All those in favour please say Aye. Those against No.

**Ayes.**

**The Speaker:** The Ayes have it. Standing Orders 45, 46 (1), (2), and (4) and 47 are accordingly suspended.



Agreed. Standing Order 45, 46(1), (2) and 47 suspended.

## FIRST READING

### The National Roads Authority (Amendment) Bill, 2004

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for a Second Reading.

## SECOND READING

### The National Roads Authority (Amendment) Bill, 2004

**The Speaker:** The Honourable Deputy Leader of Government Business.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the Second Reading of a Bill entitled the National Roads Authority (Amendment) Bill, 2004.

**The Speaker:** The Bill has been duly moved. Does the Honourable Minister wish to speak thereto?

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

As the Honourable House knows, just a few weeks ago the National Roads Authority Bill, 2004 was debated and passed and it has since been published as the National Roads Authority Law, 2004 – Law 10/04. This was published in supplement No. 1 in the Extraordinary Gazette No. 23 dated 30 June, 2004.

Mr. Speaker and Honourable Members, when the various administrative actions were being taken, it was discovered that there was an oversight in the Bill where it made it somewhat impossible to proceed further until it was corrected. The problem was in Section 7(4) which dealt with the appointment of directors to the board, and in particular Sections (c) and (d) where the Law said, **“The Board shall consist of not less than twelve nor more than thirteen directors of whom –**

**“(c) one who has demonstrated to the satisfaction of the Board substantial knowledge of and experience in planning, design and development of public roads, shall be the Managing Director;**

**“(d) one who has demonstrated to the satisfaction of the Board substantial knowledge of and experience in planning, design and development of public roads shall be the Deputy Managing Director;”**

Such persons were to be appointed as directors of the board but in section 11(1) the Law says: **“The person appointed to be a director under section 7(4)(c) shall be appointed by the Board to be the Managing Director of The Authority, at such**

**remuneration and on such terms and conditions as the Board may think fit.”**

So, the problem was the Law said that the persons had to be appointed as directors of the board and then had to turn around and appoint themselves as managing director and deputy managing director. It was an oversight in that this was changed as a result of debate on the Bill where it was the Governor doing these appointments. Therefore, to correct the situation in the way it presently stands is why the amendment is before this Honourable House.

What has happened is that the managing director and the deputy managing director have been removed as directors of the board and they are, in fact, employees of the Authority appointed by the board. That is what this amendment is to accomplish. Therefore, the post of managing director and deputy managing director have been removed from the board of directors and there are two staff members who would be appointed by the board.

Mr. Speaker, the number on the board has been reduced to not less than nine or more than 11 directors. In the Amendment Bill before the House in 4(f) where it says, **“the others shall be no less than two but not more than four individuals”** added to (f) would be the words, **one of whom shall be from Cayman Brac or Little Cayman.** That brief amendment is now with me and I would like to sign same, and if you would so authorise it could be circulated to Honourable Members and it could be dealt with at Committee stage.

Mr. Speaker, may I take this opportunity to briefly say that the idea of the National Roads Authority has been one that has been around for a very, very long time. You, as Minister with responsibility for roads, knew of it when it was in its infancy. The idea was to create a body where the subject of roads could be addressed specifically. It was also the intention and the objective to be able to specifically assign certain revenue streams for the development, maintenance and repair of roads, which would be dealt with by the Roads Authority. Like all the Authorities, the Authority assumes responsibility nationally and it would also include responsibility for roads for Cayman Brac and Little Cayman.

On that latter point, I would like to make the point that I personally see no change in the present arrangements on Little Cayman and Cayman Brac in terms of the people who work there in the roads section. They would be assigned, specifically, the work on roads on Cayman Brac and Little Cayman.

One individual, be that whomever, would be specified as the lead person there. I would not know who that would be as that would have to be done administratively and ultimately agreed by the Governor. It would give that individual some prominence as being specifically the senior person to carry out the work on roads on Cayman Brac and Little Cayman.

I could not conceive now, or in the future, any road development on Cayman Brac and Little Cayman

that would not include the views and the opinions of the elected representatives of Cayman Brac and Little Cayman as is presently done. In fact, I think to do otherwise would be ignoring a very fundamental principle of democracy which is that the people elected by the people have the right to represent the views and wishes of the people. To amplify that thought, the addition of the words as previously quoted, **“one of whom shall be from Cayman Brac or Little Cayman.”**

Therefore, that is the position, and the monies which have been assigned for roads on the Cayman Islands in the 2004/2005 Budget would be spent on the Brac on the projects to which it has been assigned for this year and in the future it would similarly be done.

I think it is very important that the Brac must be included from the beginning regarding the planning and determination of what roads are to be fixed, how much money will be spent and the actual execution of the work to be carried out in completing the road works for the Cayman Brac and Little Cayman.

Mr. Speaker, there is little more I can say to this because it speaks for itself. It is simply an attempt to clear up what was overlooked when the amendments were being made, when the Bill was being debated and, ultimately, passed. As such, I recommend it to Honourable Members.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Elected Member for East End.

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

Mr. Speaker, I rise to make a short contribution to the amending Bill before us.

I think it is a well-known fact that the Opposition supports a National Roads Authority because of our previous record when the Roads Authority Bill was brought to this Honourable House. However, there are a couple of things that I think we have missed in this new amendment.

One in particular is that this amendment will remove the managing director and deputy managing director from the board entirely. In most instances, when it comes to the authorities, the managing director and deputy managing directors, those authorities are appointed to the board by virtue of their position and it could be as serving in the capacity of ex-officio members in most instances. As far as I am aware, there is no provision in the Law or in the amendment now to say that they will be appointed to the board as ex-officio members. As a matter of fact, the amendment removes them from being board members. Therefore, our concern is, what functions and relationship will their positions have as managing director and the deputy managing director with that of the board of directors. I believe that those two positions and the individuals therein being the daily operators, so to speak, of the Authority, the directors would not need their advice and expertise in making their decisions. Now, the Minister

may have something to discuss on that section because I cannot, for the life of me, find it in the Law.

Now, under Part II of the Law, Personnel of the Authority, Section 12(1) & (2) lay out the functions, powers, and duties of the managing director. It specifically says, **“The Managing Director shall manage road operations and procurement on behalf of the Authority, subject to the directions of the Board, and to this end shall -”** the one in particular is **“(a) oversee the technical operations of the Authority related to planning, demand forecasting, construction, upgrading, rehabilitation or maintenance;”** It goes on, Mr. Speaker, to state the other responsibilities that the managing director has; however, it is all operational and I believe some place we need to ensure that the managing director and/or the deputy has some position on the board or to give advice to the directors.

Certainly, under the amendment there is no mention of anyone to be appointed with the expertise in the building or design and operations and the likes of roads in the country. It is:

**“(4)(a) one, not being a public officer, shall be chairman;**

**“(b) one, not being a public officer, shall be deputy chairman;”**

**“(c) one shall be the Permanent Secretary or his nominee;**

**“(d) Financial Secretary or his nominee;**

**“(e) three shall be individuals who have demonstrated to the satisfaction of the Governor substantial knowledge of and experience in one or more of the following areas –**

**(i) tourism;**

**(ii) law; and**

**(iii) environmental matters; and**

**“(f) the others shall be not less than two but not more than four individuals.”**

I understand from the Minister there is an amendment to that to say **“one from Cayman Brac”**. Therefore, there is no provision to have that expertise on the board at this time when it was brought prior to this amendment.

The Minister also spoke of someone being appointed from Cayman Brac and he mentioned that it would be unfair (undemocratic I believe he said) that the representatives of Cayman Brac were not allowed to be on the board. I do not know if that was specifically what he meant, but I assume that is what he meant, Mr. Speaker. If such is the case, then I would invite the Minister to give some specific reasons why an Elected Member would have to be on the board rather than an ordinary person, public officer or an elected officer.

Certainly, as I understand it now, there is an Elected Member from Cabinet responsible for district administration, and if that continues to hold true in the future of all Cabinets, then certainly I suspect that that person would be the person if that is the case. How-

ever, I do not know. Maybe the Minister can explain that to us.

I understand the dilemma we put ourselves in when it comes to Cayman Brac being removed from us and some liaison has to be carried out between Government and that Island. I see the necessity in that, Mr. Speaker. Certainly, that too can be carried out with someone other than an officer or an Elected Member of the Legislature. We have the same being carried out with the Immigration, Planning and Development Boards and Planning.

#### Point of Elucidation

**Hon. Gilbert A. McLean:** Mr. Speaker, on a point of elucidation, if the Member would give way.

**The Speaker:** The Honourable Minister for Health Services.

**Hon. Gilbert A. McLean:** Mr. Speaker, so as not to draw this debate out—unless that is the wish of the House. I have all day and I can talk as much as any other one. However, I want to make it absolutely, utterly clear I did not say—and if the Member understood me saying that an Elected Member from Cayman Brac and Little Cayman should be on the Board, I did not say that, nor would I move to appoint the Elected Members from the Brac to the board.

The whole idea is to put technical people on the Board. Therefore, the person from the Brac would be an individual chosen in consultation with Members in the appointment. It does not intend or include the appointment of any Members. If that was the case, then the same thing would apply to every other district. We would have to appoint one from every other district, and I would certainly not go that route.

I thank the Member for giving way, and I hope that has clarified the point.

**The Speaker:** Thank you, Honourable Minister for that elucidation.

The Elected Member for East End, please continue.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I thank the Minister also for that because, like I said, I did not know what he meant when he said it would be undemocratic for the representatives not to be involved in it. I thank him for that.

Mr. Speaker, I guess there is not much more for me to say other than ask the Minister to reply and to respond to my inquiries on the appointment of the managing director and/or the deputy managing director to the board for their knowledge and expertise.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak?  
The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if I may, for a point of clarity, Sir, I just want to make sure.

We have a Committee stage amendment that has been brought. I am wondering whether we are debating the issue separately, or we are debating the original amending Bill and the latest amendment together, Sir. I was not quite sure about that.

**The Speaker:** It would seem to make sense if the amendment is debated concurrently with the Bill that is before the House since it is very much a part of that Bill. I so rule.

Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Planning and District Administration.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

I rise to give what I would hope to be a very brief and frank contribution to the Bill now before this Honourable House entitled, "The Roads Authority (Amendment) Bill, 2004".

I will not go into the temptation of repeating facts that have already been made. The position has already been put for the justification of the National Roads Authority Bill and, as the Minister responsible, I have always supported him in whatever he has brought before the House or in Council or otherwise. I believe that he is the best person to make the judgement as it relates to having a Roads Authority, certainly for the jurisdiction of Grand Cayman.

Suffice it to say, as the Minister with the collective responsibility for the district of Cayman Brac and Little Cayman, I believe that I would indeed be completely stifling my conscience if I did not make the following remarks.

I feel that history has shown that the Public Works Department, as in the case of many other departments in Cayman Brac, has worked tremendously well taking into consideration that we are separated by some 90 miles of water. I believe that my conscience could not allow me to support such a move this morning, and within the restrictive ambit which I operate as being a Member of Executive Council, I will not at this time go any further except to say that I would much rather go down fighting for the people of Cayman Brac and Little Cayman than be a 'yes' person.

May it please you, Sir!

**The Speaker:** Does any other Member wish to speak?  
Does any other Member wish to speak?

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, thank you very much.

My colleague, the Elected Member for East End, when examining the Bill, which we had but a few minutes to look at, explained some of the concerns and perhaps those concerns can easily be rectified in the

wind up. However, in listening to the First Elected Member for Cayman Brac and Little Cayman, the Minister of Planning, in her contribution to the amending Bill that is brought, has confused us on this side. That word 'confused' is perhaps, not quite appropriate, Mr. Speaker, rather befuddled because it is obvious that there is not unanimity with the Government with the move.

If I were to examine what obtains at present, as memory serves me, when it comes to the functions of the Public Works Department in Cayman Brac and Little Cayman, and District Administration and the relationship with both the representatives and Cabinet, as I understand the functions now, the district representatives are in consultation with whoever the person is, whether it is an official or Elected Member of Cabinet who is in charge of District Administration. District Administration encompasses Works which includes road works. Therefore, the Minister or Official Member—at present it is a Minister, in times gone by there were occasions when it was an Official Member—who would be responsible for District Administration would also have the relationship with the Public Works Department over on Cayman Brac who would be under District Administration by way of direction.

The final amendment that we have just seen—and I can only go from what I am reading because I have no knowledge of anything that is behind the scenes. This Committee stage amendment says, "**That the Bill be amended in clause 2,**" with your permission, Sir, in the new section 7, subsection (4) proposed for insertion of the principal Law by deleting paragraph (f) and substituting the following paragraph: "**(f) the others shall be no less than two but not more than four individuals, one of whom shall be from Cayman Brac or Little Cayman.**"

Therefore, I listened to the Minister when he was dealing with that very brief Committee stage amendment that is being proposed. As I understand from what he is saying, the person who would be on the board, of these two or four that they speak of which would be from Cayman Brac and Little Cayman would be the point person for the functions of the Roads Authority in Cayman Brac and Little Cayman. I am trying to get it clear in my mind how this is going to work from here on because it means that the Roads Section of the Public Works Department in Cayman Brac is going to be separated as an entity from how it is now in the same manner that the Roads Section for the Public Works Department on Grand Cayman has been hived off to form a National Roads Authority. As long as the functions are clear, I do not see that as being an impossible task if they are on the same compound. I see some physical difficulties given, not only the location and how they function on Cayman Brac and Little Cayman—and I say this with the greatest respect—but also with the people involved, how it is going to work. I do not know if anyone has thought about anything like that.

The Minister has said that he has all day. I do not want to take all day; however, this is new. By now I am known to be cautious, and I really want to get a clear understanding as to how this function is going to take place.

You see, the original amending Bill itself does not seem to be anything that one needs to really wonder about because the amendments are very straightforward. However, when we look at the last Committee stage amendment that "**one person shall be from Cayman Brac or Little Cayman**", what I want to get is a clear understanding of is how the functions are going to be there. That is, if this is the case, and the intent is to make sure that there is representation from Cayman Brac and Little Cayman, then although the Minister has said a few words about how it works, I think it requires a lot more than what I have heard to understand how it would function.

I do not profess to have the clearest knowledge of all the functions, but I have had my own experiences and I have a pretty good feel of how it works at present. So if the arrangement now is satisfactory but the National Roads Authority—if in the Minister's judgment it should be all clearly separated from other entities, and everything else including Cayman Brac and Little Cayman, then I desire for him to put forward, with clarity, the reasoning to justify why that is what is being thought.

From the Opposition's point of view, I want to have a clear-cut understanding as to exactly what this whole thing is all about because, obviously, the Government is divided on the issue. Where they are divided and to what extent I do not know, but certainly there is one. For the Opposition to participate in a vote of this nature we must have a clear understanding, and obviously we do not know all of the ramifications because we have only seen it this morning. It is one of the 'drop on your desk' ones that you deal with right away. We do not want to try and perceive what might not be there, but the mere fact that there is not unanimity with the Government on the matter, we would like to have a very clear understanding of the whole intent of the amendments in order for us to make informed decisions when it comes to the vote.

There is not much more for me to say at this point in time because I do not want to conjecture and I do not want to presuppose anything when the fact is we do not know.

Therefore, taking it on the surface, and what the two amendments read, we certainly wish to have the entire picture very clear in order for us to make a sensible determination with regards to the vote. I hope the Minister would take the time out to do that in his winding up.

**The Speaker:** Honourable Members, I concur with the sentiments that have just been expressed by the Honourable Leader of the Opposition. I believe that it might be helpful for the Government to meet and further discuss any areas that they may not be fully in agreement

on. Accordingly, I propose to take the luncheon break at this time to allow for such concurrence between the Government Members.

We will return at 2 pm.

**Proceedings suspended at 12.31 pm**

**Proceedings resumed at 3.40 pm**

**The Speaker:** Proceedings are resumed. Does any other Member wish to speak on the Bill before the House? Does any other Member wish to speak? Does any other Member wish to speak? If not, would the Honourable Member for Works wish to wind up on this Bill?

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

Mr. Speaker, over the years I have seen numerous occasions when something which was supposed to be extremely simple came to the Legislative Assembly as a bill or an amendment, or whatever. It has taken some strange and unexpected pathways.

This matter before the House is one of a small amendment. Mr. Speaker, I would just like to briefly read for the benefit of all, even though we are all supplied, but perhaps history will mark this occasion and it will be good if it was in the records.

It is "A Bill for a Law to Vary the Composition of the Board of Directors of the National Roads Authority; and for Incidental and Connected Purposes".

**"1. (1) This Law may be cited as the National Roads Authority (Amendment) Law, 2004.**

**"(2) This Law shall be deemed to have come into force immediately after the coming into force of the National Roads Authority Law, 2004. The National Roads Authority Law, 2004, is amended in Section 7 as follows -**

**(a) by repealing subsection (4) and substituting the following subsection -**

**"(4) The Board shall consist of not less than nine nor more than eleven directors of whom-**

- (a) one, not being a public officer, shall be chairman;**
- (b) one, not being a public officer, shall be deputy chairman;**
- (c) one shall be the Permanent Secretary of the Ministry responsible for roads or his nominee;**
- (d) one shall be the Financial Secretary or his nominee;**
- (e) three shall be individuals who have demonstrated to the satisfaction of the Governor substantial knowledge of and experience in one or more of the following areas -**

**(i) tourism;**

**(ii) law; and**

**(iii) environmental matters; and**

**(f) the others shall be not less than two but not more than four individuals, ..."**

Mr. Speaker, I had circulated an amendment which would add to (f) the words "**one of whom shall be from Cayman Brac or Little Cayman**".

It goes on to say: "**to be appointed for not less than three years by the Governor, but who shall hold office at his pleasure.**";

**(b) in subsection (5) by repealing the words "under subsection (4)(g) or (h)" and substituting the words "under subsection (4)(e) or (f)"; and**

**(c) in subsection (9) by repealing the words "appointed under subsection (4)(e) or (f)".**

**3. The National Roads Authority Law, 2004, is amended in section 11 by repealing subsections (1) and (2) and substituting the following subsections -**

**"(1) The Board shall appoint such individual to be the Managing Director of the Authority, at such remuneration and on such terms and conditions as the board may think fit.**

**"(2) The Board shall appoint such individual to be the Deputy Managing Director of the Authority, at such remuneration and on such terms and conditions as the board may think fit."**

Mr. Speaker, that is all before this Honourable House - an amendment Bill.

Mr. Speaker, I would like to say to Members that this Bill was sent here to the Legislative Assembly from last week and I apologise that it was not distributed. I inquired about it and I was told that there was a problem with a virus in the computer system and so it was not available to be distributed until yesterday, if I am not mistaken. So I apologise that it was brought here in the way it had to be brought today.

It is quite critical that it was brought because Honourable Members will understand that you could hardly have a managing director and a deputy managing director appointed as directors of a board, and then turn around and have that Board appoint the same two directors again as the managing director and deputy director who would report back to that same Board. Therefore, it was critical.

Further, Mr. Speaker, the Financial Secretary has set up a special account for the funds of the National Roads Authority. They, in fact, were set up from 1<sup>st</sup> July; this is the 14<sup>th</sup> and, Mr. Speaker, things need to be in place for the board to be appointed and for a managing director to be appointed and a deputy managing director to start the function of the board and to carry on the business it is supposed to perform.

I do not believe in coming at the last minute to this Honourable Legislative Assembly with anything, and I do not like suspending the Standing Orders.

However, it has to be done in some instances and this was clearly one that I think was justified for the reasons. I do not have control over how fast a piece of legislation is prepared, and even when we bring it we miss certain things.

This National Roads Authority Law was passed in that congested place over in the building opposite the Government Administration Building, commonly known as the 'Glass House'. There were numerous amendments which I was happy to bring about raised by various Members including the Opposition and some on the Government side. It slipped me, the Permanent Secretary, Legal Drafting—everybody that was there—the clear need to bring about an amendment to section 7, as is proposed today, had not been done. It is as simple as that.

Mr. Speaker, the fact that it specifies, particularly, a person from Cayman Brac and Little Cayman, it is, in fact, an exception, or it is especially put in there to make sure that Cayman Brac and Little Cayman is not left out. I would never consciously leave Cayman Brac and Little Cayman out of any dealings that I have to deal with in my present capacity as a Minister. I say that having had the honour to be a district commissioner and a two-term representative there, and I believe I would have been a third-term representative had I chosen to stand, which I did not. I took the decision not to.

Mr. Speaker, my good friend, the Minister of Education tells me that I do not stand up for myself enough. Every now and then he tells me. I think it might be good if I make a note of something that is an irrefutable fact. I am the only living or dead individual that has ever served in this Legislative Assembly that has been elected both in Cayman Brac and in the district of Grand Cayman. The fact that I was elected in Cayman Brac, there were some who referred to me as 'that foreigner'. Those things do not happen lightly, and anyone who believes that is easy ought to go and try and do it. Therefore, I do speak with certain authority, although, I do not like to talk about it too much or blow my horn. It is just a fact.

The last thing I need, Mr. Speaker, is to take on any more responsibility than I have. I have more than my share and I take it deadly serious. There is no Minister of Government that works any longer hours than I do. Everything that I do, I do to the best of my ability and it does not serve a particular group, it serves this Country on a whole as best as I can understand it. So it is important that Cayman Brac and Little Cayman are taken into account.

I went on to say that I saw no changes in what was presently happening there. The same people who are doing there jobs on the road I said—like Joel Scott, Myron, and Don Tatum—would continue to do their jobs. There would be no changes. Why would there be a change? They are fixing roads, something they have done for 22 to 25 years. Why would there be a change? Perhaps others thought that there would be.

Again, I do my best to deal from position of fact and knowledge.

I invited Mr. Colford Scott of the Public Works and Mr. Peter Gough to come here to the Legislative Assembly during the past hour, and all of the Members of the Government, at least, were invited to pose questions to them. Let me now, for the benefit of the Leader of the Opposition, and the Elected Member for East End and for everybody in the House, enlighten this Honourable House as to how money is allocated and how action on roads is to be done.

All roads in the Cayman Islands appear on the Cabinet's Balance Sheet. Mr. Speaker, you, being an accountant, will know exactly what the accrual system is all about. The Cabinet, as everyone knows, is made up of eight people: the Governor, the Chief Secretary, the Attorney General, the Financial Secretary and five Ministers. Therefore, that means that everybody has a say into that particular budget. There are three sets of money in the Cabinet's budget and that total budget is \$8.4 million. A breakdown for money that is unspecified for road works: \$500,000 for Cayman Brac and Little Cayman; and \$300,000 for road works on Grand Cayman; a considerable difference. I personally claim, and it is true, that it should be \$500,000 for Cayman Brac. I was the one who recommended it when the allocation was \$250,000 at the time because no one else seemed, at that point in time, in that meeting to want to speak up on it.

Now, the National Roads Authority—because of the way the accounting now goes and the outputs purchased by the Ministry for which I hold responsibility—only has responsibility for Grand Cayman. The money which it has for maintenance of roads in Grand Cayman is \$5.1 million. For construction and maintenance on Cayman Brac and Little Cayman there is \$3.9 million that District Administration will do with as it sees fit. I, thankfully, do not have to have any say or dealings, nor do the National Roads Authority in that regard.

I am also informed by Mr. Colford Scott that even prior to this change in the Public Management and Finance Law, the Public Works Department here contracted with District Administration to do certain roads, although it was public revenue being used. However, the allocation of those monies was seen as the Public Works here contracting for that work to be done. Mr. Speaker, I think and I hope that information that was given by Mr. Gough and Mr. Scott has put everybody's nerves at ease. It has not surprised me, and surely it has not disappointed me. I am just glad that the situation is known.

This is July 2004; this is an election year. I do not know, maybe it is about 120 something days left until elections. Everyone is posturing, and if I want to be in this game I have got to do a certain amount myself. However, I try to keep mine in a more constructive manner. I believe many things I see in the Bible about truth is like a two-edged sword and that is why I like to tell people the truth, because, particularly my enemies,

I know it hurts them. You see, it cuts them. Either way it goes it cuts them. So, Mr. Speaker, I do not make statements about things to satisfy an ego drive. When I come here and bring business to this House, it is government business that I want to get dispatched, and the quicker the better. That is not necessarily the case of everyone else.

I observed how quickly the Leader of the Opposition smelled blood in the water, today and what—

**Hon. D. Kurt Tibbetts:** It was your blood.

**Hon. Gilbert A. McLean:** Yes, maybe it was. He quickly rose to require me to explain what the situation was in here based on what was said and happened. He spoke about dropping this Motion on his desk, which he has a right to say because it was something which was done quickly. I explained the difficulties that prevented it from getting here, but the rest of it did come down here.

He says that he observed the mere fact that there is not unanimity within the Government on the matter, that is, the roads business here. Therefore, I should give an explanation so that the Opposition would get the whole intent.

Now, Mr. Speaker, I contend that what I said was absolutely clear and my mission is absolutely clear as to what I wish to achieve. Therefore, if the Leader of the Opposition, or indeed the other Opposition Members, believes that there is not unanimity in the Government or the Government has created confusion, then I am afraid I cannot help them with an explanation. It will be necessary for them to seek explanation from the sources that may have caused them to get that impression.

Mr. Speaker, I did not wish for this to be a long and protracted debate. Certainly, there is nothing to say that anyone's rights will be taken if Honourable Members so wish it to happen. However, I will say that while I know it is the season of politics, I believe that we have to maintain certain respect and regard for one another, and I prefer it that way. I do that regularly and that is why when someone attacks me, I feel absolutely free to go out and give better than what I got, because I do my best to treat everybody with a certain level of regard and respect. That is the way I was raised, that is the way I was taught.

So, while I have no doubt there is treachery afoot, near and far, east and west, north and south, in the country at this time, I also do my best to know who the Brutuses are. I keep ears and eyes wide open and I will do whatever is necessary to defend myself against any unwarranted attack or misunderstanding, or whatever and that I intend to do, Mr. Speaker.

As for the question raised by the Elected Member for East End with regards to the managing director and the deputy managing director not being on the board, I would just say that it has never been the intention that the managing director and the deputy managing director would be members of the board.

There will be people, I have no doubt, who have engineering skills and knowledge of roads, or whatever the case may be—road design and so on—and the board will need the expertise of these persons to guide it.

Then the Member for East End raised the question if they were taken off would they no longer be associated with the board. Mr. Speaker, in Section 11(3) it says **“The Managing Director and the Deputy Managing Director shall be answerable to the Board for their respective acts and decisions, shall both be full time officers and employees of the Authority and shall render their services exclusively to the Authority.”**

One of their duties, Mr. Speaker, would necessarily be that they would need to serve the board as technical advisors. Under Section 6(1) the Law says, **“The Minister may, after consultation with the Board, give such general and lawful directions in written form as to the policy to be followed by the Authority in the performance of its responsibilities, functions and duties, and the board shall give effect to such directions.”**

**“(2) Any direction given or decision made by the Minister which affects the members of the public and which is not of an internal or administrative nature, shall be published in the Gazette; but no such direction shall apply in respect of a matter pending before the Authority on the day on which the directions are published.”**

I can assure the Member for East End that I will be more than happy to direct the Authority that when the managing director is not available the deputy managing director should serve as a member of the board without voting rights as soon as it has been set up, which I hope it will be after this amendment has been passed. I could have brought an amendment to say that in this Law. However, I fear that if I was to bring such an amendment here, or ask for it to be brought, we might be here at least a week debating this issue. Therefore, I will not ask Members to suffer through such a thing.

Mr. Speaker, I have answered, I think, all the queries, which were put and I have expressed my view on the conditions surrounding this. I have informed this Honourable House what I have been informed of by the bureaucrats as to the way the money is going to be handled and who is supposed to do the job and who is accountable for what. Therefore, Mr. Speaker, I recommend to this Honourable House, the National Roads Authority (Amendment) Bill, 2004.

Thank you, Mr. Speaker.

**The Speaker:** The question is that a Bill shortly entitled the National Roads Authority (Amendment) Bill, 2004 be given a second reading. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. The National Roads Authority (Amendment) Bill, 2004, as amended, has been given a second reading.

**Agreed. The National Roads Authority (Amendment) Bill, 2004, as amended, given a second reading.**

**The Speaker:** The House will now go into Committee to consider the Bill.

#### House in Committee at 4.15 pm

**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 this Bill.

### COMMITTEE ON BILLS

#### The National Roads Authority (Amendment) Bill, 2004

**The Chairman:** Would the Clerk please read the clauses?

##### Clause 1

**The Clerk:** Clause 1 Short title and commencement.

**The Chairman:** The question is that Clause 1 forms 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 7 of the National Roads Authority Law 2004. Constitution and responsibilities of the Board of the Authority.

**The Chairman:** The Honourable Minister for Roads.

**Hon. Gilbert A. McLean:** Mr. Chairman, I move under Standing Order 52 (1) and (2) that the Bill be amended in Clause 2 in the new Section 7(4) proposed for insertion in the principal Law by deleting paragraph (f) and substituting the following—“(f) the others shall be no less than two but not more than four individuals, one of whom shall be from Cayman Brac or Little Cayman.”

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto? If not, the question is that the Amendment forms 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 the clause, as amended, forms part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The clause, as amended, forms part of the Bill.

**Agreed. Clause 2, as amended, passed.**

##### Clause 3

**The Clerk:** Clause 3 Amendment of section 11 of the National Roads Authority Law, 2004 - Managing Director and Deputy Managing Director.

**The Chairman:** The question is that clause 3 forms part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. Clause 3 forms part of the Bill.

**Agreed. Clause 3 passed.**

**The Clerk:** The Bill for a Law to Vary the Composition of the Board of Directors of the National Roads Authority; and for Incidental and Connected Purposes.

**The Chairman:** The question is that the title forms part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The Title forms part of the Bill.

**Agreed. Title passed.**

**The Chairman:** This concludes the proceedings in Committee. The House will now resume.



### House Resumed at 4:18 pm

**The Speaker:** Proceedings are resumed.

### REPORT ON BILLS

#### **The National Roads Authority (Amendment) Bill, 2004**

**The Speaker:** The Honourable Minister for Works.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to report that a Bill shortly entitled the National Roads Authority (Amendment) Bill, 2004 has been 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 Third Reading.

### THIRD READING

#### **The National Roads Authority (Amendment) Bill, 2004**

**The Speaker:** The Honourable Minister for Works.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move that a Bill entitled the National Roads Authority (Amendment) Bill, 2004 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the National Roads Authority (Amendment) Bill, 2004 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 Roads Authority (Amendment) Bill, 2004 read a third time and passed.**

### ADJOURNMENT

**The Speaker:** Honourable Members, it is now 4.20 pm, our normal time for adjournment is 4.30 pm, which gives us ten minutes. Perhaps Honourable Members would wish to take the adjournment at this point. I am certainly open to your recommendations and suggestions on this. What is the will of the House? I think the will is that we should adjourn at this time.

The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

Before I move the adjournment, I would like to say to Members that there will be a presentation to all

Members of the Assembly on the Parliamentary Pensions Plan on Monday, 19 July, 2004 at 9.00 am. Therefore, Members could make provisions and fix their business so that they could be here at 9.00 am.

Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this House do now adjourn until 10 am on Thursday, 15 July 2004. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**At 4.23 pm the House stood adjourned until 10.00 am Thursday, 15 July 2004.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**15 JULY 2004**  
**11.06 AM**  
*Sixth Sitting*

**The Speaker:** I now invite the Elected Member for North Side to lead us in prayers.

### PRAYERS

**Ms. Edna 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 Cabinet 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 are now resumed.

Proceedings resumed at 11.06 am

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

#### Commencement of Sittings

**The Speaker:** Honourable Members, I wish to request that we try to meet in the Assembly at the time

stated here, in order for proceedings to continue as efficiently as possible.

I notice that we are again lagging in our promptness; and we had been doing pretty well. So, I ask that we try to meet here at the times that are stated. It is now after 11 o'clock and we should have started at 10 o'clock. We cannot start without a quorum so we need to have at least eight people in the Chamber to start promptly. Thank you very much.

### Apologies

**The Speaker:** Honourable Members I have apologies for absence from the Honourable First Official Member who is acting Governor until 20 August. I have also received apologies for late arrival from the Second Official Member and the Minister of Planning, Communications, District Administration and Information Technology.

### ADMINISTRATION OF OATHS OR AFFIRMATIONS

#### Oath of Allegiance

*(Administered by the Clerk)*  
*Mr Donovan W F Ebanks, MBE*

**The Speaker:** Honourable Members, please stand.

**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, on behalf of this Honourable House I welcome you as the Honourable Temporary First Official Member and invite you to take your seat. Please be seated.

### STATEMENTS BY MINISTERS AND MEMBERS OF THE CABINET

**The Speaker:** I have received no statements from Honourable Members of the Cabinet.

### GOVERNMENT BUSINESS

#### Debate on the Address Delivered by His Excellency the Governor on Friday 2<sup>nd</sup> July, 2004

*(Continuation of debate thereon)*

**The Speaker:** Does any other Member wish to speak on the Throne Speech Address? Does any other Member wish to speak?

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

Before I begin my contribution to the Throne Speech, which was delivered by His Excellency the Governor, Mr. Bruce Dinwiddy, CMG, at the State Opening on Friday 2 July 2004, I too would like to publicly recognise the Clerk of the Legislative Assembly and her dedicated staff for the way they have handled the gruesome task of having to move three times in the last year and a half. We all know that this has not been easy for them, but somehow they have managed to cope with all the packing and unpacking while still allowing Parliament to carry on uninterrupted. Although the work has just begun for them with getting everything back in place I am sure they are relieved that they are finally back home.

Mr. Speaker, the building certainly needed repairs after some 31 years without undergoing any major renovations. And now we can all be proud to be sitting in very comfortable surroundings. In my opinion, this Parliament building is rated amongst the top Parliament buildings in the region. Many thanks to you, as well, Mr. Speaker, for the last minute colour change on the wall directly behind you. The Members of this House are grateful for that change, it certainly gives warmth to the Parliament and we would like to publicly thank you for the last minute changes.

The Governor's Throne Speech certainly outlines some of the many projects that will shape, not just our economy, but also some of the lives in our community. Plans indicate that much action is in the works and I dare say it is most refreshing to see so much progress on so many fronts. Right now new homes, new companies are being started, new businesses are popping up everywhere and the Island is experiencing a construction and development boom. New roads are going in; new sub-divisions are being built and now there are also plans, according to the recent publication in the paper, of another major hotel being built in the eastern districts. Above all, it goes to show that investor confidence is returning to this Island.

Mr. Speaker, the late Richard Nixon, 37<sup>th</sup> President of the United States once said, and I quote: "With all our differences whenever we are confronted with a threat to our security we are not republicans or democrats, but Americans, we are not 50 States but the United States."

Just as the United States and other nations throughout the world are faced with their differences, challenges and threats, so are we too here in the Cayman Islands. As we draw closer to the November general elections tempers are already on the rise as can be seen. However, as difficult as it gets at times let me remind the United Democratic Party (UDP)

Members and the People's Progressive Movement (PPM) Members that we are all privileged Caymanians who were elected and sent to this Honourable House by the people of these Islands, to work together, for the common good of these beautiful Islands and all the people who live in them.

Mr. Speaker, as I sat and listened to Members of the Opposition stand across the Floor of this Honourable House and try to discredit and tear down the United Democratic Party Government of all the many achievements that have been accomplished in the short 2 ½ years that we have been in power, I have to ask myself: if they are living on the same Island I am living on or if they are living in another country. I am sure, Mr. Speaker, they are not blind; they can see what is happening as everyone else is seeing what is happening. However, I do realise it is the job of the Opposition to make the Government look as bad as possible. There is no denying the fact that we are experiencing a development boom and the economy is on the rebound.

Mr. Speaker, I cannot help but think that the main goal of the PPM is to do their best to destroy what progress that has been made thus far. Are they trying to put the economy back in the same position we were in back in 2001 when the Islands were in a state of depression? So were the people when they could not meet their financial commitments because there was no work for them. We do not want to go back there and I would hope that the Opposition would not want to see us back in that position either. We all clearly recall the limited funds that we had back in 2001 when nothing was going on. The whole Islands stood at a standstill; people were desperate for jobs. Today, Mr. Speaker, the unemployment is way down and just about everyone who wants to work there is a lot of work for them. There is no reason for them not to work when there is work available to them. However, we know there are some people who do not want to do anything unless they can get exactly the kind of job they want. I should remind those people that sometimes we have to do whatever is necessary to keep ourselves happy and meet our financial commitments. With much determination and perseverance the United Democratic Party Government can be credited. We have to take the credit for turning around the economy of these Islands.

Whenever I listen to the Opposition getting up and beating themselves on the chest, and making all kinds of allegations, I am thinking that they must be talking to themselves because they have not convinced me and many people of the public who I have spoken to certainly do not believe what they are saying; they know different because they can see what is happening; they are not blind. So, I do not know who they are trying to convince but they are not fooling the public.

Just to set the record straight I would like to outline just a few of our achievements to date that has

helped to make life more enjoyable and affordable for the people of our Islands. For example, Cable and Wireless – the Opposition said we could do nothing about that. They also said we could do nothing about CUC but I ask the Opposition today to compare their telecommunication rates and their electricity rates now to two years ago. A lot of credit has to go to my colleague from West Bay, the Fourth Elected Member and the negotiating team for their skilful negotiation. He was the Chairman of both of those committees and he deserves a lot of credit because without his guidance we would not be in the position we are in today.

I can recall when you were head of that Ministry, I remember you talking to the Fourth Elected Member saying: *“Why not take on the chairmanship? With your background I am sure you could be an asset”*. So he took it on and I want to publicly thank him and his negotiating team for bringing rates to a much more affordable figure where we can say we have made some savings.

Mr. Speaker, with your indulgence, Sir, I would like to read the Editorial of yesterday’s (Wednesday) *Caymanian Compass* entitled, “Making the Price Right.” It says: **“News of lowering cost to consumers on any product is usually greeted gleefully. Over the period of the past year, the market for telecommunications has been flung wide open and there are agreements in the making to ensure the same applies to the area of electricity supplies. Depending on the level of consumption some phone users have been seeing mammoth savings while others realise little savings based on their usage. Consumers of electricity were in 2003 relieved of the 3% increase that the power company exacted almost every year to make up for what the Firm said was diminished income. Added to that there is another schedule rate cut of 4.5% this year.”**

Mr. Speaker that is 7.5 per cent we are talking about. That is a considerable savings when you are talking about hundreds and thousands of dollars in light bills every month. “While the upcoming rate cuts are a straightforward exercise, the futuristic plans that go along with the liberalization agreement points to more savings through a complex mechanism that enables price capping.

Announcement last month of the power supply price capping methodology and a system for competitive bids on new electricity generation contracts along with those up for replacement of generating units, answered the curiosity possessed by many on how would competition in this service work.

Based on the emerging information it now appears that the approach to reduction in fossil fuel prices would be consistently innovative as that taken in seeking reduced electricity supply charges. It is through the introduction of more competitive supplies of petroleum into the market where dealers can be

induced to look towards sales of products in their convenience stores for their meaningful profits and maintain low fuel prices, so be it. All the customer cares about is splendid service and lower cost for essential goods leaving them the choice of whether to make the impulsive buying decision on items found in the store that forms part of the petroleum station.

Mr. Speaker, not enough can be said for how well this has been received by the public of these Islands and as it goes on we are expecting to see more savings.

It was then an issue of health insurance, the insurance companies did as they please for years, insuring mostly healthy individuals and whenever the individual became ill they would discontinue the coverage (depending on the illness) saying that they were uninsurable. Mr. Speaker, the Minister for Health Services heard the cries of the public and the people of these Islands, and CINICO were introduced. Now all of the uninsurable persons (according to the other big insurance companies) are now insurable at affordable rates. Those three issues should keep the People’s Progressive Movement (PPM) from saying that we are doing nothing. They cannot argue with the facts because they are there. We are a Government that recognises the needs of our people and care about those needs and provide for those needs. We are a Government that our people can truly say cares about them. That is what the United Democratic Party is all about—a responsible caring Government.

Because of our good governance and representation the economy is booming again and the country is in very good financial shape. However, we cannot become complacent, we must be vigilant. There are still many challenges out there and we have to be ready to face those challenges and that is what we are doing, getting ready to face the challenges that are looming ahead of us.

Mr. Speaker, take a drive around the Island, see the amount of construction that is going on, small businesses that were struggling two to three years ago are now doing well. Without a stable, proactive Government, a Government of action who are doing something now and planning for the future, this could not have happened. It took a lot of thought, a lot of work, but I we are starting to see the fruits of our labour.

I would like to touch on the Police Service. I am most grateful to the new Commissioner; he seems to really get a good grip on what is going on and is taking action in many fronts. I cannot commend him enough for continuing his district meetings; there was another one in the yesterday’s paper where he was having in the Brac. Also for his innovative thinking on ways of joining some of the security guards companies with the Royal Cayman Islands Police (RCIP) in an effort to have a better visual presence. We need that extra presence. In my opinion it can only help to deter possible offenders. I am also pleased to know

that the Commissioner is continuing with the hiring of additional officers to help the officers who are working now for long hours to help relieve some of their workload.

I would like to touch on tourism for a moment. It is most encouraging to see that the tourism figures continue to climb and that unemployment is down. It was recently published that tourism numbers are up 22 per cent and the statistics now show that the month of May marked the sixth straight month that arrivals surpassed the year before.

I know that the Cayman Islands remain a popular destination; this is due in part to the friendliness of the people and the cleanliness of the Island. The feeling of being safe is as important to our visitors as the hospitality they find on the Island among the local people or whoever they come in contact with on the Island. The issue of safety is of paramount importance and that is why it is so important that the Police Service continue to increase their presence and their staff to help keep this Island as safe as possible. It is very important that when the visitor steps off the airplane at the airport that he feels relaxed and safe; he can take his family out and not have to worry about being mugged or hassled on the street, or of someone trying to sell him drugs. These are big issues with the visitors who come to our Island. Therefore, it is very important that the police continue their good work to ensure that these Islands remain a safe clean and friendly destination.

There are also plans for additional road signs and this has been a complaint of the visitors. There are not enough directional signs and another complaint is about the speed limit signs. We know if we see 40 it means 40 miles per hour but it does not say that; it could mean 40 miles per hour, 40 kilo-meters, 40 knots; I think it should be spelled out. There have been complaints that the visitors on the Island drive too slow most of the time. Sometimes they drive too fast and when stopped by the police, they say that they did not know what the 40 sign was for. There is no excuse for the local people but for the visitors it creates a problem. We have to specify on the signs what mph means in order to avoid that problem. When they are putting up the directional signs they should say if they are leaving Cayman Kai and heading to George Town. The sign could read: 'North Side 6 miles, George Town 27 miles' because I think that would help the visitors. I saw a recent publication that stated the Department of Tourism and Development Service Product Unit are coming up with new signs to help with that.

With the opening of the Ritz Carlton later this year, Cayman is undoubtedly expecting a busy upcoming season. Recently the Ritz Carlton held a career fair where some eight hundred jobs are now available at the Ritz. We all know that there will not be eight hundred Caymanians employed at one time, but the fact of the matter is, there are jobs available for

people in the hospitality industry at the Ritz, if they so choose to work there or if qualified for whatever position is open.

There is no reason why we should have any kind of unemployment with the amount of development, construction and all classes of development that is happening on the Island. The last figure I saw for unemployment went from 8 per cent down to 3.5 per cent; now it should be 0 or 1/2 per cent, but no more than that. If the people who are not working really wanted to work I feel that there are jobs out there that they could do if they applied for it, and if they also applied themselves to do the job they could remain employed.

I would like to touch on Cayman Airways, which is very near and dear to me. Cayman Airways does continue to face challenges but remains committed to maintaining the best possible fares, service and most flights to and from the Cayman Islands. This is very important when you think that tourism is one of the two main legs of our economy; it is absolutely important that we have an air service which we can depend on. I must say that Cayman Airways, even though not a money making company is a necessary company, in my opinion. It is necessary for us to have that kind of reliable link to the outside world.

As a former airline pilot, with Cayman Airways I have flown every type of aircraft in the fleet during the time that I was there. I have flown a DC-3 all over the Caribbean and there was no auto pilot, very little navigation aid, but we flew to San Andres, Swan Island, Cayman Brac and Little Cayman, Kingston, Montego Bay and an occasional charter to Mexico. Those were the days I remember with Cayman Airways. Next we went to the DC-6, DC-9, BAC-111 and my last aircraft that I have flown was a Boeing 727. After that they changed to the Boeing-737 and I have not flown a 737, but every other kind of aircraft in the fleet, during the time that I was there, I have flown. So, I can tell you, first hand, that Cayman Airways has come a long way and we have to give them a lot of credit and support them as much as possible so that they can continue to offer the kind of service they are offering, which can only enhance the Islands as a tourist destination.

When I think back, in 2001, we had consultants to show which way we were going to go; we had a meeting with members of the private sector to see how they felt about it; and we had some serious proposals to close the airline down. However, the Leader of Government Business, at that time, did not do it and I thank him that he did not. However, thinking back of where I started and where it is today, we can truly say we have come a long way.

Mr. Speaker, it would be remiss of me if I did not give much credit to the management team, and of course, without the United Democratic Party to support the management team it would not be a success either. Especially, Mr. Mike Adams, CEO who has

stuck with this airline through thick and thin and who continues to be one of the best ambassadors for Cayman. I have been in many meetings with him and I can tell you that he is well respected throughout the airline industry and much credit is due to Mr. Mike Adams.

Education continues to be high priority. However, the Minister of Education should be commended for the great strides he has taken in improving the quality and level of education in Cayman since he has taken office almost four years ago. Maybe it was best said when the Minister of Education defended the education system in the *Caymanian Compass* on 9 July when he said, **"I think it is only fair that this is repeated and aired over the air waves"**. Mr. Speaker, I think it is absolutely fair to him that we repeat it so that those who might have missed it in the newspaper, but listened to the radio, might be able to appreciate what the Minister said. So, with your permission, Mr. Speaker, I would like to quote the Minister of Education's Statement. He said: **"The administrators of education are working to a system adequately taking care of the present needs while ensuring that plans for future school accommodation are adequate for expanding needs."**

**"Conceding that there are areas for improvement, he said this was owed to practices of the past. "As in many aspects of planning in our country, education planning is weak and we are seeking to strengthen it."**

He went on to say: **"The 25-year-old George Hicks High School was cited as an example of past weak planning. That school was built to accommodate 400 pupils and now caters to 1,087, but more space cannot be obtained on the building because it was not built to expand with Cayman's growing needs."**

**"He said in the ministry's changed approach, the planned new high school will be constructed to accommodate 1,000 pupils though 700 are expected."** You see, Mr. Speaker, he has made plans for future expansion. **"He reported recommending to the architects that the auditorium be designed to comfortably hold 5,000 because high school graduation invitations [are] currently limited to four for each graduating person, owing to cramped conditions for such ceremonies of the George Hicks and John Gray high schools."**

He confirmed that land has already been purchased for a new high school which is slated for North Side. He went on to say, **"the Opposition's contention that schools are being pressured by the added enrolment numbers largely because children of persons who received grants of Caymanian Status are entering the system, Mr. Bodden said the opposite is happening. "In some of the schools we would have less students as of September than the last year," he said and added, "I know of no cohorts who are being turned away"**.

**"Included in a number of initiatives he said was undertaken by the Education Ministry during his tenure, Mr. Bodden pointed to the ITALIC programme that enables teachers to [assist] school pupils with the aid of computers. He said that his ministry had recently got from the Finance Committee money to buy 280 more computers for teachers. "That would mean every teacher would have his or her own laptop computer to aid in the instruction of children," he said.**

**"Further defending Cayman's education system, Mr. Bodden pointed to a number of countries seeking advice of his ministry.**

**"If our education system was as bad as the Leader of the Opposition made it out to be ... how come the Government of Morocco can make enquiries of our ITALIC programme?"**

**"He listed Anguilla, the Bahamas, the Turks and Caicos Islands and the British Virgin Islands among those countries seeking Cayman's advice on education."**

Mr. Speaker, the last paragraph of the Minister's Statement speaks volumes for the system. This makes the Cayman Islands, once again, a leader in the Region.

I would like to read a copy of a petition that Members of the district community presented to the Commissioner on 5 August 1927. Mr. Speaker, with your permission I would like to read the petition to H.H. Hutchings by the residents of West Bay. After I have read the petition I would like to lay it on the Table of the Honourable House because I feel it is a part of our rich history for the district of West Bay.

**The Speaker:** So ordered.

**Capt. A. Eugene Ebanks:** The petition dated 5 August 1927 reads:

**"To His Honour, H.H. Hutchings, Commissioner  
Chairman of the Board of Education**

**"The Humble petition of the undersigned parents, guardians, property holders and tax payers in the district of West Bay, herewith;**

- 1. That at present there are in the vicinity of ninety children of school age who are deprived of the privilege of the public school at West Bay.**
- 2. That the public school of West Bay is very crowded which makes it impossible for the admission of any more scholars.**
- 3. That most of these children who are deprived of the privilege of public school live a long distance away and as the roads are in such bad condition it is impossible for the children to attend the public school, even if there were convenience there for them.**

4. That we the parents, guardian, property holders and tax payers contribute our fair share to the revenue of this Island and yet are deprived of a decent school to send our children to.
5. That the erection of a schoolroom at a point between Boatswain Bay and the West Bay school room would relieve this condition and afford these children the great privilege of attending school and thereby becoming better citizens.
6. That the time has now arrived when this matter should receive full consideration and steps taken to erect a suitable schoolroom and supply a teacher for the benefit of the children if they are to grow up in anything but ignorance.
7. We therefore pray that the Board of Education will give this matter the serious consideration that is due and in the near future take steps to relieve this condition and your petitioners as in duty bound will ever pray."

Mr. Speaker, that was read exactly as it was written and the names signed to it are as follows: "**John Rivers, Susanah Ebanks, Laton Ebanks, Banker Ebanks, Elridge Rivers, Ashley Ebanks, Ira Rivers, Philp Anglin**" (the great, great grandfather of my colleague the Second Elected Member for West Bay), "**Ceylina Parsons, Joseph Parsons, Lazuras Ebanks, Reginald Ebanks Snr., Ales Powery**" (again, the grandfather of the Second Elected Member for West Bay) "**Ahazirah Ebanks**" (that is my grandfather on my mother's side), "**Jonah Ebanks**" (the uncle of the First Elected Member for West Bay and Leader of Government Business) "**Osborne Ebanks, Gamaliel Ebanks, Henry Ishmael, Charlie Ebanks**" (again, my grandfather on my father's side), "**Robert Rivers, Elridge Ebanks, John Ebanks, Bucher Ebanks, David Rivers, Leslie Rivers, Cleophas Ebanks, Annie Bazar, Munsy Ebanks**" (Mr. Speaker, I am sure you have heard the song 'Munsy boat in the sound'; that is the Mr. Munsy), "**Fredie Ebanks, Olinda Ebanks, Mythou Ebanks, Charlie Orrieth, Ustus Bush**," (again, Mr. Speaker, the uncle of the First Elected Member, Leader of Government Business), "**Joseph Anglin**" (the other grandfather of the Second Elected Member for West Bay) and "**Abraham Ebanks.**"

Mr. Speaker, there are thirty eight (38) names in all. These are only for the northern area of the West Bay district, which back in 1927 would have probably been a couple of hundred people for that section and to see that the parents, guardians and grandfathers would take such an interest to pursue education in that manner, speaks volumes for our forefathers.

With your indulgence I would like to read the response to the petition which is also handwritten and dated 7 November 1927.

It reads: "**Gentlemen, I have the honour to enclose for your information; a copy of a petition asking for the establishment of a school for the benefit of children in the northern part of the West Bay district.**

"**The Board agreed to the appointment of a committee to consider and report, and I have in consequence, appointed Misses N.C. Watler and Misses J.S. Ebanks, E. M. Ebanks of West Bay, E. S. Parsons, and yourselves with myself as Chairman, as such committee.**

"**I regret neither of you was able to be present at the meeting today. I should be glad to hear from you prior to the meeting of the Committee any suggestions you may offer as to the process of taking local opinion and of viewing the countryside affected. Thanks, H. H. H., Commissioner.**"

Mr. Speaker, when the Commissioner replied to the petition he asked for local input; he asked them to go out and inspect areas that they might consider using to build the school room. They also wanted to find a location that was more central and it is my understanding that the school room referred to in this petition was near where the Powell's Museum is today. So, for the children of Boatswain Bay, Northwest Point, Birch Tree Hill and Barkers, it was a long distance. It is my understanding that it is because of the petition why the West Bay Town Hall is built where it is today in that location, which is more the centre of the hub of West Bay.

So, when the Opposition gets up and rants and raves about school overcrowding—this is 77 years ago back to our great grandfathers when there were only, in that area, according to this, ninety children and we had overcrowding from then. I am very concerned about overcrowding; I want to be sure that every child has the kind of attention that they deserve, let us say, twenty five students for every teacher; that would be great. However, because of the lack of planning or inaction of past administrations for so long, the situation has come to a crisis level.

The Minister of Education, in his three and a half years has provided for an additional school that will be ready, according to the contractors, in September, which is two months away, or less, depending on when the school opens. He has provided additional programmes, computers and has purchased land for another high school. The Minister deserves a lot of credit. He has done a lot; he is planning ahead and he is trying to deal with the existing situation. He has also brought in temporary classrooms because there were no funds or they could not get the schools built fast enough, so he had to have someplace so that the kids could continue school. The Minister has done a lot and he needs to be commended instead of criticized for not doing anything. He has done a lot! However, when you think that the Opposition is there to make us look bad, I can understand that, that is what they are suppose to do. Nonetheless that does not change the

fact that the Minister, in my opinion, has made great strides in the Education Ministry.

Unless some of the facts are laid out, the public can be misled by what the Opposition has said, but when the facts are put before them they can see both sides of the story; they can understand what the Opposition is trying to do. It is like what the Elected Member for East End said, that is politics, but nonetheless, we have to give credit where credit is due.

On a whole, I am pleased that the Island has seen some remarkable turnarounds in the economy. Development is on the increase; tourism is on the increase. In my district, the district of West Bay, the district has come alive, again; the town centre has received a major facelift with the construction of the Centennial Towers. This development has brought many job opportunities and new businesses to the area. We now have a bank, pharmacy and a doctor's office; that is just to name a few. We have a new post office, even though that is not a part of the Centennial Towers development. Now it takes a lot of time off the West Bay Road by the residents of West Bay because they do not have to go to town for everything that they want, they can do their banking, go to the pharmacy, doctor and most anything that they want to do now, they can now do in West Bay. We have a Licensing Department for car inspection, so there are not too many things that the West Bayers have to come to town for unless they are working in town.

Mr. Speaker, without investor confidence none of this would have happened. Investor confidence comes because of stability and of the Government who are responsible. There is no denying that the United Democratic Party has made major improvements with the direction this Island was going.

Community affairs: The redevelopment of the Cayman Turtle Farm is already on the way and is providing many jobs for Caymanians. Believe it or not there are a lot of West Bayers who do not want to leave West Bay to go to work so they can now find work in West Bay now. As an active Board Member of the Turtle Farm, I can assure the listening public that our goal is to develop the Turtle Farm into a world class facility where parents can take their kids, schools can go on field trips and they would find it a most enjoyable and educational experience. When that development is completed it will be second to none in the Caribbean and I am looking forward to the next phase coming on line. I understand that next week they are going to start the third phase of it. With that kind of development happening in our district we have a lot to be thankful for. We are also widening and resurfacing the roads in West Bay and wherever residents have requested for lights to make their area safer we have done that.

With school out we have youth programmes in place; we also have schools and churches offering vacation bible school programmes, and I cannot thank the many volunteers who dedicate their time and en-

ergy to make these facilities possible where the kids can be in a safe environment, feel like they are a part of a family and not roaming the streets getting into trouble. A lot of these kids are for single parents and the kids are left to their own for the greater part of the day. This gives those children a great opportunity to interact and to feel like they belong to the community and make them more productive and responsible citizens of our district.

As we stand on the threshold of the 2004 General Elections, let me say that it is incumbent upon us to campaign on our achievements and the issues at hand. I prefer to see harmony even though I know that it not always possible, not discord. I challenge my colleagues to take a strong stand on the issues that are at hand. Mud slinging and name bashing is not necessary. When we do that most of our potential supporters will not look as favourably as they would if they were more realistic in dealing with the issues at hand and not making allegations; they would prefer to see us as a candidate taking that stance rather than getting up and bashing one another because at the end of the day we still have to live on the Island, we have no where else to go. So, name bashing and mud slinging will get us nowhere, therefore, I challenge my colleagues, on both sides of the House, to conduct themselves in a manner, becoming of who we are and of who the public would like to see us be. We are big men and big women in this Chamber and we must lead as an example. We cannot get up and say one thing on the Floor of the House and go out on the street and turn the opposite direction; we have to lead as an example. So, remember that it is not only what we say on the Floor of this Honourable House, but also what we do in public that matters. It is a small country and everybody knows everybody. With three telephone companies now news travels fast, so it is not many things we can do that people will not know about it.

I strongly support the effort put forward recently by the Ministers Association in bringing in the code of ethics to the forefront of the upcoming election. As an active Association they are doing their part in making sure that everything we do as candidates is carried out in an honest God fearing fashion and manner.

In closing, Mr. Speaker, I trust that the people of these Islands would see that much has been accomplished today when taking into consideration the many set backs that we have experienced in 2001. I am confident that the people of these Islands are aware they have a Government that is working for them and with them. We are certainly far better off now than we were in 2001.

The past four years have certainly not been easy and we continue to see those mountains looming up in front, but I am here to say that we are committed. Whatever we have to do to ensure that the lives



of our people are made better, we are prepared to do it.

With all that I have just reported and with so much more in the works, I fail to understand just how the Opposition can say that nothing has been accomplished and perhaps they could tell me what they would have done differently if they were on this side of the Floor. We are here for the long haul and I pray that the Almighty God continues to bless our Cayman Islands, and I ask for his guidance throughout the rest of my tenure in this Legislative Assembly. Thank You.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

The Elected Member for North Side.

**Ms. Edna M. Moyle:** Thank you Mr. Speaker.

As you mentioned 'the Member for North Side' I noticed the Chamber doors opened and persons who were not in the Chamber before have all come in; I appreciate that. It is not my intention to stand here this morning and lambaste anyone. I am going to make my contribution, as I have always done, based on the different sections as they are contained in the Throne Speech.

The last Member speaking, I would not mind if he would let me have a copy of that petition and the reply because history is one of my subjects.

We have heard much about the economy of the country but one must remember that if the United States economy sneezes, the economy of the Cayman Islands catches a cold. I say, as I watched the news in the United States that preparations are being made for conventions of the Democrats and later in the year of the Republican Party, that security, because of the chatter that the Government is hearing, has to be extremely high. Let us as a country pray that there is not another terrorist attack on the United States because the economy will return where it was in 2001 and God forbid.

#### *Royal Cayman Islands Police Service*

The first section of the Throne Speech that I will speak about this morning is the Royal Cayman Islands Police Service. I had hoped that when the Throne Speech was delivered in 2004 that the Government of the day would have put in place twenty four hour police coverage in the eastern districts with the police stations being opened in those districts.

I know when I said this, I think it was in the Budget Debate at that time, I was accosted because I said I was a lone voice crying in the wilderness over the past ten or eleven years asking for the North Side Police Station to be opened on a 24 hour basis. I was accosted and I will not get into it too and fro, and I will not say by whom because the person who did it knows who it was done by. Why did I not achieve this

in 2001? If it has not been achieved in 3 years I really do not know how I was expected to achieve it in less than twelve months.

My concern and why I have been constantly asking for the North Side Police station, and the other police stations in the eastern districts to be opened on a 24 hour basis, is the fact that when something occurs in those districts and we have to call and if there is no one covering the Bodden Town District, we have to await arrival from George Town. I think that one of the one of the problems in the past with the drug problems in the eastern districts was back between 1988 and 1992 when the Government of the day took the decision to close the eastern district police stations. I believe, Mr. Speaker, and I will continue to believe that when I am a part of the next Government we will give the eastern districts 24 hour police stations.

I have read that the Police Department will commence this financial year with a full establishment of officers; that is very good and those officers are needed. However, we bring more officers into the Royal Cayman Islands Police Service to offer more services but yet we are not giving the Police Department the necessary equipment to offer those services. I am at the present time having talks with a car dealership to see if they are prepared to donate a used car to the Police Community Officer in the district of North Side, and if I am successful I will then go to the Government and ask if they will accept it. It is impossible to put a Police Community Officer in a district without the necessary vehicle or other mode of transport for that officer to be able to do his duties.

Mr. Speaker, I have always been a Member of this Parliament who believes that the visibility of the police is a deterrent to crime; it is a deterrent to speeding; and this is what we need to do: Instead of us having police officers hiding on the side of the road in the mornings to catch someone speeding who is trying to get into Town, either from West Bay, Bodden Town, North Side or East End, to give a speeding ticket, it is my belief that speeding would be controlled if those police cars were visible in the traffic.

It is my understanding that the Police have requested vehicles as they have been asked to provide more services and that some 19 vehicles were requested. It is also my understanding from looking at the Budget that the Police Department, I think, has been granted only four, five or maybe six cars. It is my knowledge that some of those police cars have been in accidents just recently written off. Some have over 200,000 miles on the dash, and to ask for increased services and to cut the number of motor vehicles required to provide those services does not make sense. In my opinion, it puts the Police at a disadvantage. We cannot expect our Police Officers to work and live up to the expectations that we expect of them in protecting communities unless we give them the necessary equipment. So, I call on the Government that in order for the Police of the Cayman Islands to

be able to carry out their duties, and I particularly stress the eastern districts, that they be given the necessary equipment.

I am not one who will not say thank you if I have been rewarded for something that I have requested for my district. Just recently, in the Budget, when there was a debate about the number of police in the districts of East End and North Side, within short order after that debate, East End had a Community Officer and two Police Officers and a vehicle and the district of North Side had the same, and I say thank you to the Royal Cayman Islands Police.

I love to hear the Leader of Government laugh because it comes from way down.

#### *Legislative Department*

I would like to join in complimenting those involved with the renovation of the Legislative Assembly Building. We all know that this Building was built in 1972. I had the opportunity of being the Deputy Clerk at that time and we know that there was not many repairs and maintenance carried out, so I too would like to compliment you, your staff and other persons involved on a job well done.

I also join you in bringing about that the Legislative Assembly Department becomes an autonomous body. It is something I have argued and have suggested for many years and if it becomes a reality Sir, we are all indebted to you as the Speaker who has brought it forward. I am almost positive that there are Members of the Government who have been seeking for the autonomy of this body for a long time.

We speak about the separation of powers, the executive, judicial and the legislative and I agree with you one hundred per cent. How can we truly have separation of powers when the Chief Secretary is still responsible for the staff of the Legislative Department? If this is brought about it is to be hoped that the Speaker will have more authority in that the Speaker needs to be able to be in a position to consult with The Leader of Government, or whatever that title may change to after the next General Election, to be able to sit and set dates for Parliament to meet.

It is totally impossible to expect Members of the Legislative Assembly to work around being told one week before Parliament is going to open and to get their lives arranged around that. Mr. Speaker, I use myself as an example, I had a plane ticket to go to my niece's graduation when the Budget Session came about; I lost that money because my duty was to be in Parliament. Had I been told of dates prior I would have known I could not do it. I did not get to attend the opening of this Parliament on 2 July because I had made prior bookings to travel to Kansas City to my niece's wedding and I really wanted to be at the opening after the renovations. So, it is to be hoped that once this Parliament becomes an autonomous body that The Leader of Government Business

and the Speaker can work together to set proposed dates and inform Members so that they can build their lives around the proposed dates of Parliament meetings. I think every one of us in here, whether Government or Opposition, we are here for the same reason and we all take our duties seriously.

I notice under the Legislative Assembly, under the auspices of the Commonwealth Parliamentary Association, arrangements have been made to hold a Post Election Seminar for all sitting Members of Parliament in February 2005, I think this is a very important Seminar for old Members who will be returned or new Members coming on board.

I had hoped to have seen something under the Legislative Department so that we could achieve having the *Hansards* of this Parliament more current. We need to find out if it is a shortage of staff, shortage of equipment but I do believe that the *Hansards* of the Legislative Assembly need to be more current.

#### *Immigration*

I sat and listened to the Fourth Elected Member of West Bay when he made his contribution to the debate and I would say ninety per cent of his contribution was based on the now Leader of the Opposition's contribution to the Throne Speech or to the Budget Address, I do not recall which one back in 2000. Everything that was quoted that the now Leader of the Opposition said at that time he has not denied the since the issuing of Caymanian status; he has stood by his convictions of 2000, 1999, 1998, 1997 and back to 1992, but he said he did not agree with the process that the Government used. So, we must not speak in parables to mislead the public. He has constantly said the process was wrong.

#### **Point of Order**

**Hon. W. McKeeva Bush:** Mr. Speaker, on a point of order

**The Speaker:** Honourable Leader of Government Business, please state your point of order.

**Hon. W. McKeeva Bush:** The Member has said that the Member was misleading the House and the public; maybe she can show where the Member was misleading when he was reading the *Hansard*.

**The Speaker:** Honourable Leader of Government Business and Honourable Members my understanding of the debate from the Elected Member for North Side is that whilst she agreed with a lot that the Fourth Elected Member for West Bay said is correct, there seems to have been some omissions from what was said, so I am not sure that that was misleading unless we go back to the *Hansard*.

I recall reading the *Hansard* as the Member for West Bay spoke, and I know he did not read everything that was in the *Hansard*; but he did, in fact, read the high points of the *Hansard*. So, I do not think that this would constitute misleading the House in any way. I have made a statement on what constitutes misleading the House and I have also stated that the question of "misleading the House" as such is not a point of order unless it can be proved that it is done fraudulently. In this case I would say Honourable Member for North Side, please be very careful in the remarks that you make, but so far I cannot say that this has been a fraudulent misleading of the House.

Please continue.

**Ms. Edna M. Moyle:** Mr. Speaker, I listened to your ruling, Sir, but I must say I did not use the words misleading this House, I said nothing about misleading the House.

**The Speaker:** Honourable Member for North Side, I have made my ruling and I would ask that you continue with your speech please.

**Ms. Edna M. Moyle:** Mr. Speaker, I bow to your ruling, Sir, but the *Hansard* will prove that I did not use the words "this House".

What I was referring to was misleading the public to believe that the now Honourable Leader of the Opposition did not still believe that we had to deal with the immigration problem; that is what I was referring to, Sir. He still believes that we must deal with it and that is why he set up the IRT so that we could do it properly. He still believes, as well as the Opposition, that the process was incorrect!

Mr. Speaker, my other point on immigration will be put in the form of a question, that when the Leader of Government Business replies to the debate on the Throne Speech, I would like an answer for the people of these Islands. We watch television daily; we read the newspapers daily and we are constantly seeing nationalities of countries in the region being deported from the United Kingdom, the United States, and my question is, do we have in place, at our Immigration entrance, at the airport, any equipment that can give us the fingerprints or photographs of these people that we can identify any of these people? I put it in the form of a question because we need to know.

#### *The Portfolio of Legal Affairs*

I think the present Honourable Attorney General is the second Attorney General since the Penal Code Law went to a committee of the whole House. I think Mr. Richard Coles was the Attorney General at that time. I do not recall when Mr. Coles was here, but I recall several Committee meetings on the Penal Code Law. In 2004 the Honourable Attorney General is promising us that this year we will introduce legisla-

tion and it will include amendments to the Penal Code and new legislation to provide for alternative sentencing in the form of community service orders, conditional sentences and measures to deal with certain drug offenders. I hope that the Honourable Attorney General will be in a position to go back to the Report of that Select Committee of the whole House on the Penal Code and include all of the amendments that were recommended at that time.

We hear a lot of talk of the family unit—I too am a family person. Seeing my family and other families live like family is a great achievement for me. Because of my concerns for families, that was the reason I brought the Motion in 1999 to set up the Family Protection Unit. That is why I am a little bit disappointed that under the Portfolio of Legal Affairs I see no mention of the Government setting up a family court. I see the need for the drug court but I also see a great need for a family court in these Islands. When we have family disputes, assault on women and rape, I really do not believe that these persons should be in an open court with all and sundry to hear if that is how it exists. So, I call upon the Government to do whatever is in their power to have a family court set up in these Islands.

#### *Cayman Airways*

I will only be making one comment on Cayman Airways as I would like to declare that I do have a son and a nephew in the cockpit. However, I do have some concerns and the Minister in winding up, I am sure will pit me straight if I am wrong. I have concerns with the expansion of the fleet. Why do I have concerns? I would like to know what research has gone on to say that Boston, Chicago and other gateways are going to prove valuable for Cayman Airways.

The purchase of new aircraft concerns me in that once again when you watch the United States news and you hear of the possibility of one of the largest US airlines which may have to go bankrupt and shut its doors unless it joins with another major airline, gives me concern at this time, because the airline business is not yet out of the doldrums. It reminds me of the Government who, between the years 1988 to 1992, purchased aircrafts and at the end of the day we ended up in London with a lawsuit and \$52 million in debt.

Mr. Speaker, I personally would like to see Cayman Airways work, I have always supported it and I will continue to support it but I do have these concerns.

#### *Tourism Attraction Board*

I would have loved to have seen in the Throne Speech the Policy Document of the Government; of how the Government could get the Botanic Park, par-

ticularly in my district, whereby we could get some of the cruise ship passengers, even though their time on the Island is short. I am certain that if could put in place an arrangement to some bus owner, whereby these trips could be sold on board so that when these people land they are collected and taken to the Botanic Park because the Botanic Park is a beautiful park.

#### *Cayman Islands Fire Service*

Mr. Speaker, somewhere I thought there would have been some mention of a fire station that I think was proposed by the Government some time ago to be built in the district of Bodden Town. If I remember correctly, land was identified for the building of this Fire Station in Bodden Town. I know we have the Fire Station on Frank Sound Road that covers from Morritts Tortuga to Savannah and to Rum Point, but the district of Bodden Town is the fastest growing district in these Islands, in my opinion. I do believe that a fire station in that district should be a priority of any Government.

#### *Health Insurance Commission*

Once again Members of the Government who debated got up and praised the Minister of Health for putting in place the Health Insurance Commission. The Opposition played a great part in bringing about that Law. Had it not been, and I am sure that the Minutes will bare me out, for the Opposition being present at almost every meeting of the Committee; the Committee could not have completed its business. So, the Opposition is happy that the Health Insurance Commission is in place.

#### *Health Services Authority*

It is with great pleasure that I read, "The recent opening of our Women's Health Centre, the first in the region, and a purpose built in-patient mental health facility allows for enhanced services to these priority groups of customers. The Women Health Centre, and anyone that cares to go back through the records of this Parliament, have heard me call for this for many years.

My first contribution to a Throne Speech in this Parliament in 1993 I called on the Government at that time for a proper mental health facility for our mental people.

I would like to say to the Honourable Minister and the Health Services Authority 'thank you' for putting in place the Women's Health Centre, which was a great need in these Islands.

Under the same Health Services Authority I now call on the Minister responsible for Health and the Government because I believe that we owe the people of the eastern districts the same with our health care centres as we owe them with our police station—

longer hours. Whether we open those clinics from 8.30 am to 7.00 pm or whether we open those clinics from 11.00 am to 8.00 pm it does not matter to me. I believe that the people of the eastern districts deserve more. If a mother arrives in North Side, after a full days work in George Town in the bumper to bumper traffic and she gets home, leaving work at 5.00 and gets to North Side at 6.30 or 7.00, and the baby has a cold and is running a temperature, if we open our clinics and offered this service to single mothers or otherwise, to the mother, if she can find someone at the clinic who could give her some cough medicine or something for the fever instead of having to turn around, go back to the George Town Hospital, we would be giving the people of the eastern districts a service that they need and deserve.

We need longer or more hours of a doctor in these district clinics. I speak personally of the district of North Side and I am certain that my colleague of East End can say the same of his Health Care Centre.

I believe the Dica Brown Health Care Clinic in the district of North Side is used by the elderly, the young and by mothers when it is open. We must find more uses for these facilities—uses for them that will offer the people a benefit that they deserve.

I call on the Honourable Minister to do whatever is in his power; whether we must do a survey or study in order to allow the clinics in the eastern districts more doctor visits, longer hours by doctors and the clinics opened longer.

**The Speaker:** Is this a convenient spot for the Honourable Member to break? If so, we will take the luncheon suspension at this time until 2.30 pm.

#### **Proceedings suspended at 12.59 pm**

#### **Proceedings resumed at 2.50 pm**

**The Speaker:** The Elected Member for North Side continuing with her debate. Honourable Member you have 1 hour and 23 minutes remaining.

**Ms. Edna M. Moyle:** Thank you, Mr. Speaker. I am sure I will not use that amount of time.

There was a journalist who once told me it is not the amount of time that you speak which really counts, it is what you say.

When we took the luncheon suspension I was dealing with the Ministry of Health Services, Agriculture, Aviation and Works.

#### *Agriculture*

Agriculture is a subject very dear to my heart. Many may say: why? I am the daughter of a farmer and a building contractor so I spent many hours helping him till the soil and reaping the crops. I came from a family that lived from the ground, sea and cattle.

Today when I look around the Island and see the number of persons involved in agriculture I am proud. I know the property where my home is supplies the Farmer's Market with a tremendous amount of fresh food. Caymanians call it provisions, today I guess they will refer to it as vegetables. We supply them with tomatoes, sweet potatoes, plantains, bananas, peppers and you name it.

To walk out on a farm and see the provisions that are being grown and see it harvested is a pleasure. When I look at the Throne Speech under Agriculture, the Ministry and the Department of agriculture will engage in the development of a national agriculture plan that will refocus and realign activities in keeping with recent 21<sup>st</sup> century developments.

The one comment I make on that—it is to be hoped that the Minister responsible for Agriculture will call upon the local farmers (and there are a tremendous amount of them in the eastern districts, particularly East End and North Side) to contribute to the drafting of this National Agriculture Policy. These are the people who have worked with the soil in these Islands; these are the people who know the crops that do best; these are the people that can have a tremendous amount of input into any agricultural policy. I call upon the Minister responsible for Agriculture, I know there is a small amount of money in this year's Budget for agricultural roads, I call upon the Minister that if needs be that the Minister has to go back for supplementary appropriation then so let it be, but there is a tremendous amount of farm land that has no access roads for the farmers of Grand Cayman, I say Grand Cayman because I am not familiar with the situation on Cayman Brac and Little Cayman, but if the need exists there I say let us get whatever funds are necessary and open up these interior lands. Because the closer we get to feeding our own people the better off these Islands will be.

Mr. Speaker, before I move on to the Public Works Department, I spoke about a fire station for the district of Bodden Town and someone called across the floor and said there were funds in this year's Budget. Well I have looked through the Budget and I do not want to stand on the Floor of this House and say things that are not true so if there is anyone else who can locate the funds in this year's Budget for a fire station in Bodden Town I will appreciate being corrected. I find under new entity capital expenditures for the year – under fire services I find Bodden Town fire trucks \$1,450,000.00 but I find no funds for a Bodden Town fire station.

#### *Public Works Department*

I have one suggestion for the Minister responsible for Public Works. I think he is the same Minister responsible for the Gazetting of public roads. Again, I must speak of my district because this is the district I am most familiar with. There are roads in

subdivisions that were started many years ago, some of them, I think, twenty years. Some of them the Government have even built the roads, the Government has continued to maintain the roads but they still remain private roads.

I had one young man come to me just recently in the district. His grandfather was giving him a piece of his property where he has built a little house and he wanted to get the necessary documents and have the property put in his own name. When he brought in surveyor it could not be completed until the young man got permission from the private owner of that road that this Government has built and has been maintaining for years.

This is why I call on the Honourable Minister, I think the same situation exists in his own district because I had someone originally from that district who has been living in my district for some time, trying to sell a duplex that he owned for some time at the end of a road in Bodden Town, has a purchaser who have sent plans to the Planning Board to be told, unless he gets access over the road leading to that property they cannot approve the plan because this road also still remains a private road, even though the Government maintains this road also.

So I ask the Honourable Minister to look into the matter of these roads that we as a Government maintain or have built with a view to having them gazetted as public roads.

#### *Ministry of Education, Human Resources and Agriculture*

I now move to the Ministry of Education, Human Resources and Agriculture. Very obviously missing from the Government's Policy Statement under this Ministry is the Employment Law.

The Employment Law was passed in March 2004 with 12 ayes and 5 absentees. Mr. Speaker, I asked the question of the Honourable Minister: Has the Governor assented to the new Employment Law? If he has, why has the Law not been gazetted? If he has not, I call on the Honourable Minister to tell this Honourable House why the Governor has not assented. If he has assented, I call on the Honourable Minister to make a statement to this House saying why it has not been gazetted.

This Law was long in coming and I would like to use the words of the Minister responsible for Community Affairs, Gender, Youth and Sports in his debate on Monday, 15 March 2004 of the Hansard. **"I want to say from the beginning that I support this Bill and I would like to give particular emphasis to the fact that the Minister responsible for Employment Relations has not wavered in his attempt to bring a more modern Employment Law to our country that will allow us to not only treat the private and public sectors equally under the Law but also to remove some of the difficulties with regard**

to enforcement, which were obvious during the time that I dealt with a lot of employment issues in this country.”

He goes on to say. “In attempting to solve the general good it will always be possible and necessary for us to sometimes make legislation that does not really please some groups and individuals in our society.” I call on the Minister to tell this House why the Employment Law that offers a tremendous amount of benefit to the employees in these Islands has not been gazetted. Could it be because of these same groups and these individuals in our society? We need to know.

He further goes on to say, “Therefore the Government is doing a good thing by being led by its conscience, by being led by what it knows is good for all rather than what is good for a particular segment of society.” I would love for the Minister to tell this House and this country in a statement with the support that he had of the Minister responsible for Community Affairs and the other eleven persons who voted ‘Aye’, the Hon. Gilbert McLean, the Minister himself, the Hon. James Ryan, the Hon. Samuel Bulgin, Hon. George McCarthy, Mr. Cline A. Glidden, Hon. D. Kurt Tibbetts, Mr. Alden McLaughlin, Mr. Lyndon Martin, Mr. Anthony Eden, Ms Edna Moyle and Mr. V. Arden McLean, with absentees begin five, Hon. W. McKeever Bush, Hon. Juliana O’Connor – Connolly, Dr. the Hon. Frank McField, Mr. Rolston Anglin and Capt. A. Eugene Ebanks. Twelve Members of this Parliament supported a piece of legislation for the employees of these Islands. We need to know why if the Governor has not assented to the Employment Legislation. If he has assented, why has it not been gazetted?

#### *Education*

I move on to Education. I ask of the Honourable Minister two questions: Has all the recommendations contained in the Millett Report on the education system of these Islands been implemented? The second question - the Honourable Minister stood on the Floor of the House, sometime back with the answer to a question and said we would have a 21<sup>st</sup> Century education policy shortly. I am now asking the Honourable Minister, where is the Education Policy?

The High school in Frank Sound is dear to my heart. I campaigned on a high school in the Frank Sound area from 1984. I would love to have seen the Frank Sound High School come on line in 2005, the reason—the district of North Side has a very small population, and I think it is some 508 persons as of now on the voters list. I have attended primary school graduations in that district on numerous occasions. Some years the classes are five, nine and this year the class reached sixteen. When you take a student from a district that has a total of just over 500 persons and a school graduating class of sixteen, and you put

that child into the George Hicks School with over eleven hundred students, he or she is moving into an environment that is totally new. They get lost in the system somewhere.

I watched the graduation of John Gray High School some weeks ago and, I think, it was three children who I recognised from the North Side Primary School through the system, walking to receive their certificate. This is why I think if we can get them into a school that is smaller and nearer to their district we stand a better chance of these children not being lost in the system.

Mr. Speaker, the North Side Primary School, in my opinion, is one of the best equipped primary schools in these Islands. It has not been easy; it has been a fighting task but it has been achieved. I was so pleased at the North Side Primary School’s Graduation when the Principal made her Report and said that some of the North Side children had been tested based on the Education Department’s tests and they came very high amongst all of the primary schools students. She put it down to having a teacher for every class in the school.

We can go back and walk through the *Hansards* of this Legislative Assembly and every year it will show that I asked to have a teacher for every classroom. Finally we have achieved that and the results are speaking for themselves.

Mr. Speaker, my colleagues across are not going to get me into a cross talk but I have to say, had I not stood on the Floor of this House every Budget session and insisted that we get a teacher for every classroom would this have been achieved? I say ‘No’.

*[Inaudible comments]*

**Ms. Edna M. Moyle:** Mr. Speaker, the North Side Primary School has outgrown its size. Again, I say as the Minister of Health said yesterday, I do not stand up here and blow my bugle, but I guess there comes a time when you have to. What has helped the North Side Primary School was in 1992 when we could bring back the reception class to the North Side Primary School and East End because I remember fighting for the one in East End since the Minister at that time, the past representative said he was a part of the Government; anyway I did not mind. Mr. Speaker, bringing back those reception classes in those two schools has allowed the school enrolment to grow.

So, I read school construction and development: Although I would have preferred to have read that there was going to be a classroom built and the school was going to be extended with a classroom, I am seeing where North Side Primary School will be receiving one of the temporary classrooms.

The Cayman Islands Cadet Corps – it was indeed a pleasure for me to see the Cadet Core camping on the school grounds of my district and using the facilities of the Cradock Ebanks Civic Centre over the past two weeks, and I had cause to interact with these young men and women and it was a pleasure to speak to them. I had one concern, which was also brought to my attention by people of the district. I was driving into George Town one morning and these smart young men and ladies were marching up the road and the one concern that was brought to my attention—I know that the guns are not loaded but they had ammunition with them. I do not know if this is the rule of the Cadet Corps, I am not that familiar with it but I thought I would bring it to the attention of the Honourable Minister.

I now come to the Ministry of Community Services, Youth, Sports and Gender Affairs.

*[Background interruption]*

**Ms. Edna M. Moyle:** Mr. Speaker, I have no intentions of standing here and getting involved in crosstalk. My job as a representative in this Parliament, whether I am there or I am here, is to represent the people of the Cayman Islands.

*Community Services, Youth, Sports and  
Gender Affairs*

Very obviously lacking from this Policy Statement is no mention of a policy on women or gender. Now I know it is going to be called across the Floor “*why didn’t you do it the year you were there?*” Eleven months! The eleven months I was there I left in place all the good things that the present Minister has been able to bring. However, the lack of a gender policy, the parks was a policy decision taken when I was there but they all stand and take the praise for it.

**The Speaker:** Order!

**Ms. Edna M. Moyle:** The Policy Paper did not come to Council when I was there? It did not? I have always heard that some people are economical when it comes to the truth, but be that as it may, God is on His Throne.

The lack of a gender policy after almost three years speaks of the respect for women. It speaks volumes. If there is one it was started under the Honourable Juliana O’Connor when she was the Minister, and when I came in it was continued and was supposed to be completed by June 2002. This is July 2004. Mr. Speaker, I read: “**Develop appropriate legislation to safeguard the rights of dependent persons, review legislation governing the adoption law and the review of the Maintenance Law and develop regulation of the Children’s Law 2003.**” Three years later and we are going to hear,

“*why didn’t you do it in your eleven months?*” Yet, they are the ones with the doctorates and long term service and they have not done it in three years.

Decentralise the Department of Children and Family Services with fully functional district offices in George Town, West Bay and Bodden Town. Mr. Speaker, the lack of community officers in the eastern districts after the Third Elected Member for Bodden Town—they are always saying across the Floor, “*you should ask the Third Elected Member for Bodden Town, he was the Minister there*”—but we got together and that Minister had community officers appointed in each district. Where are they today?

We are being told that the Social Services Departments will be in George Town, West Bay and Bodden Town and Bodden Town will service North Side and East End. We should have put those in place before we removed the Community Officers from those districts. Up until a few days ago I asked if the office of the social workers for Bodden Town who will also service the eastern districts had opened their office and I was told they were still operating out of George Town because the office was still being renovated.

I have every respect for the Social Workers in these Islands but we must have community officers in the eastern districts because it is totally impossible for the social workers to deal with the schools and other social matters that will face them in those three districts.

I would like to have seen in this Policy Statement where the Government was going to undertake a country poverty assessment so that we can actually find out and plan ten to twenty years down the road as to what the position is going to be. People are living longer; new people are joining us so we need to know what the poverty assessment of this country will be. I know, again, I am going to hear, “*why didn’t you do it when you were there?*” Well in my eleven months I did obtain a copy of a country poverty assessment study that was done by one of the British Overseas Territories and it was my intention, had I remain, that a country poverty assessment would have been done so that these Islands know exactly what we would be facing down the road.

Mr. Speaker, we speak about the Prison—I even understand that the Chaplin has resigned; I do not know for a fact, I heard it and I do not even know who he is. When we had the riots at the Prison, and I can hear now the Minister responsible at the moment for Prisons, calling on the Chief Secretary to be relieved of his duties because of the riot. If I had been in charge of the Prison and a prisoner out of work duty committed a crime in broad daylight, I would not have waited to be asked, I would have given my resignation at that time.

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

### Point of Order

**The Speaker:** Would the Honourable Minister please state his point of order?

**Dr. the Hon. Frank S. McField:** Mr. Speaker, I think that one is innocent until proven guilty so I do not understand how we can, in this Honourable House, actually do the trial and judgment of someone who has allegedly been accused by the Police.

**The Speaker:** Honourable Minister if you are suggesting that the case is before court it then becomes a sub-judice matter and I would ask the Honourable Member for North Side to move away from the subject if indeed it is sub-judice.

**Ms. Edna M. Moyle:** Mr. Speaker, I bow to your ruling, Sir, but I was not getting into the court case.

In this Policy Statement I see very little about that necessary facility on the grounds of Her Majesty's Prison, Northward – Eagle House. I am still waiting on a reply from the Budget when I asked if we had sufficient officers who are trained to deal with young people and I still have not been answered.

Do we have the necessary equipment at that facility to assist these young people? Continue sports coaching in local communities and schools recreationally and within the sports associations for the training of national athletes to represent the country.

The question I pose here is: How can the eastern districts be able to bring athletes to reach the national athlete level? Mr. Speaker, I would love to have seen either in the Budget or in this Policy Statement of the Government, a swimming pool in the eastern districts to allow the children in East End, Bodden Town and North Side to be able to develop their potential as swimmers. Some will get up and say that they can use the ocean, sure but it does not work that way.

Someone murmured from across that side, and I am going to answer that question—that I do not support the summer programmes. We need to get something very straight: This particular program that is being spoken about is the football camp that was ran last summer by none other than the Manager of FC Football Club who called me on the telephone to demand that I am responsible for my district to go and find persons to sponsor the football camp. When I told the young man there were three companies in North Side that I would speak to, I spoke to them and one asked for a letter to be written; whether he wrote the letter or not I do not know. The next telephone call I got from this young man, being awfully rude, was telling me that I control my district – more or less I must go and demand sponsorship. I am not afraid to tell anyone that I hung up the telephone on this young man. Prior to him calling me, I saw him in the newspaper with the Honourable Minister responsible for

Sports giving him a donation for that football camp. So, I support in my district what I am asked to support but I am not going to support anyone that is downright rude and I have no apologies to make to him.

Mr. Speaker, continue extending the water distribution system throughout the eastern districts in Grand Cayman. The question I ask here that it is my understanding, and I do not know why, is that Morritts Tortuga Hotel will not be connecting to the Water Authority System throughout East End. I do not have a clue why but I need to know why the work has stopped going into the district of North Side. If it has not stopped, it either starts after I leave my district around 9—9.30 in the morning and finishes before I return between 5.30 and 6.00 in the evening, or it goes on into the night. They were working on Frank Sound Road and I would ask under the water plan (the original one) water should have reached North Side in 2005, therefore I ask the question: Will the people of North Side get piped water by the end of the year 2005?

I had responsibility under the Ministry that the Governor gave me responsibility for; for water. You know there is an Opposition Member running in the district of North Side who has taken me on and I want to let this country know that why this young man is running— I am not saying that he is running with UDP or that he is running independent, I do not think he knows what he is running. I want to make it very clear, I am not here beating up anybody, I am here defending Edna Moyle because I was raised by a father—no mother; she died when I was seven—who said, 'your name is better than silver or gold, never lose it'. This Young man seems to be going around the district talking about this water system and that it is only because of him why it is coming to North Side. Mr. Speaker, what that young man should tell this country is when he wanted me to insist that the Water Authority Board be instructed by me to only purchase his waste water tanks; that people could only purchase his waste water tanks in Cayman and that is something I will never stoop to.

If everybody had everything they said in here written in black and white, they would not get up and speak; we all would sit down.

### *Ministry of Planning*

I now come to the Ministry of Planning and there is only one question I have to ask the Honourable Minister responsible and that is under telecommunications, and I have spoken to her on this matter.

At present the North Side Post Office is used for the payment of garbage fees and the payment of electrical bills. I have written to Cable and Wireless and asked them if they would start correspondence with the Honourable Minister with a view that telephone bills could be paid at the North Side Post Office. I would extend to the Honourable Minister, al-



though I have said North Side, in the negotiations, maybe we can extend it to all the eastern district post offices. I do not think CUC took up the main Post Office in George Town and I think when I started correspondence with them in 1995 they said they would do Bodden Town, North Side, East End and Savannah but they would not take George Town and I do not recall if they took up West Bay. I ask the Honourable Minister if she would meet with Cable and Wireless, once they contact her, with a view of telephone bills being paid in the district of North Side. There are a number of people in North Side who only leave that district to come into town to pay a bill.

When I went through the Throne Speech and I see all of the things that are going to be achieved and all the things that are going to be done, the persons who will assist any government in achieving their policy statement are those people we call Civil Servants. Mr. Speaker, there is a matter that has been with me for some time and that is the matter of sick leave for Civil Servants. I know that there is a new piece of legislation coming to the public sector and I am going to call on the Government today. We know that Civil Servants are allowed ten days sick leave and it is not allowed to be accumulated, but that the Government seriously look at putting in that legislation whereby sick leave that is not used can be accumulated to be used—God forbid, it happens—for some Civil Servant who has a long term illness. I think as it exists now they are allowed their 10 days and they can get extended sick leave, but I think if they had it in legislation that their sick leave could be accumulated in case of long-term illness, they would feel much better.

The district of North Side—I saw no funds in the Budget for the upgrading of the North Side football field. I know not whether the Football Association has called upon the Honourable Minister responsible for Sports or not, but I know they have brought it to my attention and I have actually seen it. There are no changing rooms and in the original plan there were supposed to have been changing rooms in the bathroom block but there are none. I have seen the female football teams change on the outside of the building, therefore I call upon the Minister responsible for Sports and the Government to find funds to provide the North Side football field with changing rooms because it is one of the fields that is used by the Football Association quite often.

Mr. Speaker, I have heard the Government side speak about employment, that the only people that are not employed are the people who do not want to be employed. There were about eight young men in North Side without jobs and I have found jobs for two. Luckily Public Works took one on and the Water Company took one on but I have called Public Works, the Water Authority and different places to find employment for these young men. I know not where to go now. I did tell them that I would see if the Minister

would arrange for someone from the Employment Offices to meet with me to see if we can find some type of employment. It hurts when they say to you, '*I will take anything*'. So, my last resort will be to meet with the Honourable Minister to see where he can guide me through his employment section to find some employment for these young people.

Mr. Speaker, the Senior Citizens Centre in the district of North Side has suddenly become the number one political campaign issue. The plans for the Senior Citizens Centre in the district of North Side, has been on Government's books since the Third Elected Member for Bodden Town was the Minister responsible for Social Services. Each year there used to be a certain amount of money put into the Budget but I have looked and I cannot find it this year, but you know, I am going to give the Government a challenge now. This Member in my district who is out there campaigning the main issue is the Senior Citizens Centre for the district of North Side, is telling people that he has offered his mother's property to the Government for a senior citizens centre. Mr. Speaker, he wrote me a letter when I was the Minister for the same property but he wanted \$1.2 million for it and it was supposed to be a gift and the renovations would have taken another \$700,000, so as the Minister, I wrote back and said that at the present time and the economic situation the Government was not in a position to purchase this property. However, there are people still coming to me saying that he is saying he is waiting on the Government to come and do whatever.

I say to the Government: If it is free, take it! The senior citizens of North Side do need a place. The property is there and owned by the Government; the plans are there, Public Works drew them because at the moment we have our Senior Citizens at the Pines and at the Senior Citizens Centre in East End. So, it is something that is needed in the district.

This brings me to the end of my contribution to the Throne Speech. I will be accused that I speak and leave but there is a reason that I need to be in my district with my family, as there has been a death of an uncle, so I will wait and listen to the radio tonight rather than sit here while my duty calls me in the district with my children. I will listen and answer because I do not have Public Eye, but I will be carrying my own television programs in the elections also.

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 not would the Honourable Leader of Government Business wish to exercise his right of reply?

[Pause]

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

Members have spoken and the Opposition have been their usual self—criticize, criticize, criticize but offer no solutions to the challenges we face as a country and as a Government. Their usual has been to ask for expenditure—spend, spend, spend and some worthy requests, but offer no solution as to where we can get money, no suggestions even. Firstly I will deal with the Leader of the Opposition.

The Leader of the Opposition berated the Government for having a Throne Speech. According to him it should not have been here because projects like the Port and other things were not in the Throne Speech. In dealing and putting together the Throne Speech the Governor told us that he wanted to deal with new items, projects and other matters, which had already been announced in a budget or a throne speech and which would not necessarily have to be dealt with, as they were already announced as a policy and been dealt with as a government policy. so he would deal with new items. With the exception of a few areas the Governor spoke on new matters going forward.

I did not need to talk about the port in East End. I said before that when I get to the point that I can give more concrete information then I would. However, I cannot see the big worry from the Opposition about the Port not being in the Throne Speech when they do not support the Port. That is not unlike the Leader of the Opposition, they really do not know where they are going and it is typical of his leadership.

It is most challenging to respond in a constructive way to a speech that in no way can be described as either constructive or coherent. So, the Leader of the Opposition was his usual self, on the one hand this and on the next hand that and still saying he do not have the answers.

Contradictions and vague accusations criss-cross each other in his speech with no apparent aim or purpose except to say, while admitting the successes of this Government that something better could have been done but offering, as usual, no concrete proposals, solutions or suggestions.

The Honourable Member says that he has made the same speech less than two months ago so he would not rehearse again those remarks. Perhaps if he had rehearsed they might have made more sense to this House.

[Pause]

**Hon. W. McKeever Bush:** Mr. Speaker, I did rise unexpectedly and I am not that prepared but I will try to do my best here.

**The Speaker:** Would the Honourable Leader like a ten minute break?

**Hon. W. McKeever Bush:** Yes, because of papers that I need. I will continue for a while then ask for a

break shortly. There were some things that I need to get information on so I will continue for a while.

**The Speaker:** Please proceed.

**Hon. W. McKeever Bush:** One of the things that the Lady Member who just left— if there was ever a good campaign speech made in this House it was that one. As I said she has honed in on some good areas and some that I have not heard for a long time. Of course, it is typical at election time to raise the ghost of Cayman Airways and all sorts of other things, as she did.

I did not appreciate her criticizing the President of FC Football Club. I think that young man can be given much credit in this country and maybe people do not like his politics, if he has any, or the side he supports, if he supports any, but when you look at him he is a very decent young man who works hard at what he does and his family, as well. I do not like what that Lady Member was trying to do. I know some of that story because several things were said from the Budget debate and she told him that she would get even with him in the Throne Speech debate, which she attempted to do. He has worked hard at the football club and in trying to build up his business. He did ask the Member from North Side for help when he was doing the North Side FC Football Camp, one that many children attend; dozens if not over one hundred. He did ask her for help but she outright refused because she thought he was supporting another side, and then, to come here to tell untruth about the young man, Mr. Speaker, is a disgrace! The other side of the story is that when he called her for assistance being in her district, she roughed him up saying that sports was not doing North Side any good and hung up on the young man and then he called her back and told her that she had a responsibility for North Side.

They should stop telling one sided stories and trying to destroy everybody that they can destroy, something that they try to blame the United Democratic Party for and talk about how vicious we are. What I heard here today was nothing short of a disgrace!

Let us get something straight here, Mr. Speaker, when we talk about health insurance and she is saying that if it were not for the Opposition the Government would not have a Law; that is their duty! I have seen time and time again where they refuse to come in and make up quorum because Government is busy doing something else. They say: "*you are the Government and if you cannot bring a quorum I am not making it up*". I have heard them say that, and I should say not the Third Elected Member for Bodden Town because the truth is when he is here, he is here.

[inaudible interjection]

**Hon. W. McKeeva Bush:** Yes, you just come back in now but you were a part of the walk outs and that sort of thing.

Their job is to be here, that is what they are paid for! I be here when I can and when I am not on other business I am here. As far as them making up the numbers on the Committee on health insurance, that is their job. They are not doing Cayman a favour; they are not doing the United Democratic Party or the Minister any favours; they are doing their duty, which is to be here to discuss the affairs before them.

If they are good at anything it is propaganda and stirring up trouble as you just heard the General Secretary, the Second Elected Member for George Town saying—*“we did not support the Minister”* but that is not the case. I told the Minister I could not be there especially at the times that it was called because there were other things going on. If we have five Ministers and three can be present, and others have something else to do, maybe that is what happens at times. Certainly there was representation from Government and Back Bench. Their job (the five of them) is to be at anything that is called to be present!

The Member for George Town is grumbling but he should have gotten up and spoke. He will not speak in this debate again though. Mr. Speaker, I do not mind them hackling me after twenty years because they have nothing to offer so they have to do that.

There are some other areas that the Member for North Side spoke about that I am going to deal with later on in my speech.

Look at how petty they can be and complain about everything. She complained because she was not here for the opening of this House and the opening of the Throne Speech. She had a family commitment and took it. Nobody made her do that; all of us had to shift things, and the truth is if we do not watch out this meeting will lead into the next one. That is what will happen.

Whether he considers that we manage things in a good way or not, the fact is that a lot of time has been wasted and I am not pointing at either side but we had to start the House when we did because of the Throne Speech. When we took the Budget Debate I said that it would be somewhere around the first week of July and that was from 7 May, because at time they were complaining about bringing the Budget at that time. They have not given credit to the Government; they have not been generous and sensible enough to realise that there are situations and whether they are in Government or we are in Government, or somebody else in Government, there are situations which will arise that you cannot do anything about.

We came into a situation where we were changing our fiscal year and that affected the presentation of the Budget. Because that happened the

State Opening is close to where the House is going to be dissolved.

They said that they were going to get rid of me. Well, I told them earlier one thing they are not making me do is lose any weight and that is the bad part of it, so they can talk. I can tell them that in my twenty years a lot thought they could get rid of me but I am back. Arden you are not even going to get a seat!

Mr. Speaker, I think why the Opposition is in trouble is because the economy of this country is doing so well. The economy is strong and everywhere they go . . . Mr. Speaker, I see the East End Member is holding up his fist at me but that does not mean that is going to do him any good. The economy is strong and getting stronger and that is because we have managed well and we have worked hard to make this happen. It did not take only one of us but all of us working together to make this happen.

The financial industry is doing well and I do recall and I am sure from another vantage point you will remember, Mr. Speaker, what they said about that when we increased the fees. We were going to destroy the finance industry in 2001, when they sat down and did nothing but to increase our loan portfolio, borrow and borrow and we took the position we had to raise some fees. They said: *“you are going to destroy the economy”* and while we have challenges and I say the biggest challenge is yet to come, the financial industry is doing well in spite of the Opposition’s cry that we were destroying it. Unemployment is at three per cent, this is a big record and we are proud of it. We have been good managers of Government’s finances. So, we have worked hard; Government has made some money and we have been judicious in our management.

When we took over in 2000 the bottom line is that Government had \$2.5 million to its good; when you take our drafts and the cash balances, the balance was 2.5, and we know that the man who would be all to all in the kingdom of everything did nothing to help the situation although he is trying to take credit for a few things now. However, I will deal with that because the truth needs to be told. As of the end of the financial year, June 2004 our preliminary finding figures are \$89.6 million to the good. The economy is doing well and the outlook is prosperous because people have confidence in this country and in the management of it.

They will say that Caymanians are not getting anything out of it; that was the gist of the Leader of the Opposition’s speech, who I will deal with tomorrow. We can point to employment which means people are doing better, we can say that Caymanian companies are doing better because they are employing people. Caymanian houses are being built and I gave those figures earlier. If you think it is only two hundred houses being built then after going out there you are not living in this country, as the Third Elected Member of West Bay said in his speech.

Caymanians are finding it much easier to borrow because the economy is better and the banks can therefore loan them money, that is why, if you did not know that. There are numerous apartments being built, Caymanians again are investing in their country, which means they have confidence in the country. New Caymanian Companies are being formed. I can tell you about others we had here back in the 1970's that you might remember and I might tell you about a few more that is close to you too. So, I will deal with that matter of Cayman status later on, Mr. Speaker.

The truth is the new Caymanians that have been granted status are doing better and I am going to defend the housing as well too. Caymanians are investing in development with the assistance from the Cayman Islands Development Bank. Over \$6 million in small business loans to Caymanians— do not tell me that Caymanians are not getting something out of this. I know of at least two factories that Caymanians have invested in through the Development Bank and I remember the licking that it took from the Second Elected Member from George Town. One thing I can say about the Development Bank is that they have to streamline their operations and recognise that they are not a commercial bank; they are there as a Development Bank assisting small entrepreneurs.

When you look at the joint investment by the Fosters and the Kirkconnell families that is another sign of a better investment climate that the country is doing better and when they criticize cruise tourism, do you believe that they would have invested the millions of dollars on the waterfront, which was invested recently, probably in the region of \$25-30 million. Is that not a good thing for a small Island like ours? It is a good thing!

When you look at education, hundreds of scholarships, local and otherwise have been granted to Caymanians. Last year we did nine scholarships for tourism, the most in any recent time. This year again, we are granting nine tourism scholarships. Do not tell me that this is not good. I would have liked to increase it but we could not. It is very topical to talk about temporary classrooms but why not talk about enhancement and curriculum? Why not talk about the enhancement and scholarships?

So, Mr. Speaker, I can face the Opposition, whether they are in my district or anywhere else from an upbeat perspective because our record is good. Do not tell me where I am going to campaign as they are trying to do over there, I am going to Bodden Town, East End, North Side and George Town to tell the country the Government's position because for far too long, we have left the PPM to tell the country their view of the situation, which has never been factual!

I have dealt with tomfoolery before and I will ignore it. So, they can talk about that team they are putting together in West Bay instead of talking about who is going to *fix me* in West Bay, well let them fix me. I understand that they are saying, since they

talked about that team, that it is the dream team from the right side of the street, can you imagine a slogan like that, '*the dream team from the right side of the street*'. It is a mixture—one who is the First Vice President of the PPM, their district Committee Chairman, the former Minister of Tourism and I do not know if they have anybody else but it is that trio.

I do not have to worry about where I come from and they can put together any team to beat me because of where I come from, *the other side of the street*; they can do anything! I trust the common sense of the people of these Islands; I have always trusted it and I do not believe that that group is going to go anywhere because people know their record. While I have mine I can defend it! My record is good in assisting Caymanians all over and nobody has been pushed away from my door no matter the numbers, where they come from, or what time of day it is. While I cannot be out there walking the streets of West Bay now because I have an executive position in George Town, doing what the people put me to do you can believe they are not going to have an easy time! I am not going to let them, the country or the district of West Bay forget that under the previous Minister of Tourism that the numbers were fudged, he was not counting the visitors alone, he was also counting Caymanians going and coming. He could do it because the figures went to him. The figures that are counted today by the Department of Tourism are sent to the public on the website before I know anything about them; I receive the figures days after they are counted.

I am going to remind them— they talk about Caymanians not getting anything out of it. No Caymanian small water sports operator can go in any one of the hotels—not the Hyatt, Westin, Marriott, Royal Reef, or Morritts Tortuga. None! They could not go to get any business. I simply said while I support the Ritz Carlton, I will make sure that Caymanians get something out of it. That water sports license is going to a Caymanian group where the small operators are going to be involved. What did the previous Minister of Tourism do, give access only to his friends and possible business partner, formed a shipping company and spent nearly \$3 million of the Port's money to pay for a crane. His shipping company could expand but the crane was the wrong size and could not run on the finger pier until ten years later when I expanded and repaired the Dock, then the crane could run all the way on it.

Mr. Speaker, I do believe, the people of this country has had enough of tomfoolery, no matter how much the PPM hollers.

We have made great strides in all areas. I did not knee-jerk, I have been criticized and I will go into some more detail and answer some of that criticism tomorrow, but we did not knee-jerk when we took over. We had already started to deal with the problems in Tourism but when 9/11 happened we did not

knee-jerk and run here there and everywhere. We put in place programmes such as television. Cayman had not been advertised on television for years and we put it back in place.

A big complaint had been that we were not showing Cayman culture by helping our artists or musicians and I can say that we have done that in the Tourism and in the Ministry. We have taken our people overseas, it cost us money but we have taken them to showcase Caymanian culture, and the Ministry of Education has been working with the artists and musicians as well. So, from both ends we have been working and assisting our local people to be involved.

When since have you seen a local person on national television in the United States; a Caymanian and Caymanian voice? It was this Government under my administration! You know what really galls me, they say how much I dislike the girls; if I dislike the girls my policy would have been not to use them but use somebody else. Nothing like that, Mr. Speaker! It is a matter that we are doing good things for Caymanians with Caymanians, no matter what side of the street they come from or which party they support, or who they may like or dislike.

Mr. Speaker, we have done well and we are not scared of facing the public of this country. The public of this country will choose whom they see best fit to represent them. I am convinced that they are not going to be fooled by all the stories and rhetoric. I am convinced that the Caymanian people will make a fair judgment on who they think is best to represent them, they have always done it. They are not going to be fooled by the scandal and the bar room talks that I know are going on. Up until last night I heard about it, but they can do as they please. They are not fooling the sensible people of this country. Let them scandalmonger and spout their rhetoric; let them down talk and badmouth the country as they have been doing. You know what is true, I have never heard an opposition in any country badmouth their country, and did not realise that they were doing it, like some Members of the Opposition.

I do know that the Opposition begun by criticising that I had to be away. When are they going to learn and be sensible enough to say that it might be me there next time and if I am there I will have to be at those meetings as well and travel as well. Why try to make the public believe that I am, as he said, off on some jaunt. They believe that travel is easy today, no, Mr. Speaker, it is not. You have to be away from your family, but the fact is this is work and I will say again, as long as the Cayman Islands is under threat by European expansion and United Kingdom's cooperation with Europe and all of the other institutions they cooperate with, Government Members will have to travel, and as Leader of the Government my position is taken very seriously, no matter how much fun they try to make of it and belittle it.

For far too long these Islands suffered and our key industries of financial services and tourism were shackled at times with some of their candidates in West Bay because certain leaders did not attend the meetings, or in the case of the Leader of the Opposition now, who forgot to send letters to foreign Governments at the right time, as did the Leader of the Opposition on the European Union Savings Directive. He should hang his head in shame when he talks about anybody travelling from Government.

I do not know what he is going to do if he becomes the Leader, he does not like to get on a plane; he does not like to travel and he would have to travel eight hours at a time and sometimes more, so what is he going to do, get drunk, have a hangover and say 'Bobo' I forgot about it? No! Or is he going to send the Member from North Side, who, when she goes to the meetings do not even say 'quehey'? My position is when the Cayman Islands' name is called at the table, if I am the one that has to go I will answer or somebody will have to answer; I will debate and negotiate in the best interest of these Islands.

So, Mr. Speaker—

**The Speaker:** Honourable Leader of Government Business we have reached the hour of 4.30, if this is a convenient point for you to break.

I will call on the Honourable Leader of Government Business to move the Motion for the adjournment.

## ADJOURNMENT

**Hon. W. McKeever Bush:** Mr. Speaker, before I move the adjournment I would like to remind Business Committee Members that we will hold a meeting directly afterwards.

I move the adjournment of this Honourable House until 10 am, 16 July 2004.

Thank you, Mr. Speaker.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am, 16 July 2004. All those in favour please say Aye. Those against, No.

**Ayes.**

**At 4.31 pm the House stood adjourned until 10 am Friday, 16 July 2004.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**16 JULY 2004**  
**2.11 PM**  
*Seventh Sitting*

**The Speaker:** I now invite the Second Elected Member for West Bay to lead us in 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 Cabinet 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 are now resumed.

**Proceedings resumed at 2.13 pm**

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

**Apologies**

**The Speaker:** Firstly, I wish to apologise to this Honourable House for the late start today which was an

occasion due to a very urgent meeting that had to be called this morning by the Cabinet.

I have a number of apologies here, but I believe that those Members have since arrived.

**STATEMENTS BY MINISTERS AND  
MEMBERS OF THE CABINET**

**The Speaker:** I have received no statements from Members or Ministers of the Cabinet.

**GOVERNMENT BUSINESS**

**Debate on the Address Delivered by His Excellency the Governor on Friday 2 July 2004**

*(Continuation of debate thereon)*

**The Speaker:** The Leader of Government Business, the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce, continuing his reply.

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker. I too want to add my apology for the late start. We were ready to start this morning and we had an urgent Cabinet meeting which held us up. It was in connection with the Constitution and Citizenship and that matter will come before the House this afternoon, sometime before we adjourn.

We do apologise to the House, the Press and others who were here.

**The Speaker:** I remind you, Honourable Leader that you have one hour and nine minutes remaining.

**Hon. W. McKeever Bush:** I have quite a bit to say and I do not know if I can get through it in that time.

When I was debating yesterday before the adjournment I was dealing with the Opposition Leader, who is absent from here, and is absent every time I speak. I was commenting on his criticism of the Government's administration and in particular my Ministry and my work as The Leader of Government.

I believe that everyone understands that as long as the Cayman Islands is under threat by European expansion and the United Kingdom's cooperation with Europe, the Financial Action Task Force (FATF) and the Organisation for Economic Cooperation and Development (OECD), Members of the Government will have to travel quite a bit and as Leader of the Government my position is taken very seriously.

I believe, for far too long these Islands suffered and our key industries of financial services and tourism were shackled at times because certain leaders did not attend the meetings, or in the case of the Leader of the Opposition, forgot to send very important letters to the Foreign and Commonwealth Office at the right time, as he did with the European Union Savings Directive.

My position is, when the Cayman Islands' name is called at the table, if it is me that have to travel then I will have to answer and I will continue to do that; I will debate and negotiate in the best interest of these Islands.

I have my responsibilities as the Leader of the Government and I have my responsibilities as the Minister of Tourism, matters of trade and commerce. So, this time I had to be away as there was a seminar in Brussels and we had to be in Brussels to attend that seminar where I was asked to give our position. It was a good thing that we were there and we have been told that the Cayman Islands should stick to tourism; that is how they feel about us. We have no business in business, according to them, and the financial industry and matters of that nature belongs to them. That is why, Mr. Speaker.

I have been in politics long enough to take the barbs, licks and it sometimes hurts when the Opposition Members who are supposed to understand and know, get up and make the kind of remarks that they do. Because if we are not there then we will get included in things that are not in Cayman's best interest and that is what happened in the Fiera Accord, and I do not have time to get into that today. Had the leadership at the time, Mr. Thomas Jefferson, being one, had attended that meeting then perhaps Cayman would be where Bermuda is, not called upon. Bermuda simply said to them '*we do not want to be a part of it*', and they attended that meeting. Cayman was included because nobody from Cayman was there and so we have to put up with the expense, and not only the expense, but the fall out is going to come from the Savings Directive.

Mr. Speaker, I have said the biggest problem we have to deal with is the European Union and its expansion and Britain's collaboration with Europe. That is why we have taken a more serious attitude about foreign affairs and dealing with foreign affairs.

I keep saying that while the Opposition is here talking about too much cruise tourism and dreaming up all sorts of things, that is not a big issue to us and are managed locally, while we are arguing about fire ants, elephants are getting ready to trample us.

When we look at the world order the modern world moves quickly; nation states are increasingly interdependent. Developments and computing are an example of this interdependence. The cost of computing power is one thousand times less now than it was in 1970. If you apply that to cars then a car would cost around \$5. Fifteen years ago if you wanted instantaneous global communications you had to be a big

company; small companies did not stand a chance. Now anyone in our Islands can have access to global communications for a few cents. This Government has done well and I want to thank you as former Minister and the present Minister for telecommunications and I want to give some credit to my colleague the Fourth Elected Member for West Bay, somebody of his intellect and background, who was the Chairman that had the ability to skilfully and technically bring the negotiations with Cable and Wireless and Caribbean Utilities to a successful conclusion thus far. So, when we look at the world that we have to dwell in today, the Cayman Islands have been a driving force in this trend to globalisation and our economy is a beacon in the world economy.

We realise that global capital has common sense; it flows to stable and friendly markets where it can earn a favourable rate of return and be repackaged at low cost. It then goes back to those countries that are trying to kill our industry. It does not stay here, it comes and they neatly package it and send it back where it works for them.

So, Mr. Speaker, it is no longer enough for our Government to just look at our domestic politics and policy, we must be vigilant and look internationally and engage on foreign matters. The distinction between foreign and domestic policy is certainly lessening and our country's success, our financial industry is dependent on being networked into the latest trends.

Our bankers, lawyers and insurers are all networking with their counterparts abroad in order to do the jobs. International security, regulators network to follow the entities that they regulate. Even judges at the Court network internationally. The Supreme Court of Canada sites judges at the South African Supreme Court, the US Supreme Court has, for example, the European Court of Justice, the French Constitutional Court and the Indian Court. Judges used to be domestic but they too operate in a global economy. So, Cayman have to look out for ourselves; we need to be at the table.

Let us look, for a moment, at the most important thing that is happening geopolitically in the world and that is the development of the European Union. The European Union has gone from a tariff zone to include political and economic issues as well as justice and foreign affairs. The European Union is certainly growing in power and we need to recognise that the European Union will matter more and more to our economy, country and way of life.

The Opposition failed somehow to grasp this key matter and will fail our country because they are advised by the wrong people, if they are continuing to be advised by their consultant, the man from Barbados, Mr. Henry, who they had sometime ago. We have to look out for ourselves; we recognise that nobody is going to look out for us as well as we look out for ourselves.

I have recognised the potential impact of the European Union and as it grows geographically and

deeper in terms of its policy reach, its powers and influence increases. That is why I have zoned in on a different constitution altogether but some economists suggest that the world's reserve currency, currently the dollar, could become the Euro; this will take many years but already people are talking about it. Back in the 1980's it was recognised what Europe was doing and that the OECD would come so it is not farfetched what some economists is suggesting. The European Union is now twenty-five states. Five hundred million people and a gross domestic product similar to the United States, just last month agreed a new draft constitution. Furthermore, most people under thirty-five years old in the European Union Member States will now also consider themselves partly European, that is even to the United Kingdom, which whom we belong to or administers us. They attach themselves to the concept of Europe and it is crystal clear to me the direction in which the European Union is going. The train has left the station and is travelling at 60 miles an hour. The problem for us is that Europe loves regulation. They have over eighty thousand pages of rules and regulations in the European Union Commission. We need to be aware of what is going on in Europe. Our business community needs to be aware.

The new Constitution belonging to Europe also broadens the concept of an outermost region; that is an overseas territory of a member state can, if they wish, become associated to the European Union. At the moment the Overseas Territories can choose, but what if the European Union decides that all member states should seek to include their overseas territories as outermost regions? That is not farfetched. We are now all British Citizens whether we like it or not, even if we you do not have a passport that does not mean anything, the passport only tells you and shows publicly that you are a British subject. However, on the books we are all British subjects whether we want to be or not, we are all British subjects. So, when they decide to do something and we have no Constitution to stop them, we cannot.

The European Union's history has been characterised by periods of aggressive expansion in terms of policy. I expect the EU to focus on ensuring the recent expansion works in the immediate terms. I caution this House however, that it will not be long before the commission turns to its next phase of expansion, be it geographically or in policy. Either way, this country will be affected tremendously. They have told us in Britain at the last seminar *"you stick to tourism; that is your business because we are coming after insurance and aviation"*. They have already told us that we can be in charge of that no more and they are going to come after shipping and mutual funds. These are the things that they will come after.

The Cayman Islands share much with our Mother Country, the United Kingdom, and other countries like the United States, particularly, with regard to our commitment to free markets and our joint efforts to combat crime. The latter priority is strongly held and it

is clearly demonstrated by our robust regulatory system and commitment to international financial initiatives. However, the influence of the European Union is gaining. The European Union Savings Tax Directive was a wake up call to the Cayman Islands. It was a piece of legislation imposed on us by London and Brussels to which we have never really agreed. We are concerned that London, under pressure from Brussels, will be increasingly prepared to impose European legislation on us regardless of how undesirable it may be for the people of the Cayman Islands.

In a high level meeting, the one I attended in Brussels last week, I did ask the Commission officials explicitly why Bermuda was not within the scope of the current Savings Tax Directive, and I received no satisfactory reply because they will tell you one thing, but they did say that Bermuda was at the meeting where the Fiera Accord was agreed and simply asked not to be a part of it. I also asked whether there were any plans to extend the Directive to other forms of income other than savings, again they said they could not tell me that then but they were mentioning other things saying that we should not be in those businesses. So, what is that telling us? We are not blind, dumb and stupid! I expressed in no uncertain terms to the Commission how unjust I believe this lack of a level playing field to be. I emphasised in the meeting that any further attempts by Brussels and London to intervene in the Cayman Islands economy would damage not only the Cayman Islands and our people, but also the world economy, simply because of the role that we play in world finance.

The Commission said it would soon begin negotiations with further countries including Singapore, Hong Kong and Dubai. The Commission, however, was unable to offer any firm information as to when this process would begin or how their lack of a strong negotiation position would force these third countries to sign up to the European Directive.

When we look at how they are treating Gibraltar who is also an overseas territory, but yet part of the European Union because of its geographic position, the relationship between the UK Overseas Territories and the European Union is a complex matter because with the exception of Gibraltar, since the European elections last month, they have no representation in the European Institutions except through the UK Council of Ministers. This means that as we see the powers of the European Union grow ever greater, the Overseas Territories have almost no influence over the development of regulations and treaties.

Gibraltar is a British Overseas Territory; it is a Member of the European Union, yet makes no contribution to the European Union's Budget and falls outside many policy areas. Amazingly it does transpose European Union obligations and duties into Gibraltar's Law, even when that Law cannot apply to Gibraltar. That is an enormous burden. The people of Gibraltar see themselves as culturally, socially and economi-



cally part of the Continent of Europe. For the first time this year Gibraltar voted in the European Parliamentary Elections, the votes being added to the southwest of England's constituency. This solution, from my point of view, is not appealing to the Cayman Islands. We are geographically remote from Europe and our free market approach to economic management is far removed from the continental socialist, interventionist approach. We do not depend economically on Europe. We face the world and we are also inevitably influenced in terms of trade and economics by the \$10 trillion economy of the United States, which is only 480 miles away. We value our links to the British Crown but we must increase democratic control over fiscal policy matters in order to protect our economy, Mr. Speaker.

We are not talking about independence, we are simply saying that the Cayman Islands people must be able to control more of our future than we are today for more reasons than one. Our Government believes that it is unacceptable that the British Government has exclusive power to determine which European Union regulation and treaties should apply to the Overseas Territories, and which should not. It cannot be right that this Government, freely elected by the people of the Cayman Islands, should be obligated to implement the unilateral decisions of the Colonial power. We are not a part of the European Union and we receive no benefits from it.

We look to the way forward. I believe that the UK is still not paying enough attention to the views of elected representatives of the Overseas Territories. We must strive for the UK Government to undertake considerably more consultation with ourselves over the formation of treaties and other agreements. We are deeply disappointed by the lack of consultation on the Savings Directive.

Turning away from the European Union for a moment—A host of international bodies now exists which seek to exert an influence on the Islands, the Organization for Economic Co-operation and Development (OECD), International Monetary Fund (IMF), Financial Action Task Force (FATF), Financial Stability Forum (FSF), International Organisation of Securities Commission (IOSCO), International Association of Insurance Supervisors (IAIS), Basel Accord and the World Bank are just some of the non-governmental bodies currently influencing world opinion and having an effect on these Islands. These agencies are beginning to dictate standards of financial services. I want to emphasise that where there are clear and ambiguous global standards we are prepared to accept and recognise these. However, there is no one regulator to which all jurisdictions in the market commit, and consequently there are no real established international standards in terms of financial regulation which, we say, is an ambiguous concept, to say the very least.

There is therefore a strong case for us, in particular, for us to have self determination on all fiscal policy matters and also to take a greater role in se-

lected foreign affairs matters on international organisations in order to protect our interest. The Cayman Islands have a history of international co-operation and certainly we do not need European Union interference to enforce standards.

Mr. Speaker, it is not possible to build the world's fifth largest financial centre if the standards of governance, regulation and law enforcement are not also world class. So, across the globe there is improved regulator to regulator disclosure, more cross border transparency and improved application of the principles of corporate governance; these are developments we should all welcome.

What is the responsibility of the Cayman Islands in foreign affairs? We are a small Island nation; small in the number of our people and the number of our land but our role in the world is significant. If we accept the principle of my earlier reference to networks then we will realise and recognise also that Government too, operate through networks. We all understand in this House that a strict interpretation of our Constitutional position would lead us to conclude that the British Government is responsible for our foreign affairs, but networks are where conversations are held, brainstorming sessions undertaking and decisions are made. We cannot expect or hope that the British Government, UK, would protect our interest as we would in all of these networks; they would not, because they are in competition with us.

Much of our Government does operate through networks. The Cayman Islands need to play its part and attempt to shape the new world; small as we are we need to be a part of it; we should not shy away from it and we have to be at the table when our name is called. We must locate our national interest in the wider international community. We need to engage in multilateral partnerships. An example is the effort to unite the economies of the Western Hemisphere into the single free trade arrangement was initiated at the Summit of the Americas some years ago. So, we need to build our allies and we need to work in partnership with others who share our ideals and our vision to ensure our survival and success.

The United Kingdom was so successful in managing their empire by applying the old Roman idea of divide and rule. Many would say that those skills are alive and well in the foreign office in London. As Churchill said: **"Having allies sometimes mean that they might have other opinions"**. So, we need to recognise that we need to work hard with our friends to argue our ideas and come to a common position. If we can agree on our objectives we should use each others capability in a complimentary way, each of us acting to the best of our abilities.

In conclusion on this aspect the Cayman Islands are fully committed to appropriate and timely international obligations. One need only to look at our commitment to and involvement with the likes of the OECD, IMF, FATF and Caribbean Action Task Force (CATF) and others to witness evidence that we are

happy to engage with international bodies. The Cayman Islands and its principal political representatives, whoever that may be, at whatever time, need to take a great role in our foreign affairs to protect our interest, the interest of the Cayman Islands and we will consciously protect our economic success from the high tax tendencies of the European Union. So, Mr. Speaker, while they question why I am not at a particular meeting and have gone abroad, these are challenging times and we need to ensure that we remain alert and determined towards those challenges ahead of us.

Mr. Speaker, the Leader of the Opposition went on about development and about tourism. He went on to say that we were basking in the fact that stay over visitor numbers have started to increase; well, what else should we do? Instead of rightly congratulating the Government for taking action during the most challenging time that this industry has ever faced and that we are already seeing the benefits from our clear and decisive actions, the Member go on at length to describe how crucial tourism is to our economy; we know that! Then he goes on to say that we face challenges to the future of that industry, as a result of a negative perception of the quality and value of our product. He says that he contends the Government is not doing enough to address this problem. However, rather than offer any suggestions or proposals, he then goes on to say in the same breath, that we must not let development go unchecked. I will come back to this point if I have time so I would ask Members to remember the Leader of the Opposition views in this area.

He then go on to say in a variety of ways that somehow all cruise ship arrivals are a bad thing and that we should be ashamed of trying to work with this industry to bring tourists to our Islands. I am sorry, but unless I am sadly mistaken, one of the key jobs of the Tourism Department is to bring tourists to our Islands because without them we have no industry. The Leader of the Opposition also goes on to make a typical sweeping unsupported statement concocted of gossip and misinformation that is norm with the PPM, that there is somehow a direct connection between increased cruise arrivals and decreased stay-over visitors. As I said earlier, he is speaking about 2001 and 2002, perhaps when we had not yet taken off and all of our reinvention in the tourism sector and the work that we had done from that infrastructure's point of view had not yet begun to kick in.

My Ministry is very aware of the delicate balance that must be maintained between cruise arrivals and stay over visitors and rather than just talk, as he is doing, and not making any suggestions, we have taken steps to deal with this in a balanced and constructive way. If we had not taken the bold action we took post 9/11 we might not have any tourism industry at all to be discussing, and the many Caymanians who have invested their lives and depended on this industry would be in a sorry state if we had followed

the Leader of the Opposition's "do nothing approach" to pressing issues.

The country is now starting the crest of another tourism boom and it is easy to forget how only a few short years ago we were wondering if we would survive at all, yet, the Leader of the Opposition would have us believe that the things which helped this country stay afloat are now to be ridiculed. Say what you like, but if we did not have cruise tourism when there were no planes coming here, where would we have been? What would have happened? At least some people, those who work the waterfront, even if they do not get all that they want and cry for, they had something coming in at that time.

The Government's record is strong in this area and although we are keenly aware of the balance that must be maintained between cruise arrivals and stay over visitors, and as the market shifts, we must adjust to meet it. It seems that we have become a boiling pot of complaints because people can complain and feel they have that right, not even stopping at times to think what damage they might be doing. I heard a letter read over the airways from a tourist who comes here from listening to some of the complaints on the radio as if it is all Caymanians who are complaining ; that is not so and why I say it is not all good what you hear on the radio sometimes. This Government's record is strong in the area that I am talking about. We brought in the people to help keep the many Caymanians and local attractions going during rough and tough times and we have engaged the cruise industry in a positive way to reduce the number, but increase the quality in the future and to do so in a tangible way to ensure that the benefits spreads to as many Caymanians as possible.

As evidence of our balanced approach, Mr. Speaker, you can see that not only have we worked to keep the traditional tourism industry centered around long stay-over visitors, but we have the dock going and we have also worked to move Caymanians into a position to capture its place at the top of the tourism market. The real impact and potential for the Ritz Carlton has been felt in all sectors of our economy and day by day this impact increases in a very positive way.

If the Leader of the Opposition understood tourism and the region, and I know that he does not understand tourism, he would know that this type of project is the dream and envy of the entire region and is much harder to come by and takes more support than he may have bothered to consider.

The Leader of the Opposition went on into a lengthy rambling warning of the risk of not planning and taking action to safeguard our product and its underlying appeal. All that can be drawn from this is that the Leader of the Opposition thinks it best if we strive, in tourism, to not encourage anyone to come and visit our Islands, and it is important to note that the Member seems to have just discovered the idea of planning, balance and taking actions to achieve those

plans. If he had been watching this Government he would have seen those principles in action.

The Member discusses the key nature of protecting our marine environments. Perhaps he should have added that this Government and my Ministry have been the ones to take the critical bold steps to do this. We have moved beyond talking and started to take concrete action on the Sandbar and made moves to see that it is both protected and used in a way that benefits local Caymanians; the first time ever! We have taken the steps to introduce our Marine Protection Bill, to ensure that the treasured marine environment is there for generations, even when they came here and asked us to give them more conchs.

I said earlier that I would come back to a number of points in the Leader of the Opposition's speech that revolved around control and controlling of both tourism and the economy, as he has talked about. I believe that all of us in these blessed Islands recognise that a co-operative approach between the public, private sector and the whole hearted support of free enterprise and capitalism are the bedrocks of our financial and social success. We have seen the damage that he has talked about; we know what happened with that; we know what happened to the economy when every law suit was flying right, left and centre and nobody could do anything, no investor could come in lest they were ran out, accused and or taken to court after they had bought land—all sorts of things. Yet, despite all of that, the Member repeatedly talked about the needs to control development to manage the industry to check development because he knows that is a buzz word. The sum total though, of these statements is both a sad misunderstanding as to how the economy and business works and a disturbing preference for Government interference and intervention, as he talked about.

We need only look around the region of the world, for that matter, if we do not want to look at our own case, in the last two years to see the complete failure of countries and societies that attempted to implement outdated and discredited socialist approaches of Government control in our economic forces. Yet in the face of these realities the Leader of the Opposition persists and says that it can be done easily because somebody else is doing it now. If that Member knows how to control and manage the economy easily, he would be the first in history to do so and if he knows of someone who is doing it now I would ask him to let us know, as I would be very interested to meet this first of its kind person.

The truth that the Leader of the Opposition has failed to grasp is that the world has moved on beyond an individual approach between business and Government. In fact the Cayman Islands can be proud that we led the way in this regard and that the cooperative balanced approach that this Administration have worked for is the way forward, and the way this brings the most benefit to the people of these Islands.

The Leader of the Opposition is obviously aware of this and nervous enough about his position that he feels compelled to reassure this House that he and the PPM are indeed capitalists. He accused me of being right of centre. If we are right of centre and he is complaining that we must have all of these controls and do all of these other things, then what is he, right of centre too? No, he has to be left of centre, has to be if that is what he is saying.

He went on to describe his own business life as an example, the way he made his money, but really, that was not in the free market of real economic competition because that was monopoly where the contracts were not tendered for some ten years as they were required to be and now he is talking about the tendering process? How dare him! He has the nerve to talk about Central Tenders Committee and what is not going there now; when that is the way he made business happen? Stop talking out of both corners of your mouth!

The Member moves from what he called the utopian dream, and with the PPM it could only be a dream because if you listen their reality would be a nightmare for the people of the Islands. To talk about Government's power to intervene and the best he can promise us, in his vision, of a sustainable economy is not one that makes life better for all Caymanians, but with regards to our social problems, he says that at least, it does not make them any worse. Is that all he can promise? Mr. Speaker, if you trample with the progress in any country and you have no solutions, as I have not heard any from him, then what happens is that we stand still. Our quality of life cannot remain as it is if this country stands still, because the business dynamics are too different. You cannot stand still and remain at the standard of living which our people have, even though some may say that we are not doing as well off, we should be thankful. Thank Almighty God that we are not starving and while we have challenges we are doing better than most countries.

If you stop or slowdown progress; if Government intervenes and slowdown progress, as he is saying that they are going to do if they gain power, the only thing that can happen is for people to be worst off; they cannot get better off. This is a sad reflection on what the Opposition feels that economy has to offer to our people, and one, that under this Government has not been the case, people are better off than when he was in office. In fact, the Leader of the Opposition goes on to talk about the need to bring newer and broader opportunities to Caymanians in all fields.

I would point out to the Leader of the Opposition that yet again, despite his providing nothing more than vague and pessimistic criticisms to the Throne Speech and Government's administration, this Government has been taking action on the issue at heart and showing real results; results that affect the lives of Caymanians everyday in a positive way. The Government has encouraged, in a co-operative way, technical training and advanced programmes in the

construction and hospitality field as a ministry responsibility for training which the Ministry of Education has done along with the Ritz Carlton project. Of course, if you follow the suggestions of the Opposition we should spend public money to train people with skills they could not use because we would have no development and no jobs for those people to go to; that is the sad thing about it. We hear talk about training, and on the other hand, they are saying not to do anything, leave everything as it is; we are getting too much. How can we have these newer and broader opportunities for Caymanians? They are whistling in the wind, if not in the dark. No matter what they say we should not stop development and the progress going on at the time, for what then, would we be training people for?

The Leader of the Opposition complained early in his speech about our encouraging cruise arrivals but later in his speech he criticizes my support for other luxury hotels that will encourage stay-over visitors and move us towards our goal of quality over quantity in the tourism market. You cannot have quantity if you only have one or two four star hotels. We have to move to a higher level and I believe that hotel which is now going to move forward under Mr. Naul Bodden and others, is going to do better for us. We need these kinds of five and six star properties.

How can the PPM criticize Cayman as being a mass tourism destination? That is their accusation because that is not a fact. However, how can they say that and then say on the same hand that we should not have the hotels which can bring the quality over the quantity?

*[inaudible interjection]*

**Hon. W. McKeever Bush:** Your Leader did! You do not know; you were sleeping or outside smoking. Hush! Rest me!

All that I can conclude is that the Leader of the Opposition is encouraging this Government to take his approach and do nothing, all the while trying to be all things to all people. That is where he has failed in his political life. He has been a failure. He bamboozled Truman Bodden, but he cannot do that to McKeever!

The Honourable Member tries to make sense out of his rudderless approach with a tub metaphor, if we remember him using, wherein he worries that the water will get to full and people will somehow wash out of the tub. In that metaphor for tourism and development where water appears to be investment and visitors, the only way to achieve what the Opposition Leader wants, apparently, is to turn off the tap, stop the water then we will all be equally bad off. I suppose the Member think that it's Government's role to intervene to ensure that everyone is equally poorly off. I find further proof of this in the Member's closing remarks on this section where he wraps up but finally admitting clearly: *"I do not profess to have all the an-*

*swers."* In fact, it would seem that the Leader of the Opposition has none of the answers, but that is his modus operandi at all times!

They are trying to make a big issue out of the status issue but when you look at what he said, that was some of the things he said in this matter on status. He went to great lengths in February 2000 to say that we needed to do something about the status situation and the many people who were here. He never talked about ten years, he talked about five years and over. I quote him on that debate: **"I hold that view out of a sense of natural justice, but also because the fact is are we going to tell them they have to leave the country?"** We have not done so this far in fact it seems obvious that Government has found itself in a situation where it is such a difficult task to tackle in its eighth year, at that time, as a government it has not done anything about it. He goes on to say: **"some people will make political hay out of this situation trying to grasp opportunities when they hear certain things being said just for political expedience. In my view, that is so irresponsible! It is not funny. This is a serious situation. We have people who have made their lives here for many, many years who you find it difficult not to be willing to say we have to do something about these people. I do not care from what angle you look at it."** Again I go on to quote him, **"what would be the worst to come out of this is for nothing to be done. That is what has been the worst, for nothing to be done as has been the case for many, many years. I contend that because nothing has been done for many years is why the decisions that now have to be made are that much more difficult simply because you are looking at larger numbers of people."**

**But on the other hand if you look at the broader picture, and this is going to be shocking but mathematically it is correct, and we do nothing for the next fifteen years, hear this carefully"** and I can see him now saying, hear this carefully, **"If we do just as we have been doing now, we are going to have a population in this country where seventy per cent of the voting age people will not be able to vote, but they will be residing on what they call a permanent basis; they will have a government and a legislative assembly that basically represents thirty per cent of your population. That is the big picture."**

Mr. Speaker, people are going to get this to read and I am going to make sure of that because I contend that the PPM is a bunch of hypocrites and that this country cannot afford to put that team back in Government with any mix outside of people who are saying that we are independents. That cannot be because when you read this of that situation and when you go on to hear what they have done with this issue, going all over the place making people believe that Cayman is going to die and Caymanians were going to be destroyed, and yet, you heard this Member say

this kind of thing. What then can they expect from a Government made up with them however they are trying to put themselves together? I know what they are doing in West Bay—they call themselves the dream team from the right side of the street, it must be the right side of Elm's Street, a nightmare.

What I believe is true; they cannot be trusted when they object to a situation, as always, when they find out that the Government has not feared as badly, or that the PPM are on the losing side, they find all kinds of excuses. That is what happens, you know; they started off making people believe all sorts of things. Remember that meeting on the Court House steps? They have gone all over the country on the radio shows saying all sorts of things, well, they found out different and started to back pedal, and I will get to that—because he did so in his speech again. Anyway they found out that they were losing support so they started to back pedal and speak out of both sides of their mouths in order to secure votes. They went out of their way telling the Press, the *Caymanian Compass*, that one and all could get status which started a stampede. All kind of things were said on the radio shows. They had a meeting where they made Caymanians believe that our world was falling apart and I could go on and on about the irresponsibility of the PPM and the status matter.

Mr. Speaker, we need to expose further the Leader of the Opposition's ability or inability to stay the course and tell the truth on a subject, on the issue and his fickle and shifty stances. The other thing is true! They will twist the truth when it suits them. He said I told him that they could get thirty people to give status to. I wrote to him twice and did not specify any number; just roughly a month was given to give their recommendations to Cabinet for anyone who he believed it should be granted to. I will come to their position because the Member for North Side, as usual, rose to his defence saying it was about the process, so I will get to that.

They went all out and are going all out. They said it was going to overcrowd the schools, but the facts are, there needs to be work done on schools, as is always at this time of the year and the Ministry has said what they are doing. We have told the Minister for Education that whatever he needs for education he will get it and the Permanent Secretary has said the same. Now, look at what he is saying today about the process! Let's be sensible! According to him we must make those children, the children from the parents who gained status, go to school. He said it is a human right—well tell me this! I would like to ask the PPM how is it a human right to make the children go to school when we do not have the space, but it is not a human right to give the parents Caymanian status after being here for over eight, thirty, twenty or fifteen years. How is it a human right? Here are the facts on the status issue.

What the Government did was legally and morally correct and from a human rights standpoint,

we are safe from international fallout because we did what was right. However, we cannot take the children at this point in time, who are overseas, and I know parents where they may be disappointed, they understand and are grateful to be settled here. They now have Caymanian status without the fear of being kicked out of a job and lose their permits after fifteen, twenty and thirty years.

If a few people have slipped through the cracks there are thousands of good deserving people who received Caymanian status and now our country can grow, as he said in 2000. We do have a good Immigration Law, which makes everyone know where they stand from day one while protecting Cayman as has never been protected before. The truth is, while I know that there are some people in West Bay who got it, as one of them was quoted in the paper, when they were giving their friends from the United Kingdom and from wherever they were who their friends, nobody knew about it because it did not come out or hit any paper. They are big advisors today of the PPM and trying to put together teams in West Bay saying that they have to get rid of me; well, they will have a fight on their hands.

When they were in Executive Council doing and hiding it from the people, it was a good thing. We have done the right thing. I like to say this because the Member likes to claim credit for a few things in ExCo. When we decided to get a new Immigration Law and deal with this issue, he did not come up with the idea of the Immigration Review team, he said that we would go back and look at all of the Committees and set up a committee. We said and remember carefully, Mr. Speaker, we said in Executive Council there is no need to do that because we have had many committees over the years and we have all of those reports, let us get people to look at it. That is how the idea came. Yes, it was done while he was Leader of Government Business, but it was not his idea!

I know that this is one of the big issues they are trying to put forward, the Caymanian status issue, but Caymanians are not stupid and even if some of them do not like the idea they recognise that something had to be done and we did what was right. No election is going to be won on this one issue.

The United Kingdom was saying that people from five years must get it and the Governor at the time was doing it by himself because they had been here five years, so he was giving them permanent residence! So, do not talk about some of them who got because they were here less than ten years as there were few who did, and as I said, some may have fallen through the cracks—I do not know! There was a moratorium which was put on and whether we had a board to deal with the matter there was a court case that said what was happening was wrong; the moratorium was illegal. People who make good contribution to our country and are good people; why not?

The PPM went overboard and they are back peddling now, saying that the children must go to

school and talking that they are not a part of the court case; what a bunch! Can you believe that? When you have the General Secretary, the Chairman and another high power member of the PPM, three of them in the Cayman Bar Association pushing the issue to go to court, they dare to come out now and say that they are not part of it! They are not part of it? They are the rascals behind it! However, when they found out that they would be most affected in George Town where there were 800 Jamaican nationals on the voters list then they started back peddling and worrying even more. Mr. Speaker, I have no great amount in West Bay. West Bay did not benefit from any of this but the whole country benefited because those people have made a contribution and they have helped kick the economy into where it is going now. The Jamaicans that the PPM complains about were on the voters list before the status grants. I say again, it was one high powered member of the PPM, a lawyer, and you saw him on the front page of the *Caymanian Compass* with the General Secretary the night of their scandalous meeting—

**The Speaker:** Honourable Minister you have five minutes remaining.

**Hon. W. McKeever Bush:** You are not giving me much time, Mr. Speaker.

It was the General Secretary, the Chairman and that member, the three of them from the Bar Association who pushed the idea forward.

Mr. Speaker, I want to refer for a minute on the speech from the Member for North Side where she criticised Cayman Airways in a nice way by asking some dirty questions.

Significant achievements have been made by Cayman Airways in the last three years including strengthening the role the Airline plays in tourism, expanding the routes, launching reliable service to all three Islands and embarking on equipment modernisation. Cayman Airways is faithfully pursuing its mission to be the pre-eminent air service provider to and for the interest of the Islands and each year strategic planning sessions are held and a business plan produced, which details key objectives and reports on progress made. The routes selected were the result of considerable analysis and we have systematically identified, analysed and pursued a short list of short markets which showed the greatest potential. This process resulted first in the launch of Chicago and I should note that while Chicago is a developing market we anticipated this. Management has confirmed that the traffic generated in Chicago since the launch in December 2003 is meeting strategic objections and that is the same with Boston. We have analysed it and that is where a great part of the people are now coming from in the northeast US market.

I should also mention that in addition to relying on our season experts within Cayman Airways the Department of Tourism and our local private sector,

when necessary, Cayman Airways has referred to external experts for a sounding board on aviation management.

In terms of the modernisation of the fleet, Cayman Airways undertook extensive analysis of the matter before selecting the 737/300 and this type of plane was selected, not based merely on the plane's technical specifications, but more importantly on how well the equipment facilitated the company's long term goals as identified in the Business Plan. A further plan was pursued to upgrade the fleet by leasing two of the aircrafts at competitive lease rates well below expectations. For the first time in a very long time the Airline has clearly defined objectives and its resources have been directed at achieving optimal results. While I wish that these positive results would yield an immediate profit for the Airline, I do take pride in knowing that these results are yielding profits for the Cayman Islands' economy and the many persons who directly or indirectly depend on tourism.

**The Speaker:** You have one minute remaining Honourable Minister.

**Hon. W. McKeever Bush:** Mr. Speaker, we are doing well and I am proud of our Management Team, the Board. I would ask the Member for North Side not to make it a political one and anytime she has to say anything about it, not to put her children or family in front of it because I know that they stay out of this issue and she should not do it.

Mr. Speaker, I have not dealt with all the things that I wanted to but I believe the Government is doing well. I think the Minister for Housing and Sports is doing an extremely good job. On housing, I wish that when I was growing up and had to sleep under a leaky roof on a plantain trash bed that I had to keep slipping—I remember this time of the year, the rainy months, how my mother used to worry about those months. I wish to God that at that time we were able to get this kind of house that Government has put forward for people who in that bracket need a house. In growing up I wished so many times for a better place. It pains my heart when people pounce on this to take it out of context. I remember when I was Minister; you could not get any construction company to build small houses—do not talk about giving it to the local contractors, when I went to them they told me they to bring in houses; they told me they could not build them and for ten years, from 1992 or 1994 to 2004 where were all of these people who could do it? They still have time to do it if they can!

Mr. Speaker, I can go in and on but I am having a public meeting Tuesday night and it will be on National Television and Radio. I will have my say on the things that affect the people of this country in a positive way, and I will deal with the Opposition's propaganda, be they from George Town, North Side, East End or from the Dream Team on the right side of the street in West Bay.

The people of West Bay have good common sense and I am not worried about elections. The people can throw me out if necessary. I am concerned about whether we are going to face Europe with the machinery to deal with it because the challenges are coming and while we are rowing about fire ants, elephants are getting ready to trample us.

I think Members of the Government have defended our position very well.

**The Speaker:** Honourable Members this concludes the debate on the Throne Speech. I now call on Madam Clerk.

## PRESENTATION OF PAPERS AND OF REPORTS

### The Education and Training Bill, 2004—Drafting Instructions

**The Speaker:** I call on the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture.

**Hon. Roy Boddén:** Mr. Speaker, I beg to lay on the Table of this Honourable House the drafting instructions for the Education and Training Bill 2004.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Roy Boddén:** Thank you, Mr. Speaker. As Honourable Members will be aware the Educational Law 1999 (Revision) has become obsolete over time and has been overtaken by events and development.

The Education Law of the Cayman Islands must reflect the priority which the Government places on education and training of the people of the Cayman Islands. The Cayman Islands as we well recognise is a major centre of global finance and economics and our people must be adequately educated and trained to compete in the existing world market and to be prepared for the demands of competition in the future.

In 2002 I made a commitment to deliver to the country a new Education Law designed to provide the maximum educational advantage possible to students of all ages. As a former educator myself and consistent with Vision 2008 I adhere to the concept of life long learning. This proposed new legislation provides opportunities for all students to reach their maximum potential.

The proposed legislation sets out lofty goals for education in this country but it provides the means to implement them, not only through academic emphasis and changes, but through technical and vocational emphasis as well. Goals and objectives such as the establishment of a varied relevant and comprehensive education system characterised by excellence and the promotion of education of the people of

the Cayman Islands, by the establishment of educational institutions for the purpose of fostering the spiritual, cultural, ethical, moral, intellectual, physical, social and economic development of the country outlines the essence of this proposed legislation. The goals are broad based and balanced, again reflective of the strategic planning of Vision 2008.

This Legislation presents many changes, some of which are summarised as follows:

1. It is incumbent on the Minister to encourage the development of basic knowledge and skills in all persons including literacy, numeracy and information technology, competency in leadership, teamwork, responding to change, problem solving, creativity, critical thinking, flexibility and decision making. Entrepreneurial skills needed to support economic development and understanding of the role of labour and business in the society and the importance of a positive and productive work ethic.

2. It makes the Minister in concert with the recommendations of the Education Council responsible for establishing strategies to develop an increasingly effective education system to achieve the goals stated above and makes him responsible for the development of a national curriculum, and for providing for its regular reviews and assessments.

3. It addresses basic curricular requirements and requires that in all schools the curriculum shall be broad based, balanced and relevant to the needs of all students. It will promote equality of access and opportunity for all students and prepare them for subsequent stages of education, training or employment and for opportunities, responsibilities and the experiences of adulthood.

4. It defines the key stages in education and provides for assessment at each stage in all schools whether public, private or assisted private schools.

5. It provides for the formal establishment of the school's inspectorate and gives the Chief Inspector responsibility for inspecting all schools, educational institutions and programmes within the remit of its independent office.

6. It creates the responsibility in the Chief Inspector to undertake research and advise the Minister through the Chief Officer on key regional and international trends, developments and research findings in education.

7. It provides for inspection of schools and other educational institutions as mentioned above, but the unique aspect of this process is that it is designed to offer support for the institutions as well as monitoring their performance. This process will offer assistance to principals and teachers in promoting effective learning and high standards of achievement by promoting effective teaching, by helping them respond appropriately to inspection findings and by promoting self assessment and planning.

8. It establishes a school's improvement unit within the Education Department, whose function is to

focus on raising standards, improving teaching and learning, monitoring students' rate of progress and helping schools to address areas of underachievement or poor performance, particularly, prioritising areas of need identified through the inspection process.

9. The Education Council is given the responsibility of advising the Minister on policy relating to preschool, primary, secondary and post secondary education. The licensing of teachers, establishing priorities for the educational system development and for the disbursement of scholarships grant monies.

10. This proposal establishes in law professional responsibilities for teachers and principles and provides for disciplinary action for failure to perform the duties and responsibilities as required.

11. It provides not only for students rights to an educational programme appropriate to their needs, but also gives them responsibilities incumbent upon them under the Law. They must observe the codes of conduct established by the Ministry as well as by each school. They must attend classes regularly and punctually; they must be diligent in pursuing the curriculum set out for them and must observe the stated standards of deportment. This proposal gives students the right to be treated fairly and with dignity and the right to be freed from discrimination of any type.

12. The proposal abolishes corporal punishment in schools.

13. It provides for the discipline of students through a clearly defined system of suspension for a limited period of time and for the exclusion of students whose actions are so unacceptable that it would be unreasonable and or unsafe to allow them to remain in the school. Alternative education programmes are provided for in this proposed Law to accommodate those students of compulsory school age needing an environment outside the traditional school setting. This proposal provides for a system of appeals for those wishing to challenge suspensions or exclusions.

14. It provides for the rights and responsibilities of the parents. It specifically makes parents responsible for the attendance and punctuality of their children. The proposal also makes parents responsible for the torts of their children causing injury to others. Parents are specifically given the right to have a voice in their children's education and to participate in classrooms when it is convenient with the teacher and principal, and when not disruptive of the education process.

15. The proposal requires that Parent Teacher Associations or Home School Associations be established in all private, public and assisted private schools and makes it incumbent on principles to establish these where they do not exist.

16. It provides for early childhood education services suitable to the needs of children three to five years of age. It provides for the inspection of these institutions and requires that they follow a curriculum

prescribed by the Education Department and requires that they be insured for any loss whether personal or property. It also provides for the appointment by the Minister of a council on early childhood education services. It provides also for the option of home schooling for parents not wishing to send their children to school in a regular setting. It places conditions on the provision of this option and requires that an educational plan be submitted which is based on an approved curriculum.

For children in junior high and upwards a licensed and certified teacher must be used for the home school option. Termination of this programme on an individual basis is provided for if the student is not meeting the standards achieved by students in public schools. It establishes a national training board to advise the Minister on policy relating to technical and vocational education and training in accordance with national policies and economic needs; the implementation of standards for technical and vocational education and training; training priorities, qualifications and accreditations, testing, safety and welfare, scholarships and grants, assessing training providers and work based initiatives and a national strategy for technical and vocational education. This proposal also establishes an education appeals tribunal for the settling of any disputes related to education. The tribunal will consider in determining the outcome of an appeal the educational interest of the student who is the subject of the appeal as well as the impact of the decision of the class or school as the case may be. A decision of the Appeals Tribunal will be final and binding and filed with the Clerk of Courts.

An important aspect of the miscellaneous section is the strong prohibition against the sale, use, distribution or possession of any illegal substance or paraphernalia on or around the premises of a school. The penalty is a \$10,000 fine and up to 1 year in prison upon conviction.

The proposed legislation is comprehensive and most importantly, it is implemental. It is a giant step towards academic and training excellence for all people of the Cayman Islands. In keeping with the Ministry's pledge for consultation on new legislation these drafting instructions has been compiled with the assistance of the Education Council.

I should like to thank the Members of Council and the Secretary for their dedicated work which will give us a modern Education Law. I should especially like to thank Mrs. Patricia Slocum who has again acted as our bills officer to accomplish the research and the wording of these drafting instructions.

The drafting instructions will now be circulated to the public and in particular, the education sector for comments for a period of four weeks after which the green bill will be prepared for the September Meeting of this Honourable House.

Mr. Speaker, I commend these drafting instructions to this Honourable House and to members of the public and look forward to receiving construc-



tive criticism although, I know that in this year of election there shall be no shortage of those people who believe they have answers and who are puffed up by that quality which that modern Tory Alexander Pope described as 'a little learning'. Thank you.

**The Speaker:** Honourable Members, I propose to take a fifteen minute afternoon break. I would ask you all to reassemble promptly at 4 o'clock.

**Proceedings suspended at 3.46 pm**

**Proceedings resumed at 4.52 pm**

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

I will call on the Honourable Leader of Government Business to suspend Standing Order 10(2) so that the business of the House may proceed beyond the hour of 4.30 pm.

**Suspension of Standing Order 10(2)**

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I so move the suspension of Standing Order 10(2) to conduct business after 4.30 pm.

**The Speaker:** The question is that Standing Order 10(2) be suspended in order that business may continue beyond the hour of 4.30 pm. All those in favour please say Aye. Those against, No.

**Ayes.**

**Agreed. Standing Order 10(2) suspended in order for business to be conducted beyond the hour of 4.30 pm.**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, in accordance with Standing Order 86 I wish to move the suspension of Standing Order 24(5) in order to bring a motion as a matter of urgency.

**The Speaker:** So ordered. The question is that Standing Order 24(5) be suspended. In accordance with Standing Order 86. All those in favour please say Aye. Those against, No.

**Ayes.**

**Agreed. Standing Order 24(5) suspended in order for Government Motion No. 2/04 to be brought before the House.**

## GOVERNMENT BUSINESS

### MOTIONS

## GOVERNMENT MOTION NO. 2/04

### Amendment to Section 18(2) of the Cayman Islands Constitution Order 1972

**The Speaker:** Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I move Government Motion 2/04 which stands in my name and it reads –

**“WHEREAS, the effect of the British Overseas Territories Act 2002 is among other things, to automatically confer British Citizenship on certain categories of persons, including those of the Cayman Islands, who were British Overseas Territories Citizens prior to the commencement of that Act;**

**“AND WHEREAS as a result thereof the provisions of the Cayman Islands (Constitution) Order 1972 require amendment to ensure that persons who qualified for elected membership to the Cayman Islands Legislative Assembly prior to the coming into effect of the British Overseas Territories Act 2002 continue to so qualify;**

**“AND FOLLOWING correspondence between the Attorney General of the Cayman Islands and the Deputy Legal Advisor of the Foreign and Commonwealth Office in London, UK;**

**“BE IT THEREFORE RESOLVED that this Honourable House recommends to Her Majesty’s Government that section 18 of the Cayman Islands Constitution Order 1972 be amended by adding at the end of subsection (2) thereof the following sentence:**

**‘In this subsection the words “other citizenship” do not include British Citizenship acquired by virtue of the British Overseas Territories Act 2002.’”**

**The Speaker:** The question is: BE IT THEREFORE RESOLVED that this Honourable House recommends to Her Majesty’s Government that section 18 of the Cayman Islands Constitution Order 1972 be amended by adding at the end of subsection 2 thereof the following sentence: “In this subsection the words ‘other citizenship’ do not include British Citizenship acquired by virtue of the British Overseas Territories Act 2002.”

The Motion is now open for debate. Would the Honourable Leader of Government Business wish to speak thereto?

**Hon. W. McKeeva Bush:** In being very brief just to say, this morning that the late start of the House was due to an urgent Cabinet Meeting and a matter to do with British Citizenship and the Cayman Islands Constitution.

This Motion is now aimed at getting the consensus of this Honourable House to recommend to

the United Kingdom Government that the language of the Constitution be amended to ensure that all those who were qualified to be elected prior to the 2002 British Overseas Territories Act continues to be eligible.

**The Speaker:** Does any other Member wish to speak?

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

In reflecting on the Government Motion I had to smile to myself to think that it was entirely possible that the status quo remained with the Constitution that none of us here might have been eligible for election in November of 2004.

Just to say that the amendment to section 18(2) certainly is an order and the Government has said what the intention of it is. The Opposition has certainly reached consensus with regards to the proposed amendments and certainly we trust that London will speedily see the matter through to its end.

Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If not would the Honourable Leader of Government Business wish to exercise his right of reply?

**Hon. W. McKeeva Bush:** Mr. Speaker, I think that this matter has the full support of all Members and therefore I do not have anything to offer other than what was said.

**The Speaker:** The Question is: BE IT THEREFORE RESOLVED that this Honourable House recommends to Her Majesty's Government that section 18 of the Cayman Islands Constitution Order 1972 be amended by adding at the end of subsection (2) thereof the following sentence:

"In this subsection the words 'other citizenship' do not include British Citizenship acquired by virtue of the British Overseas Territories Act 2002."

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

**Ayes.**

**Agreed: That this Honourable House recommends to Her Majesty's Government that section 18 of the Cayman Islands Constitution Order 1972 be amended by adding at the end of subsection (2) thereof the following sentence: "In this subsection the words 'other citizenship' do not include British Citizenship acquired by virtue of the British Overseas Territories Act 2002."**

**Government Motion No. 2/04 passed unanimously.**

## ADJOURNMENT

**The Speaker:** I would now call on the Honourable Leader of Government Business for the adjournment but before doing so, I would just remind Honourable Members that the Financial Secretary has asked that you attend a meeting here at 9 am on Monday, 19 July for discussion on pension matters.

Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

We are going to propose that the House meet at 11 am in order to conduct the briefing that we proposed to do from 9 am on Monday.

Before I move the adjournment I would like to say to Members that we intend to work late this coming week in order to complete business before us; several Bills, various Papers and some Private Members' Motions, all business before the House to be completed. We would not work past 10 pm but perhaps up until 10 that night.

I move the adjournment of this Honourable House until 11 am Monday, 19 July 2004.

**The Speaker:** The question is that this House do now adjourn until 11 am on Monday, 19 July 2004. All those in favour please say Aye. Those against, No.

**Ayes.**

**At 5.00 pm the House stood adjourned until 11 am Monday, 19 July 2004.**



**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**19 JULY 2004**  
**11:30 AM**  
*Eighth Sitting*

**The Speaker:** I invite the Third Elected Member for Bodden Town to lead us in prayers.

apologies for late arrival from the Second Elected Member for Cayman Brac and Little Cayman.

**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 Cabinet 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 11.32 am**

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

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

**Apologies**

**The Speaker:** Honourable Members, I have received apologies for absence from the Honourable Minister for Education, Human Resources, and Culture; and

**PRESENTATION OF PAPERS  
AND OF REPORTS**

**The Water Authority of the Cayman Islands Annual  
Report 1999 - 2000**

**The Speaker:** The Honourable Minister of Community Services, Youth, Sports and Gender Affairs.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, Honourable Members of the Legislative Assembly, I am pleased to lay on the Table of this Honourable House the Water Authority's Annual Report for the years 1999 and 2000. Both years were successful for the Water Authority as the Company further expanded its services and addressed the water and sanitation needs of the Cayman Islands.

Mr. Speaker, Honourable Members of the House, on behalf of the Water Authority, I acknowledge that there has been some delay in the laying on the Table of this Honourable House of the Annual Reports for 1999 and 2000. The Authority accepts responsibility for this delay that was due to a number of unavoidable reasons including the implementation of a new billing system and the delay in completing the 1999 audit until 2001. However, Mr. Speaker, I am pleased to report the Authority expects to be up to date with all the remaining reports during the September sitting of this Honourable House.

**The Speaker:** Honourable Minister, I take it that you have laid the paper on the Table of the House and it is so ordered.

Please continue.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, during the years 1999 and 2000 the Authority continued to grow and meet the challenges of the rapid development of these Islands with regards to water and wastewater infrastructure and services.

I am pleased to say that the water and wastewater services provided to the people of these Islands may be compared favourably with that found in the industrialized world. Of that, we can all be justly proud. Access for all to a wholesome supply of water and proper treatment and disposal of wastewater is a vital investment in our Public Health as well as our environment.

The Authority continues to provide good and affordable service to its customers and to generate

capital for expansion of services in the outer districts and Sister Islands.

Mr. Speaker, I will now give a brief overview of the accomplishments and activities for each year. The Year 1999 brought all into the area of Y2K compliance and the Water Authority was no exception. One of the challenges for the Authority in the year was the upgrade of the accounting and billing software to Y2K compliant systems. This was a complicated process and was carried out successfully. In terms of 1999 financial performance, I am pleased to report that the Authority maintains a positive financial position with growth operating profits increasing by 15 per cent although the net profit remains about the same as 1998 – namely CI\$3.2 million and CI\$3.6 million. Reflecting the higher administrative expenses relating partly to additional staff they needed to cope with the growing numbers of customers as well as increase in utilities, legal fees, and depreciation expenses.

Other activities of the Water Authority in 1999 included the expansion of the water supply system from Frank Sound up to the Blow Holes in East End. To meet the needs of the rapidly increasing demand for water supply infrastructure, the Authority increased water production capacity in Grand Cayman and installed additional storage capacity in Grand Cayman and Cayman Brac. In addition, the Authority continued its search for suitable property in North Side where water production and a storage facility would be located. Preparing for the long-term, the Authority was fortunate in 1999 to purchase 7.5 acres of land adjacent to the Red Bay Water Works for future expansion of the public water supply system in Grand Cayman at a cost of CI\$1,750,000.

In reference to wastewater, the existing wastewater treatment facility in Grand Cayman reached the end of its useful life earlier than expected in the original 1986 design. From 1998 plans were in motion to replace the plant with a more resilient and expandable plant that would be capable of meeting the expected wastewater flows in Grand Cayman for more than 15 years. In 1999, the Authority continued working on the engineering design and on obtaining financing for the multi-million dollar project. The Authority continued in 1999 to support training opportunities to staff as the Authority recognises its employees as its greatest asset. I am pleased, Mr. Speaker, to report that in 1999 the Authority continue to carry out its statutory function with regards to ground-water protection.

In the year 2000, again the Water Authority experienced a substantial growth in demand for public water supply – an increase of about 16 per cent over 1999. The Authority was continually challenged to ensure it could keep pace with the water and waste water infrastructure required to meet the Islands' needs. Also, in the year 2000 the Water Authority maintained a positive financial position. Operating revenue and overall revenue increased by 13 per cent

from 1999. However, with the acceleration of depreciation of the sewerage treatment works, operating expenses increased. Net profits decreased by four per cent from 1999 reflecting the higher expenses.

The Authority received approval to enter into the US\$12.8 million loan with the then CIBC Bank & Trust Company (Cayman) Limited for financing of the Grand Cayman Wastewater Treatment Works Project. The Agreement was signed in December 2000.

Mr. Speaker, also of significance this year, 2000, is that the Authority after several years of discussion with the Government was able to reach an agreement on the matter of contribution to Government revenue. The Executive Council and the Authority's Board have approved the formula that sets out the amount the Authority would be required to contribute, because this will impact the availability of retained earnings for capital projects, the Authority and Government have entered into discussion on a set amount of contributions for the next two years. The Water Authority and the Cayman Islands Government agreed that the Authority pay a dividend of \$150,000 per year.

Following successful negotiations with Ocean Conversion Cayman Limited on the terms of the water production license for the Red Bay Reverse Osmosis Plant, the Authority was able to secure a saving of up to \$800,000 per year on water purchased that was effective 1 December, 2001 after refurbishing of the Plant.

Another significant development was the completion of the master plan for the Red Bay Gate site to include the additional 7.5 acres of adjacent property purchased in 1999. The investment in this property was timely and allows the Authority to plan water production and storage facilities for the long term. Mr. Speaker, in terms of the installation of water infrastructure, the Authority made good progress with the East End Extension Project from the Blow Holes into the middle of the District. The Authority continued to review its options for a facility in North Side/Frank Sound area. The Authority continued to develop its operations in Cayman Brac with a construction plant for storage building and a successful completion of repairs on the 500,000 U.S. Gallon Reservoir.

In October 2000, the Authority underwent a change in top-management when previous Director resigned to take up a position with Consolidated Water Company. The Board was very pleased to promote the Deputy Director, Dr. Gelia Fredrick Van Genderen to Director.

I am pleased to report, Mr. Speaker, that the Authority continued to invest significantly in training and development of personnel and continued to support various sports and activities related to young people as well as other charitable organisations within the local community.

The Authority continued to carry out its statutory functions with regard to protection of ground-water resources through monitoring of quarry opera-

tions ground water abstraction, ground water pollution incidents, development control and effluent disposal.

Mr. Speaker and Honourable Members of the Legislative Assembly, I look forward to the continued success of the Water Authority. It is important to recognise that a public utility, and in fact, any organisation which serves the people, must never become complacent and should endeavour to meet the challenges of the future with planning and preparation. The Report before the House, Mr. Speaker, demonstrates the considerable achievement of the Water Authority as it keeps pace with the needs of our Islands. I would like to thank all of my colleagues in the Cabinet and Legislative Assembly for their continued support.

Thank you.

### **Personnel Department Employment Information and Personnel Activity Report**

**The Speaker:** The Honourable Temporary First Official Member Responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, I beg to lay on the Table of this Honourable House the Personnel Department Employment Information and Personnel Activity Report for 2003.

**The Speaker:** So ordered.

Would the Honourable Member wish to speak thereto?

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, just to say that the Report contains a wide assortment of statistical information on the activities, the human resource aspect of the Public Service engagements, promotions, terminations, whatever. It has been developed to a large extent as a proactive response to the curiosity of Members and the public as to what goes on within the Public Service. I trust Members will find it useful. It requires the background to consider in matters that come to their attention in relation to the Public Service.

Thank you.

### **The 2003 Annual Report of the Central Planning Authority and Development Control Board**

**The Speaker:** The Honourable Minister responsible for Planning, Communications, District Administration and Information Technology.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to lay on the Honourable Table of this House the Annual Report for the Planning Authority for the Development Control Board (DCB) as well as the Central Planning Authority (CPA).

**The Speaker:** So ordered.

Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, thank you, Mr. Speaker.

Mr. Speaker, as you would well know, having been the former Minister responsible for this Ministry for a number of years, Section 50 of the Development and Planning Law (2003 Revision) requires that the Authority submit a report to the Governor in Cabinet for the information of the Honourable Legislative Assembly containing and account of activities during the past 12 months ending on 31 December of the previous year.

Highlights of the 2003 Annual Report include reference to the very positive increases in development activity, proposed revisions to the Development Plan 1997, the Sister Islands ad-hoc Committee for Sustainable Development, and work with the telecom providers on infrastructure sharing. Government is extremely proud and pleased with the economy, and this is certainly borne out in the Planning Statistics for 2003. There was a significant overall boost in development with increases in 2002, levels of 19 per cent in planning approvals; 13 per cent in value of projects; 44 per cent in building permits; and 37 per cent in certificates of occupancy.

The review of the Development Plan for 1997, Mr. Speaker, was also a primary focus on the Central Planning Authority in 2003 and the proposed amendments were sent to the Development Plan Tribunal in April 2003. The Tribunal subsequently released its findings and the Central Planning Authority carefully considered the recommendations. The final proposed amendments were then forwarded to the Ministry in the first quarter of 2004, and it is hoped that they will be brought to this sitting, June 2004 Meeting of the Legislative Assembly.

As Honourable Members will be aware, the Development and Planning Law mandates that a Report of Survey be conducted every five years. Government also established the Sister Islands' ad hoc Committee for Sustainable Development and this Committee was chaired by the Chairman of the Development Control Board with the Director of Planning as Secretary. The Committee's Brac Report 2003 – 2007 was accepted by Government and tabled by the Legislative Assembly in June 2003 by your good self. The Report is now available to the public on the Planning Department's website. Mr. Speaker, I also ask that Honourable Ministers and Members note that the Ministry of Planning, Communication, District Administration and Information Technology has now established the Steering Committee to move forward on the implementation of the recommendations in the said Brac Report 2003 – 2007. This Committee is now chaired by our District Commissioner and meetings have commenced. Both the CPA and the DCB has spent a considerable amount of time on cellular

phone tower applications where staff and other agencies worked with applicants, both the incumbent provider as well as new entrants, to encourage infrastructure sharing between providers in order to prevent the proliferation of towers. In short, 2003 was a very successful year, both for the CPA and the DCB.

Mr. Speaker, I would like to take this opportunity to sincerely thank you, as the previous Minister responsible for Planning, as well as the Members of the CPA, DCB, and the support staff from the Department of Planning for the hard work and dedication. I now look forward to continuing to build on the positive foundation and performances of 2003.

I thank you, Sir.

**The Report & Recommendation of the Minister responsible for Lands on the Vesting of Crown Land, Block 4E, Parcel 201, to the Church of God Chapel, Town Hall Road, West Bay**

**The Speaker:** The Honourable Minister responsible for Planning, Communications, District Administration and Information Technology.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I seek permission to lay on the Table of this Honourable House one Report on Crown Property that has been prepared in accordance with the requirements of the Governor (Vesting of Lands) (Cap. 1) Law (1998 Revision).

**The Speaker:** So ordered.

Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I can confirm that as required by the said Law, the details of this land matter has been published in the Cayman Islands Gazette Issue Extraordinary No. 6 of 2004, dated 9<sup>th</sup> February, and a local newspaper – namely, The Caymanian Compass on the 10<sup>th</sup> February, 2004. Also, as required by Law, three evaluations have been carried out on the subject property. Each valuation report forms part of the Overall Report and provides a general indication of the value of the property that Government now proposes to vest.

The Report deals with the vesting of Block 4E, Parcel 201 to the Church of God Chapel, Town Hall Road, West Bay. This property is located on the Town Hall Road, as I said, in West Bay, south of the Church. The parcel is approximately quarter of an acre in size, and due to its small size and the fact that the land does not adjoin any other Crown Property, Government has decided to vest the property to the Church. The Church plans to use the land for additional parking. To this end, the Governor in Cabinet has agreed to dispose of Block 4E, Parcel 201 to

Church of God Chapel, Town Hall Road, West Bay. A report on this matter was duly considered by the Governor in Cabinet, and after careful analysis and consideration of the Reports provided by the Director of Lands & Survey, the Governor in Cabinet determined that it should dispose of the Property to the Church of God Chapel, Town Hall Road, West Bay for a peppercorn.

Mr. Speaker, I ask permission to now get the Sergeant to accept it for the laying on The Honourable House Table.

**The Speaker:** So ordered.

**The Royal Cayman Islands Police Service Annual Report 2002**

**The Speaker:** The Honourable Temporary First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to lay on the Table of this Honourable House the Royal Cayman Islands Police Annual Report for 2002.

**The Speaker:** So ordered.

Would the Honourable Member wish to speak thereto?

**Hon. Donovan W. F. Ebanks:** Thank you, Mr. Speaker.

Mr. Speaker, only to offer some apologies on behalf of the Royal Cayman Islands Police who are regretful for the delay in this Report, and have assured us that the 2003 Report is well on the way and will be presented to this Honourable House in a little more timely manner.

Nevertheless, I trust that Members and the public will find the public will find the Report useful. It does provide substantial information – over 100 pages of information – on the activities, the diversity, and various statistics related to the activities of the RCIP. I recommend it to Members for their perusal and hopefully their edification.

**Annual Economic Report 2003**

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economics.

**Hon. George A. McCarthy:** Mr. Speaker, I beg to present to this Honourable House the Annual Economic Report 2003.

**The Speaker:** So ordered.

Would the Honourable Member wish to speak thereto?

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

Mr. Speaker, this Annual Report highlights the Country's overall economic performance across various sectors. The year 2003, reaffirmed a solid turnaround of the Cayman Islands Economy and signals that the country is well positioned for continued economic health and vitality.

Turning now to some highlights on World economy. The global economy grew modestly from three per cent in 2002 to 3.9 per cent in 2003 with most regions experiencing accelerated growth. The main impetus for this improvement was a continued expansion in consumer spending and a recovery in the business spending, particularly in the second half of 2003. During this period, most Governments adopted supportive fiscal and monetary policies to strengthen their economies. The U.S. Economy grew by 3.1 per cent in 2003, up 2.2 per cent in 2002. Consumer spending remained strong last year fuelled by federal income tax cuts, mortgage financing, and home equity lines of credit.

The labour market showed some weakness however, the United States unemployment rate increased from 5.8 per cent in 2002 to 6 per cent in 2003. The United States dollar fell against major currencies for the second year in a row. This appreciation resulted from a low U.S. interest rates and a growing current account deficit. Another concern in some quarters was the growing federal deficit, particularly in light of tax cuts that the Bush Administration wants to make permanent. The United Kingdom's economy showed greater resilience than other Western European Countries.

Gross Domestic Product went from 1.7 per cent in 2002 to 2.3 per cent in 2003. Economic Growth in the Euro area, as a whole however, slowed from 0.9 per cent in 2002 to 0.4 per cent in 2003. A turnaround in the business investment and export to the United States and China led to a 2.7 per cent expansion in the Japanese economy. While this was a significant improvement over the 0.3 per cent contraction experience in 2002, there are fundamental structural problems still plaguing the World's second largest economy. Developing Asian economies continued to show strength in 2003. China's growth, driven mainly by inward investments, accelerated from 8 per cent in 2002 to 9.1 per cent in 2003. Strong demand from China for raw materials has impacted positively on resource-rich countries. The Indian economy also accelerated from 4.7 per cent in 2002 to 7.4 per cent in 2003, benefiting from the outsourcing of services from the United States and other countries.

Closer to home—Latin America and the Caribbean grew by 1.5 per cent in 2003, reversing the decline of 0.4 per cent experienced in 2002. The rebound in Tourism, particularly in the English-speaking countries led to an expansion in the Caribbean Economies in 2003. Strong prices and higher volumes also benefited commodity-exporting countries.

I now turn to the Domestic Economy. Mr. Speaker, the Cayman Islands, in 2003, experienced high growth, lower unemployment, and a lower inflation compared to 2002. It was a solid economic performance for our Country. Real Gross Domestic Product Growth for a consecutive year accelerated from 1.7 per cent in 2002 to 2 per cent in 2003. This upward trend mirrored the performance of the Global Economy. Gradual improvement in the Caymanian Economy was reflected in the buoyant activity in local construction industry, higher imports and increases in Government revenue.

Consumer inflation increased by 0.6 per cent in 2003 compared to 2.4 per cent in the previous year. The inflation rate was influenced by price increases for medical services, household equipment, food, and education. These increases were offset by declines in other areas, namely – housing, clothing, and personal goods and services. Another positive indicator of the continued improvement in our economy was a reduction in the unemployment rate. The December 2003 labour-force survey results placed the unemployment rate at 3.6 per cent, a tremendous reduction from 7.5 per cent unemployment in 2001. I will now provide an overview, Mr. Speaker, of the performance of key economic sectors of our country. The financial services sector recorded positive results in most areas in 2003. Growth was seen in Mutual Fund registrations, Insurance Company registrations, Insurance Premiums, Stock Exchange Listings, Stock Market Capitalization, and New Company Registrations.

One notable exception was the decline in the number of Banks and Trust Licenses, which fell by thirty four. This reduction was owed to consolidations within the Banking Industry and the cost implications of establishing physical presence, as required by law.

I am pleased to report that despite challenges posed by international initiatives, the Cayman Islands remained the jurisdiction of choice for investment and retained its position as one of the World's leading Financial Centre in 2003. External assets of banks in the Cayman Islands stood at US\$1.06 trillion in December, 2003; up by \$43.7 billion from December, 2002 position. The total number of insurance licences increased by 672 in 2003; this was primarily due to a rise in the number of Class B Captive Licenses. Class B Captive Licenses increased by 44 to 644 in 2003. Medical malpractice lawsuits in the United States continue to be the driving force behind the growth in Captives followed by Workers Compensation. Total premiums for Captives grew by US\$700 million in 2003 to US\$4.9 billion.

Mutual funds are another Cayman success story. With a significant percentage of the World's Hedge Funds registered in the Cayman Islands we remain the leader in this segment of the Global Financial Market in 2003. Fund registrations increased by 523 or 12.2 per cent to 4,808 in 2003. The Cayman Islands Stock Exchange Listings grew by 735 in 2003,



an increase of 25 from the previous year. Between 2002 and 2003, market capitalization rose by a healthy 20.9 percent to US\$43.9 billion.

Total Company Registrations increased to 68,078 in 2003 or by 2,819. New Company Registration rose for the first time in three years. The continued strengthening of the Global Economy had a positive impact on registration.

Ship Registrations totalled 1,473 in 2003 with gross tonnage amounting to 3.2 million. The number of new registrations in 2003 amounted to 186 including 152 pleasure yachts.

Over two million tourists visited the Cayman Islands during 2003. This figure represented an increase of 12.5 per cent over 2002. Cruise ship visitors increased by 15.5 per cent to 1.8 million, while air arrivals declined by 3 per cent to 293,000. It is important to note that the declining trend in the air arrivals started to reverse in the latter part of 2003 and the Cayman Islands registered a positive growth of 4.9 per cent in the last quarter of 2003 compared to the last quarter of 2002.

Real estate also performed well in 2003. The value of properties transferred grew by 19 per cent to \$326 million in 2003. Investment in real estate was stimulated by historically low interest rates and the Government Stamp Duty concessions.

The Construction Industry benefited from strong housing demand and tourist related investments. Planning Approvals rose from \$243.9 million in 2002 to \$273.9 million in 2003. However, given the substantial progress on several large projects, building permits fell by 26.9 per cent to \$177.6 million.

Utility consumption grew in 2003. Water consumption increased by 15.6 per cent from 1,164.7 million gallons in 2002 to 1,198,000 gallons in 2003. Total electricity usage rose by 4.4 per cent, moving to 444.3 million mega watts in 2003. Migration to greater use of the internet resulted in a 3.4 per cent decline in telephone/fax paid minutes.

Mr. Speaker, I would now also like to acknowledge that 2003 was a milestone for telecommunications in the Cayman Islands with the start of the liberalisation of the Telecommunications Industry. I think, Mr. Speaker, you will be quite pleased to hear that fact being reported given your involvement in the process.

**Economic Report and Economic Outlook:** Mr. Speaker, since 2001, there has been a steady improvement in economic conditions. Global growth is projected to accelerate from 3.2 per cent in 2003 to 4.1 per cent in 2004. Real growth in the United States is projected at 3.9 per cent in 2004, up from 3.1 per cent in 2003. The Cayman Islands will benefit from continued strengthening of the United States Economy in the form of inward investments and visitor spending. Real Growth for the Cayman Islands is projected at 2.8 per cent in 2004, up from 2 per cent in 2003. Unemployment is expected to hold steady at 3.6 per cent in 2004. Inflation is projected at 2 per

cent up from a low of 0.6 per cent in 2003. As we know, the outlook for tourism, both cruise and stay-over visitors is strong growth in 2004. The construction industry also continues to fuel the economy as is evident throughout the country. Investments in telecommunications are significant this year. All in all, Mr. Speaker, it is shaping up to be another year of strong economic performance; that is, the year 2004.

Thank you very much, Mr. Speaker.

## QUESTIONS TO HONOURABLE MINISTRES AND MEMBERS OF THE CABINET

**Mr. Speaker:** I would, at this point call on the Honourable Leader of Government Business to move the Suspension of Standing Order 23(7) and (8) to allow question time to be taken beyond the hour of 11 a.m.

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker.  
I move the suspension of Standing Order 23(7) and (8) in order to take questions after 11 a.m.

**Mr. Speaker:** The question is that Standing Orders 23(7) and (8) be suspended to allow Question Time to be taken 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 to allow Question Time to continue beyond 11.00 am.**

### Question No. 1

**Mr. Speaker:** The Second Elected Member for George Town.

**No. 1: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development, and Commerce to explain the nature of Government's involvement in the development of a port facility in the Half Moon Bay, High Rock area of East End, stating specifically whether it is intended to construct the facility on Government-owned land.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment, Development, and Commerce, and Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** The East End Port Project is still in the discussion stages.

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

### Supplementaries

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

That I could not describe as being the most forthcoming of answers. Mr. Speaker, I wonder if the Honourable Minister could give us some enlightenment about the nature of the discussions: What are the likely properties on which this is going to be developed, if it is going to be developed? He has in the past made far more fulsome statements about Government's intentions in this regard and I believe the country as a whole would benefit from some further edification, particularly at this stage of his term of office, Mr. Speaker.

**The Speaker:** Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, the Member is right. I have already given a tremendous amount of information, which is already public knowledge under the Standing Orders. Just to say, Mr. Speaker, there are significant considerations yet to be decided and, therefore, at this point, I cannot give anymore information than what I have already said publicly.

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

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

Mr. Speaker, there has been much talk around about the excavation of some 90 acres of land, which, as it has been described to me, sits over one of the principal water lenses in the Island behind the area known as High Rock. Therefore, from this excavation a significant amount of fill is to be used for purposes not connected necessarily with the Port Facility, which is being proposed, and there is to be a development of a huge lake, sub-division and all of those various things. It is to those specific aspects that I would ask the Honourable Minister to turn his attention to and provide us with some sort of response.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, the Member is right; there is much talk. I am awaiting further information. I know earlier – months back when we gave a tremendous amount of information on this, in this house and otherwise, there were no plans for the proposal to reach anywhere near the freshwater lenses. So, Mr. Speaker, I cannot tell the Member anymore than what I have already said publicly. When I get full information I am going to make full disclosure at that time, but presently, I cannot say

anymore than what has already been gleaned publicly.

**The Speaker:** I will allow one more supplementary.

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

I know the Minister says that at this stage he is still at the discussion stages but I wonder if the Minister can tell us and the country, with whom is the Government in discussions with to build this proposed dock in East End.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, in keeping with the Standing Orders, that Member himself was on a public platform discussing who owned the property or who had purchased the property. So, Mr. Speaker, it would be whom we would have to have the discussion with if the project goes ahead; if we support the project once the owner of the property gets going. That is already public information made known by the present Member from East End.

**The Speaker:** This is the last supplementary.  
The Elected Member for East End.

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

I do not know where the Minister is getting his information from, but it is my understanding from the papers that the ownership of that property has changed to that of Joe Imparato. Now, if that is what he is referring to, fine. However, can the Minister say if Joey O'Brien is a part of that discussion also?

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** I do not even think I know the man, but I do .....

*(Inaudible comments)*

**Hon. W. McKeever Bush:** Well if I do know him then that is something new to me. They are saying I know him and maybe it is someone that I do know, but I certainly do not know who they are talking about. I have heard the name, but we are having no discussions with such persons; no discussions!

Mr. Speaker, if the Member knows something, then he should get up and say so because I do not know. I know that the current owner is talking to us regarding the project and I have given tremendous amount of information in regards to the project. We have not gotten any further, Mr. Speaker, therefore I cannot give anymore information, but if he knows something, then he needs to say so. Maybe there is something that I should know that I do not know.

## Question No. 2

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

**No. 2: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development, and Commerce to explain the process by which the contract for The Royal Watler Port Project has been awarded.

**The Speaker:** The Honourable Minister for Tourism, Environment, Development, and Commerce and Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** The project was tendered by the Project Manager, the Burns Connolly Group, to six local contractors as a Design/Build Project. That means the design and the construction would be completed by the contractor. The Design/Build contract was recommended as the fastest process for delivering the project and most similar marine works around the World are carried out using this type of contract.

The following local contractors were requested to tender and all received tender documents: Arch & Godfrey (Cayman) Ltd.; Hadsphaltic, Ltd.; Hurlstone, Ltd.; K-Coast Ltd.; McAlpine (Cayman), Ltd.; and UBC, Ltd.

Shortly after the tender issue, Hadsphaltic informed the Project Manager that it was withdrawing from the tender proceedings and documents were returned. Additionally, Arch & Godfrey and McAlpine requested to tender jointly as one team; this was allowed by the Project Manager. The tenders were ultimately received and the remaining contractors had all selected to joint venture the marine works with overseas companies with the relevant technical expertise. Thus, the final bids were received from the following four groups:

1. Arch & Godfrey/McAlpine;
2. Hurlstone/Misener Marine of Florida;
3. K-Coast and a company out of Florida;
4. UBC and a company out of Trinidad.

The tenders were opened and recorded in the presence of Port Authority management. The tenders were reviewed by a select Technical Committee of the Port Authority Board and the Project Manager.

It was clear from the initial submissions that the quality, and in some cases, quantities proposed in the tender submission, was significantly different from contractor to contractor. Additionally, the methodology of each contractor was different, some even disrupting the operation of the Port Authority on its day-to-day operation.

The Technical Committee requested that the Project Manager interview each team and clarify the differences between the tenders. Interviews were held with all parties. At the end of the interviews, the Pro-

ject Manager prepared a list of clarification questions that were sent to each team for response. All teams submitted responses. The responses were tabulated and reviewed. The technical Committee rated the four contractors based on information submitted and requested that the Project Manager report the findings to the Port Authority Board.

The contractor team of Hurlstone/Misener were chosen based on proven experience methodology, lack of disruption to the daily operation of the Port Authority, the quality of their proposed design and construction, and best value and best quality on material.

The Port Authority Board accepted the Hurlstone/Misener and recommended that the marine portion of the works for the cargo pier be started immediately by Misener as the cargo pier was in urgent need of repair and widening. Discussions continued with the team to finalize the details of the tender pier portion of the works and the buildings. The cargo portion of the works was completed ahead of time and on budget and has been in use for over seven months. Ultimately proposals from Hurlstone and Misener for work to the bulkhead & tender pier and facility buildings were technically reviewed, finalized, and contracts let for the works.

Currently, the Project has received all costal-works licenses and Planning Permission. The Hurlstone team is finalising the detailed technical drawings and are proceeding with demolition and fill on-site. The marine portion by Misener is on schedule with construction due to be completed this October.

**The Speaker:** Are there any supplementaries?

The Second Elected Member for George Town.

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

Mr. Speaker, I wonder if the Honourable Minister can tell us what the contract price was, and also if there were significant differences in terms of costs between the proposals of the four companies. Could he also explain what those differences were?

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, the Project Manager is here and I am going to have to get some of this information from him.

**The Speaker:** Please continue then.

**Hon. W. McKeeva Bush:** Mr. Speaker, on the supplementary, while the Misener/Hurlstone initial tender was the highest, upon review of the details the quality and scope of works of that team far exceeded any other bidder and importantly did not disrupt the lifeline operation of the Port Authority.

Prices varied from \$10.9 million to about \$17 million prior to analysis. The cost from Misener was approximately US\$10.2 million and Hurlstone C\$5.2 million. Mr. Speaker, the difference was that not all bids were for the same amount of work and the quantities of work was different from what we were asking for, in fact. Certainly, if we had taken the bids of the others, while they were a bit lower, in the long run it would have cost the Port much more; more in maintenance because nobody could quantify it when we asked them; disruption – more in cost of disruption to Port Authority operations; and they did not guarantee completing pilings without extra costs, so that was an unknown amount of money, which they had not told in the bid; and the design had greater risks to the environment.

Thank you, Mr. Speaker.

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

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

Mr. Speaker, as I have understood the Honourable Minister, the Misener bid was \$17 million.

**Hon. W. McKeeva Bush:** No, I did not say that.

*(Inaudible comments)*

**Mr. Alden M. McLaughlin, Jr.:** Perhaps the Honourable Minister, before I proceed could clarify that. To remind him of what he said—he said that the bids ranged from \$10.9 million to \$17 million and that Misener's bid was the highest, hence my conclusion.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

Mr. Speaker, as I said, I have the Project Manager here and I had to discuss it with him, but as I said, prices varied from \$10.9 million to about \$17 million prior to analysis. I said, Mr. Speaker, that Misener was approximately US\$10.2 million and Hurlstone was C\$5.2 million. They bid together; that is what I am saying.

**The Speaker:** I will allow two more supplementaries.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, just trying to do it roughly here. It seems like the total for that joint bid is somewhere around \$13.5.

**Hon. W. McKeeva Bush:** Total for the joint bid was US\$16.6.

**Mr. Alden M. McLaughlin, Jr.:** So, Mr. Speaker, I take it that that was the contract price. I do not want

to lose a supplementary by having him respond to that.

I wonder then, Mr. Speaker, if the Minister can say who comprised the Technical Committee and also who determined ultimately who the contract would be awarded to, and confirm this was not something that was dealt with by the Central Tenders Committee.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, the Technical Committee consisted of the following persons: Mr. Wilbert Thompson, Mr. Frank Flowers, Mr. Rayburn McLaughlin, Mr. Clement Reid, Mr. Paul Hurlstone, and Mr. Burns Connolly. The Board of the Port Authority made the final decision.

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

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

Mr. Speaker, as I understand it, the Minister, in a previous reply to a supplementary said there were a number of factors that eliminated the other contractors, such as the quality of material, the disruption that would be possible to the Port and the likes. Can the Minister tell us if these other contractors were not made aware of the requirements to not have any disruption, the type of materials that was required, and if so, why was it that they did not bid on that basis.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

Mr. Speaker, I have told the House that it is – and I have said this to the Country already – a design/build contract, which means that the contractors made the proposal. The Technical Advisory Committee analysed what was submitted, so I do not know why they did not include all those things, but certainly the Technical Committee analysed what was submitted. These are the main issues, the ones that I have already reiterated to the House. For instance though, Mr. Speaker, such things like the second bidder, which was McAlpine, would have put the crane on the dock and built out rather than from a barge as Misener did, which would have disrupted the entire works of the Port.

So, these are the issues, Mr. Speaker. It is a design/build, and if they are asking why it did not go to Central Tenders, it was because the Port took it and went this route with it as this was the best way to go with it. Mr. Speaker, I should remind them that there were other matters that did not go to Central Tenders, so they should probably ask those people why they did not go to Central Tenders. Nevertheless,

this money is not Government's money, this is money from the Florida Caribbean Cruise Association, and again, I will repeat, if we had taken their bid, the various bids, while they were a bit lower, in the long run it would cost the Port much more and the main issues I have already reiterated, Mr. Speaker.

I can say no more on this.

**The Speaker:** Honourable Members, this ends question time. I propose to take the luncheon break at this time and suspend until 2:30.

**Proceedings suspended at 12.44 pm**

**Proceedings resumed at 2.48 pm**

## **STATEMENTS BY MEMBERS AND MINISTERS OF THE CABINET**

### **Strategies and Methods to Enhance Positive Social Change and Address Negative Social Factors**

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Thank you, Mr. Speaker.

Mr. Speaker, if I could I would like to make a few brief remarks before I begin to read from my statement. I would say, Mr. Speaker, it has become apparent to me that many of my colleagues here in the Legislative Assembly are not aware of many of the accomplishments which have been made in my Ministry over the past two years. As a result of that I am thankful for your indulgence in order that I might be able to read this statement.

### **INTRODUCTION**

The Ministry of Community Services, Youth, Sports and Gender Affairs is responsible for strategies and methods to enhance positive social change and address some of the negative social factors. At-risk persons and their families have multiple needs and inter-related problems that are not likely to be successfully addressed by single-response, stand-alone initiatives. My Ministry has embraced the concept of community-based collaborative, which are focused on services integration or case management, parental involvement, using volunteers for tutoring or mentoring, implementing marketing and fundraising activities, and monitoring and evaluating programme outcomes. Research has shown that implementing community-based collaborative can be difficult. However, this has not required additional major funding since we have reallocated existing funds in an effective manner that eliminates duplication and creates a comprehensive continuum of care.

To this end, the Ministry embarked on a restructuring programme for the departments and units within the Ministry to achieve its vision of a multi-disciplinary approach to service delivery. Change occurs on a daily basis and is necessary in order to cope with the changing demands of Cayman's society. My Ministry convened a series of one-day retreats this year to continue communicating the vision to staff and to allow them to identify the strengths and processes or programmes that need to be improved or changed within each department as we move forward.

The fact that changes have taken place does not mean that additional changes are not viewed as necessary. It is important that we all adapt quickly to meet the changes in our society, monitor these changes and be ready to quickly change again if required. Communication through a multi-disciplinary team approach is allowing us to achieve this in the most comprehensive and cost-effective manner. These changes include:

The Department of Social Services began major organizational changes including:

- The name of the Department of Social Services (DSS) was changed on July 1, 2003 to the Department of Children and Family Services (DCFS) to better reflect the new client-based focus and service delivery strategies.
- After receiving feedback during several working sessions with social workers, it was determined that the best approach would be to decentralise the department so that services can be delivered to the community on a district level. It was also decided that social workers would specialise their expertise to better advocate for those services with clients. The Ministry has started to operationalise these plans, which is taking effect as we speak.
- A Special Projects Coordinator and a Training Specialist were employed to assist with the integration of services and necessary training of staff to develop a continuum of care within the social services arena and to guide the restructuring of the Department of Children and Family Services.
- Children And Youth Services (CAYS) Foundation continues to evaluate and adjust its services for troubled youth. CAYS were established in the latter part of 2002 as a not-for-profit public/private partnership managed by a board of persons from the government and private sector. Their purpose is to provide residential and day services to children who are court involved.
- The Probation and Aftercare unit was removed and placed as a separate agency to provide more autonomy and to better position this agency to work with the Criminal Justice System.
- The Community Development Unit was initially placed with the Department of Youth and

Sports, and later moved to the National Housing and Community Development Trust. This was done to ensure that the new Affordable Housing Initiative has a system in place to determine a cross-section of people to qualify for the homes and to maintain a healthy social structure within these housing communities.

## ACCOMPLISHMENTS

### HOUSING

- The National Housing and Community Development Trust, a government owned company, was set up to construct and maintain affordable homes and provide housing finance with easier qualifying terms than are currently available commercially.
- This offers a greater variety of housing options and will be augmented by life skills enhancement programmes such as childcare, finance management and others identified as necessary for social interventions.
- The officers of the Community Development Unit were seconded to the National Housing and Community Trust to assist with the social/community work. This will ensure that these new communities represent a cross-section of populations who will have access to needed social support programmes. A Caymanian with a Master's Degree in Social Work was promoted in June 2003 to head the Community Development Unit.
- They started the construction of 200 affordable homes in George Town (two sites) and West Bay. Progress on delivery of the 200 houses comprising Phase One of the Ministry's Affordable Housing Initiative is ongoing and delivery of all 69 homes in West Bay has taken place. Road works in West Bay has commenced. The water main has been connected and arrangements for utilities are being put in place. It is our intention to have the West Bay homes occupied within the next month. We have taken delivery of 6 homes in Windsor Park and we are scheduled to take possession of the balance of 57 homes over the next month, which will total 132 homes out of the 200. The road and utility hook-ups will begin as soon as this takes place. Eastern Ave and Windsor Park communities will be occupied within the next two months.
- We already held an Open House at the Windsor Park Site.
- We secured offices for the National Housing and Community Development Trust.
- We hired a Caymanian as Manager for the National Housing and Community Development Trust.
- We hired a Caymanian as the Works Manager.
- We have transferred the land for the fourth community (68 homes) at the Fairbanks Site. This was signed by the Health Services Authority and The National Housing and Community Development Trust and work is due to commence as soon as Planning Permission is granted.
- Regular Board meetings are being conducted.

Accounting software has been identified and will be installed this month.

Bank accounts were opened and all payroll and other expenses are now being paid directly through the Trust instead of through the Ministry.

Bank financing has been arranged through a Bond Issue arranged by Scotiabank and interim financing is currently in place which paid out the Cayman Islands Government advance of CI\$8.8Million. The Bond Issue should be in place by end of July and the interim finances will be paid out.

The three sites currently being developed were named by the Board as follows:

Windsor Park – God's Will  
Eastern Ave – Lord's Will  
West Bay – Promise Will

- Over 350 applications have been taken to date. These are currently being reviewed and recommendations are being prepared.

### PRISON SERVICES

- The Ministry established weekly briefing sessions with the Director of the Prison Services to keep abreast of issues and concerns in the Prison Services, to communicate the Ministry's policy and to develop initiatives to increase the efficiency and improve the effectiveness of the Prison Service.
- The Prison Services put new procedures in place to enhance the performance of the Parole Board.
- They hired a Personal Development Manager to assess the inmates and determine what type of rehabilitation/education would best reduce the chances of recidivism.
- Began construction of a Therapeutic Community to address the high rate of substance abuse among the inmates.
- Presented the Sir David Ramsbotham's Inspection Report of the Cayman Islands Prison Service System to Cabinet. This Report will be tabled for the next sitting of the Legislative Assembly.
- Opened the new Prisoner's Reception and Stored Property Building in December. This replaces a building destroyed in the 1999 riot and was built by the Prison using recycled and donated materials and prisoner's labour.
- Opened the new Visits Block in April 2003. This was originally scheduled to be built in the early 1990's. It was constructed from recycled and donated materials and became operational in June. Cameras that were funded from the U.K. have been installed and the Canteen has been moved into it from a temporary container outside the prison.
- Reconfigured "A" wing, including the construction of a secure exercise yard into a Basic Regime Unit with a regime for securing disruptive prisoners.

This was done in December 02/January03 and has been a major success.

- In co-operation with the Probation Services the Prison has increased the pre-Release and Out-worker Programmes including setting up a multi-disciplinary committee to coordinate the preparation of Governor's Pleasure prisoners for reintegration into the Community.

- Purchased Furtherland Farms, which is being used to provide work for the prisoners as well as a wilderness camp which is being planned for the rehabilitation of young offenders and juveniles. Partnerships are also being sought with private sector entities to utilize areas of the property for agricultural purposes and simultaneously employ and train incarcerated offenders' and released offenders.

- There has been a major reduction in violence and abuse to staff.

- Training of staff has increased. Training figures have increased to 5.3 days per member of staff.

- Participated in multi-disciplinary team to reform the parole process.

- Opened Eagle House, a separate Unit outside of Northward.

- Developed a "Local Prison Inspectorate" to assist senior Prison staff with management issues and to rectify any mismanagement to certify that the Prison is managed according to Law and International Standards.

- Promoted local persons to head of the Prison Services.

- To protect the Public's safety and carry out the order of the Courts, the prison provides regimes that are workable, culturally applicable to address offending behaviour, improve education, work skills, development of civic pride and cause prisoners to lead a more responsible and law abiding life after release.

- The prison average population continues to show a reduction when compared to the same period last year. The male population showed a reduction of 10% at the end of April over the average population for the same period of 2003 and a 14% reduction over 2002.

- Strengthening of the drug detection capability with an additional officer and dog.

- Installed additional cameras.

- Installed computerized pegging clock.

- Developed a prison database.

- Introduced additional programmes related to the inmates offending behaviour.

- Developed structured vocational training.

- Commissioning of the Experimental Tilapia Farm at Fairbanks.

- Improved and increased staff training.

- Developed the Investors in People Initiative.

- Developed a staff recognition and award programme.

- Began construction of inmate's all-weather exercise area.

- Comprehensive repairs to the roof of the gate-lodge and inmate's living units.

#### *PROBATION AND AFTER CARE UNIT*

- The Probation and Aftercare Unit promoted a Caymanian to Head this Unit in October 2003.

- The Probation and Aftercare Unit has been re-located and is being supervised directly by the Ministry. This was necessary to allow for a proper review of the Unit, the Parole System, and the practices and procedures from other jurisdictions.

- Ongoing participation in multi-disciplinary team to reform the parole process.

- The second Community Service Coordinator began employment in March 2004; the second Administration Worker/Accounts Officer began in April 2004. A Caymanian Probation Officer began in May 2004, and a Caymanian University Graduate is to begin in August 2004. Based on the new Budget, there will be a post for a Probation Officer for Cayman Brac in the near future.

- The Probation and Aftercare Unit continued ongoing supervision of persons on Parole Licences after release to reduce the risk to the community. Life skills courses are being offered to parolees to reduce the risk of re-offending behaviour.

- The ongoing use of Community-based Orders as an alternative sentencing option through the Courts. Orders such as Probation and Community Service (alternatives to prison) are focusing on rehabilitation while persons remain in the community. This also contributes to the efforts to minimize overcrowding in the prison and reduces the cost of jailing offenders. It also prevents the negative socialisation and promotes the positive socialisation of offenders.

#### *DEPARTMENT OF CHILDREN AND FAMILY SERVICES*

Ongoing restructuring of the Department of Children and Family Services, formerly the Department of Social Services, to make it more efficient and effective. Some of the major changes are:

- Renaming it the Department of Children and Family Services.

- Developed a Satellite Office in West Bay, at the previous location of the Sunrise Training Centre that opened in April of this year and one in Bodden Town, at the Brightday Plaza that is projected to open later this month. The George Town Satellite Office will be located at the Mirco Centre and is projected to open in September. This decentralisation will better meet the needs of clients in each district. These offices will also have evening hours scheduled to provide services and workshops.

- A change in philosophy and focus of the Department is being implemented to better understand and address the root causes of people in need of temporary financial assistance. By helping these adults become more self-sufficient, they will be better positioned to fulfil their financial and emotional needs and those of their children. This approach will reduce the number of repeat clients and reduce the likelihood of people becoming dependent on financial assistance.

- A Coordinator was hired for the STARSS (Support Towards Autonomy Retraining and Self-Sufficiency) Project.

- Social workers are being assigned specific issue areas for case assignments. This enables them to specialize and become more familiar with each community's needs. This will also aid in the development of prevention strategies by identifying trends within each district.

- An additional section of the Department is focusing on the Poor Person's Relief for the elderly and disabled. Prior to 1st July, 1997 when the National Pensions Law 1996 came into force, it was not mandatory for local businesses to have a pension plan in place for their employees. The National Pension Law exempts persons over 60 years of age from contributing to any pension plan. This has resulted in many of our citizens who are over 60 years old not having a pension. With this in mind, the Government provides financial assistance of \$400 per month to many of our elderly who have very little or no pension at all. These funds are provided under the Poor Persons Relief Law to elderly and or disabled persons who are deemed indigent based on the completion of a needs assessment. The current number of recipients is seven hundred and sixty nine (769).

- The renovation of a home in Bodden Town, which will offer day-care services for the elderly and provide another community resource facility was completed. This home will operate in association with the Bodden Town Park.

- A Family and Parenting Centre is being developed to better facilitate several components of the new focus. This is part of the National Parenting Initiative that is using a multi-disciplinary team approach to involve people from Education, Health, CAYS, CASA, RCIP, National Youth Commission, Young Parent Programme, and Youth Church Leaders.

- Child Abuse/Neglect Prevention Committee has been meeting and will launch a public awareness campaign in September. This is also a multi-disciplinary team.

- The Young Parents Programme graduated ten young women; seven are currently employed; one is returning to John Gray High School and the staff will be working with the other two graduates to assist them in obtaining employment.

- Three Social Work Assistant trainees were recently hired and will begin on the job training this month. This will enable the social workers to spend

more quality time with clients rather than as much time on administrative tasks.

- The Ministry values the contributions that our elderly have made and continue to make to our country. With this in mind, we continue to provide home-care for those that are unable to care for themselves. We currently have three homes: The Golden Age Home in West Bay; the Sunrise Home in East End; and the Kirkconnell Home in Cayman Brac. This year we have upgraded a Home in Bodden Town, which will provide day-care facilities for the elderly in that district. There are many of our elderly who do not have families that are able to care for them, and the Ministry wants to ensure that they are taken care of. The Ministry also utilizes the Pines Retirement Home to place some of our elderly who are unable to care for themselves. We also assist the NCVO by paying the salaries for the Managers of the Pines, NCVO, and the staff of the NCVO Foster Care Home.

- The Children and Youth Services (CAYS) Foundation is providing services to Bonaventure House and the Frances Bodden Girls Home. The management of the Bonaventure Home was taken over by the Foundation on the 1 January, 2003. As of 1 July, 2003, CAYS Foundation was fully responsible for the Frances Bodden Girls' Home and the Hope Centre.

#### *EX-SERVICEMEN AND SEAMEN*

- The Ex-servicemen's benefit is given to those who served in the Merchant Marines, Home Guard, World War I and World War II or their surviving spouse, common-law wives or widows. This assistance was based on a Private Members Motion in the Legislative Assembly in June 1994. This benefit of \$400 is given to 384 recipients.

- The Seamen's ex-gratia benefit is given to seamen or their surviving spouses and is given on a sliding scale up to a maximum of \$400 per month. This benefit started in November 2000. At present there are:

- 547 persons receiving \$400 per month
- 8 persons receiving \$300 per month
- 1 person receiving \$250 per month
- 8 persons receiving \$200
- 3 persons receiving \$100
- 1 person receiving \$60

#### *SUBSTANCE ABUSE SERVICES*

- Promoted a Caymanian to Head the Department of Substance Abuse Services in September 2002.

- Caymanian promoted to Clinical Supervisor of Outpatient Services in 2002.

- Hired two counsellors specifically for youth.



- Hired a Counsellor specifically to provide drug and alcohol counselling to the Prison population (male & female) in March 2004.
- Continues to participate in monthly multidisciplinary team meetings to address issues related to parole and services within the Prison system.
- Revised the Residential Treatment Programme to extend 4-week treatment programme to an 8-week intensive live-in treatment programme.
- Re-instated services to the Sister Islands by hiring a qualified addiction counsellor in September 2003.
- Hired a Halfway House Manager to provide therapeutic programming in conjunction with support services offered at the Halfway House.
- Commenced ongoing discussions in March 2004 with Computer Services regarding the design of a data management system that will enable us to gather statistical data and engage in ongoing research.
- Trained selected staff in March 2003 from the Outpatient and Residential Treatment Programmes in relationship mediation to work with those clients experiencing relationship and marriage breakdown.
- Trained selected staff in March 2003 from the Outpatient and Residential Treatment Programmes to provide career development plans for our clientele.
- In April 2004, provided systems-wide training in Co-Occurring Disorders.
- Youth Counsellors began providing drug and alcohol counselling in May 2004 to young men in the recently opened Eagle House at the Northward Prison.
- Youth Counsellors continue to provide assistance to local schools and caring homes for youth identified with addiction issues.
- Participated in multi-disciplinary team review of Disability Legislation from other countries in May 2004, so as to make recommendations for the establishment of similar laws in the Cayman Islands.
- Provided Departmental training initiative for all clinical staff from February to June 2004.
- Redesigned the 8-week Residential Treatment Programme to provide a more comprehensive treatment experience. Consequently, clinical staff posts have been reduced and more employment opportunities were created for Caymanians.
- Established a Departmental public relations task force to design and implement a comprehensive public relations campaign in 2004.
- In April 2004 negotiated the purchase of the license for two standardised internationally recognized assessment tools to assist with the development of dual diagnosis capability of all clinical staff and the organisation as a whole. Actual purchase is currently being finalised.

#### *SUNRISE ADULT TRAINING CENTRE*

- Leased a larger facility for the Sunrise Adult Training Centre, which can house up to thirty-eight people. The new facility has allowed the Sunrise Adult Training Centre to admit ten new students bringing its total number of clients up to thirty-four. The Centre is within an existing community, which is an ideal environment for people to come and visit. The new facility comprises a new life-skills area, two kitchens, a living and dining room, recreational area, a medical centre, and larger office space for staff.
- Held a retreat re: the re-Development of the Sunrise Adult Training Centre.
- Developed a new Mission Statement and a Strategic Plan for the next year.

#### *WATER AUTHORITY*

- Completed the extension of the public water supply (1.5 miles) to Castaways.
- Completed water supply on the Lyndhurst Avenue and Bobby Thompson Way (Linford Pierson's Highway).
- Improved the water quality to the residents of West Bay by negotiating an agreement with Cayman Water Company to double-pass their filtration of water through the membrane.
- Extended piped water into Frenchman's Crescent.
- Work will commence on the water supply to North Side in about one week from today.
- Doubled the water supply capacity of the plant in Cayman Brac.
- Completed phase 1 of the Grand Cayman Wastewater Treatment Works by the end of the year.
- Completed Lower Valley piped Storage and Workshop Facility.

During the first eight months of the 2003-2004 fiscal year the public water supply system was extended using the Authority's New Works pipe-laying crew into the following areas:

- Side roads in Gun Bay and John McLean Drive in East End, just over 0.8 miles of 4-inch and 3-inch water mains at a cost of \$202,400.
- Main road between Frank Sound junction and Botanic Road in North Side, just over 1.5 miles of 12-inch water mains at a cost of \$214,900. No pipe-laying had been carried out on the North Side extension since 8 April, 2004 due to other commitments of the New Works pipe-laying crew. However, pipe-laying has been completed and the pressure test and disinfection up to the Botanic Road is currently being carried out.
- Poindexter Road, 0.5 miles of 12-inch mains installed at a cost of \$93,900.
- Phase 2 of the Linford Pierson Highway (0.4 miles of 12-inch water mains) at a cost of \$66,800.
- The Authority successfully completed the polling process and obtained planning approval for develop-

ment of property just off the Botanic Road to be used to locate water production and storage facilities in the Eastern Districts.

- The contract to construct the Grand Cayman Wastewater Treatment Works was awarded to the lowest bidder, Hadsphaltic International Ltd. and Wharton Smith, Inc., as joint-contractors for US\$17.2 million in September 2002. By the end of July 2004, the contractor is anticipated to have completed phase 1 of the contract. Wastewater has now been diverted to the new treatment plant and the existing waste stabilisation ponds have been decommissioned. The estimated expenditure for the above activities by the end of July 2004 is expected to be \$11.3 million.

- Following a competitive tendering procedure, a contract was awarded to Petro-Tech Engineering & Industrial Services Ltd. to install 680 linear feet each of 16-inch and 12-inch PVC pipe work in the proposed Galleria Roundabout at a cost of \$54,000. This pipe work will be used to transmit raw sewage from West Bay to the Grand Cayman Wastewater Treatment Works and to transfer treated effluent for irrigation purposes. This project has now been completed.

- Re-design of existing workshop/storage building in Cayman Brac to accommodate administrative office was completed.

- The contract for professional design services for the extension (estimated 10,000 square feet) to the administrative building was awarded to OBM Ltd. The conceptual design and preparation of the contract documents are almost complete. The construction documents have been forwarded to the Planning Department.

- On the public water distribution system, the Authority's Water Supply Department completed upgrading between approximately 0.5 miles of Shamrock Road between Soto Lane and Spotts-Newlands Road from 10-inch water mains to 12-inch diameter; 0.1 miles of 6-inch mains in Huldah/Elgin Avenue were upgraded to 12-inch diameter mains; and approximately 0.4 miles of 6-inch water mains in the Spotts-Newlands Road from the Shamrock Road Junction to Raven Avenue were upgraded to 10-inch diameter. The total cost of these upgrades was \$176,000 or approximately \$35.00 per foot.

- The Authority's Water Resources Department substantially completed installation of 26 new monitoring wells in the East End and Lower Valley water lenses at a cost of \$31,000.

- The Authority, in conjunction with the Department of Environment, prepared Terms of Reference for an anti-degradation study to be carried out by the Cayman Turtle Farm and Dolphin Discovery-Cayman.

- In May 2004, the Authority's Water Supply crews commenced work on the section of North Church Street between Mary Street and Eastern Avenue to upgrade the mains from 8-inch to 12-inch diameter. The second phase of this project from Bodden Road to Tricia's Roses was completed and back in service on 9 July, 2004. The third phase will com-

mence on 26 July, 2004 and is expected to be completed by the second week in August 2004.

## YOUTH

- Provided and funded District Youth Workers.
- Provided annual Funding to the National Youth Commission and assisted with the launch of the Commission on 27th February, 2004.
  - Provision of Youth Programmes, via grants to youth associations and churches.
  - Provided Afterschool Programmes via grants to churches and other community organisations.
  - Continued funding of the Rehoboth Programme, which provides many programmes for the youth and the elderly. A new focus is the Youth Enterprise Scheme, which assists some of our youth with small business ventures and the Management of the Arthur Martin Creative Empowerment Youth Centre.
  - Provided a career Job Expo booth in conjunction with Personnel Department.
  - Conducted Monthly town hall meetings for youth.
  - Conducted weekly Youth Flex Programme on Radio Cayman.
  - Assisted the various summer camps in conjunction with Community Development Unit, Sporting Associations, and Agencies.
  - Melanie McField attended the CARICOM meeting and James Myles attended the Commonwealth Youth Programme meeting.
  - Met with representatives from CARICOM on youth issues in the Cayman Islands. There is a possibility that we may be hosting a meeting of the Youth Ambassadors for CARICOM later on this year.
  - Provided assistance in organizing youth job placements.
  - Launched the Commonwealth Youth Programme Diploma in Youth in Development course.
  - Sent Raquel Solomon and Francesca Hamman to HIV/AIDS seminar in Barbados.
  - Sent representatives to the CARICOM Regional Youth Directors meeting in St Kitts.
  - Sent representatives to the Commonwealth Youth Programme Youth Exchange held in Tunapuna, Trinidad.
  - Conducted a survey on youth attitude towards organisational involvement and participation.
  - Compiled the Youth Service Directory to be included on the National Youth Commission's website.
  - Compiled a list of summer programmes which are included on the GIS website.
  - Developed and conducted a District outreach through the Super Saturday Programme in East End.
  - Teleconference with CARICOM Youth Ambassadors.
  - Sent Representatives to the CARICOM Youth Ambassadors meeting in St Kitts.

- Conducted Commonwealth Youth Club meetings (12 fortnightly meetings).
- Drafted budgets for National Youth Festival, and Sportsmanship and Fair Play Day.
- Sponsored an award for Junior Achievement Achievers of the Year (male and female).
- Monitored and evaluated quality of service offered by youth service providers.
- Appointed a Caribbean Youth Programme (CYP) Youth Caucus Representative for the Cayman Islands.

### SPORTS

- Provided twelve Partial Scholarships for Sports and Community.
- Provided Sports and Community and Beautification Programmes via grants to Associations and Community Groups.
- Continued the joint-partnership with Dart Management for the provision of parks. Opened the Capt. George Dixon Park, in East End, and The Jerald Smith Park, in Hutland (November 22<sup>nd</sup>, 2003). Work commenced on the Greenwood Park in George Town, which opened before Christmas located on Greenwood Drive close to Power of Faith and All Nations United Pentacostal Churches.
  - Provided District coaches.
  - Hired an additional coach, Thiago Cunha, to work with youth in the East End and North Side districts.
  - Provided sports programmes in East End with Super Saturday from February through June.
  - The East End Afterschool Football started in March along with a Community Football programme.
  - Conducted a Community Football Programme in East End.
  - The Sports Department lends support to the girls' netball in East End by providing equipment.
  - Provided sports programmes in North Side with Afterschool Football beginning in May of this year.
  - The North Side Super Saturday program will begin 17th of July 2004.
  - Tournaments are currently being organised for the co-ed volleyball team in North Side.
  - Provided a grant for the development of Phase 2 of the Cricket Pavilion in West Bay as a joint project between Government and the Cayman Islands Cricket Association.
  - Provision of the Learn to Swim Programme.
  - Assisted with the development of Basketball League.
  - Development of Government Football League.
  - Upgraded fields at the Truman Bodden Sports Complex; Ed Bush Playing Field and Bodden Town Playing Field; as well as Basketball Courts in East End; Windsor Park, George Town; Boatswain Bay, West Bay; and high jump area of the Truman Bodden Track.

- Provided pro-social agents Kareem Streete-Thompson, Cydonie Mothersill, Charles Whittaker and Nigel Mitten as well as special guest Ana Fidelia Quirot (via the National Sports Awards) Primary Schools visits and public appearances.
  - Provided the pro-social programme – Cayman Islands National Football Academy.
  - Provided televised sports programmes – Countdown to Gold and Quincentennial National Sports Awards Programmes.
  - Provided sports medals to the male and female, Junior and Senior Sports Persons of the Year.
  - Provided funding for the 1st and 2nd Regional Inter-Primary Track and Field Competition hosted in the Cayman Islands.
  - Community Leaders Coaching Workshop.
  - Signed the Copenhagen Declaration to make Cayman comply with Anti-doping Policy in sports.
  - Provided funding for the renovation of the Boxing Gym.
  - Provided funding for Phase 3 of the Cricket Pavilion at the Jimmy Powell Cricket Oval.
  - Hosted the 4th Annual Countdown to Gold 2004.
  - Provided funding for two Sports Summer Camps.
  - Provided funding for athletes to attend the Caribbean Dart Championships.
  - Provided funding for athletes to attend the CARIFTA Games; the Central American and Caribbean Championships; the PanAm Games; and this year's Olympics.

### GENDER AFFAIRS

- Changed the name of the Ministry from Women's Affairs to Gender Affairs to coincide with the Ministry's goal of implementing the National Policy on Gender Equity and Equality, which has been presented to Cabinet and will be presented to the Legislative Assembly in this sitting.
  - The Cayman Islands Crisis Centre, which is a place of safety for victims of domestic violence and their children, began operating in March 2003 out of the Long Celia Memorial Home. This house was purchased by Government and is leased to the Cayman Islands Crisis Centre Board. The Government provides an annual grant of \$200,000 to this Board.
  - The Ministry coordinates the Domestic Violence Intervention Training Programme for frontline officers from the RCIP, Customs, Immigration, Health Services Department, Department of Children and Family Services, Fire Department, Education Department, HM Prison, Department of Substance Abuse, and other departments. For this year, three training sessions were held during which a total of fifty-five officers from the various Departments received certificates upon completion.

### WOMEN'S RESOURCE CENTRE

- An official ceremony was held to launch the month and mark the 5th Anniversary of *Honouring Women's Month* (HWM) in March of this year.
- International Women's Day (March 8th) was recognized with a fundraising walk/run for the Women's Resource Centre.
- This is the first year that HWM workshops were held in Cayman Brac. Workshops were held entitled *Girl Talk* (for high school girls) and *Juggling Work and Family* (for women).
- The grand finale for HWM was *Honouring Cayman's Women ~ A Quincentennial Celebration*. At this event, five women – Annie Huldah Bodden, Frances Louise Bodden, Clara Editha Scott Leitch, Olive Miller and Mary Evelyn Wood – were presented with the Quincentennial Distinguished Woman Award to recognize their accomplishments and contributions towards the development of the Country. A brochure has been printed detailing the lives and undertakings of these women, and it has been distributed into the Government and Private School Systems and throughout the Community to be used as an education tool for the youth and the general public.

### GENERAL PROGRAMMING

In July 2003, the Women's Resource Centre partnered with the new Women's Health Centre to offer monthly education sessions that focus on women's health issues. The Women's Resource Centre (WRC) continues to co-ordinate various other programmes such as the Legal Befrienders, self-help workshops, individual counselling, and other services throughout the year that aim to inform and empower women and families.

In late 2003, the WRC and the Department of Substance Abuse Services began working together to provide the public with confidential, drop-in information sessions on domestic abuse. This joint initiative is held the third Wednesday of each month at the WRC.

In December 2003 with the support of the National Gallery, the Women's Resource Centre held a ceremony to launch the first Annual Clothesline Project display in the Cayman Islands. Fifty one shirts were displayed in this forum, which is an artistic way for all victims of various forms of abuse to express their experience publicly.

The WRC is in the process of compiling a *Community Resource Handbook*. The goal of this project is to compile a comprehensive listing of all of the services and programmes available in the community. Persons working in the helping professions (i.e. counsellors, social workers, community workers, police officers, medical workers, clergy, etc.) within public and private sector organisations and the general public are the audiences specifically be-

ing targeted to utilize the *Community Resource Handbook*. This handbook will be printed in 2004.

Mr. Speaker, I thank you and Members for their indulgence to allow me to give the Honourable House and the general public a list of some of the accomplishments in my Ministry, and I hope that at this particular point that we will not have the people from the Opposition saying that nothing is being done in East End and North Side with regards to social development and youth issues.

## GOVERNMENT BUSINESS

### MOTIONS

#### Government Motion No. 1/04

##### Amendment to the Development Plan 1997

**The Speaker:** The Honourable Minister responsible for the Ministry of Planning, Communications, District Administration, and Information Technology.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to move Government Motion No. 1 of 2004 and it reads:-

**"WHEREAS in April 2003, the Central Planning Authority received an application for the rezoning of Registration Section, West Bay Beach North, Block 11D, Parcel 36, from Neighbourhood Commercial to Hotel/Tourism;**

**"AND WHEREAS at a meeting of the Central Planning Authority dated 11 June, 2003, the Authority resolved to proceed with the amendment to the Plan, to wit:**

**To change the zoning of Block 11D, Parcel 36 from Neighbourhood Commercial to Hotel/Tourism;**

**"AND WHEREAS in accordance with section 11 of the Development and Planning Law (2003 Revision), Public Notices of the Authority's intention to amend the Plan, were published in the Cayman Netnews on 8, 9, 14 and 15 July, 2003 and further the proposed amendments were on public display at the Planning Department from 8 July through 13 September, 2003;**

**"AND WHEREAS no objections were received within the statutory period of two months;**

**"BE IT NOW THEREFORE RESOLVED THAT in accordance with Section 10(2)(b) of the Development and Planning Law (2003 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 of which**

are 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 FURTHER RESOLVED that Registration Section, West Bay Beach North, Block 11D Parcel 36, be rezoned from Neighbourhood Commercial to Hotel/Tourism.**

Thank you, Mr. Speaker.

**The Speaker:** The question is BE IT NOW THEREFORE RESOLVED THAT in accordance with Section 10(2)(b) of the Development and Planning Law (2003 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 of which are 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 FURTHER RESOLVED that Registration Section, West Bay Beach North, Block 11D, Parcel 36, be rezoned from Neighbourhood Commercial to Hotel/Tourism.

The Motion is opened for debate. Does the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. Just to say a few comments, Sir.

In April 2003, the Central Planning Authority received a rezoning request from a company known as Mayo Limited regarding the above-mentioned lands. The application requested that the subject parcel located along the West Bay Road, situated across from the Westin Casuarina Hotel, be rezoned from the current zoning of Neighbourhood Commercial. The subject property is currently part of the development known as the Cayman Falls Shopping Centre and contains various retail shops and restaurants. The nightclub on the second floor was recently converted to apartment accommodations and, accordingly, we received notice from the applicant's agents to rezone and we are now seeking to facilitate this said rezone.

It is expected that it is to include the further development, which will be three- or four-storey apartment buildings with a centre, courtyard, and pool area. The subject parcel, Mr. Speaker, is surrounded largely now by hotel and tourism zoning, and there were no issues or concerns raised by the various Government agencies that reviewed the said application.

The Central Planning Authority duly considered the application on the 11 June, 2003, and they resolved to initiate the rezoning process.

In accordance, therefore, with Section 11 of the Development and Planning Law (2003 Revision), the application was advertised in the Cayman Net News for the required amount of times and the proposed amendments were on public display, again for the statutory requirement for notice.

No objections, Mr. Speaker, were received within the statutory period, being a period of two months. Then, at a meeting on 10 December, 2003, the Central Planning Authority resolved to advise the Ministry for which I hold responsibility. The Ministry supported the application by forwarding it to the Governor in Cabinet. We are here today because on 23 March, 2004, Cabinet approved the rezoning application and we now have the matter before us today. I would seek all Honourable Members to lend their support for this rezoning application, which now has to take this final process.

May it please you!

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If not, would the Honourable Minister wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. Just to say that I am indeed grateful to the Government and Members for their tacit support. We look forward to another development, which will assist in contributing positively to the economic development within these Cayman Islands.

**The Speaker:** The question is that BE IT NOW THEREFORE RESOLVED THAT in accordance with Section 10(2)(b) of the Development and Planning Law (2003 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 of which are 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 FURTHER RESOLVED that Registration Section, West Bay Beach North, Block 11D, Parcel 36, be rezoned from Neighbourhood Commercial to Hotel/Tourism.

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

**Ayes.**

**Agreed. BE IT NOW THEREFORE RESOLVED THAT** in accordance with Section 10(2)(b) of the Development and Planning Law (2003 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 of which are 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 FURTHER RESOLVED** that Registration Section, West Bay Beach North, Block 11D Parcel 36, be rezoned from Neighbourhood Commercial to Hotel/Tourism.

**Government Motion No. 1 of 2004 passed unanimously.**

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### Private Member's Motion No. 1/ 04

##### **Reviewing Laws and Policies to Enhance the Ability of the Royal Cayman Islands Police**

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

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

Mr. Speaker, Private Members' Motion No. 1 of 2004 standing in my name entitled Reviewing Laws and Policies to enhance the ability of the Royal Cayman Islands Police reads:

**"BE IT RESOLVED THAT Government consider reviewing applicable laws and policies to enhance the ability of the Royal Cayman Islands Police to more effectively and safely carry out their duties.**

**The Speaker:** Is there a seconder?  
The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.  
Mr. Speaker, I beg to second the Motion.

**The Speaker:** The question is that BE IT RESOLVED THAT Government consider reviewing applicable laws and policies to enhance the ability of the Royal Cayman Islands Police to more effectively and safely carry out their duties.

The Motion is open for debate. Does the Mover wish to speak thereto?

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

Mr. Speaker, before presenting some of the specific points that I have in mind in regards to this Motion, I wanted to just take a small step back and remind all of us of our incredible duty as non-executive Members of this House; that is, Members of the House that are not Members of the Executive, in bringing motions that are relevant, and bringing motions that are the concerns of our constituents. Because, Mr. Speaker, if Parliamentary Democracy is going to work, it must be that we who are elected come to this House and represent the views and interests of the public who sent us here.

Mr. Speaker, some might say that is very simplistic in getting back to the fundamentals of why we are here. However, I think it is very important for all of us – because none of us are perfect – to reflect on the duty that we have, because often times, once elected, you get so caught up in all of the activities that are involved with being elected and that includes from the person who calls you on the phone with a specific issue to the person who comes to your home at extremely early hours of the morning, sometimes before the roosters that so many people seem to be complaining about these days have even crowed. So, a lot of times the stress and the amount of work that goes into being a MLA, even in a small Island like Cayman, does keep you burdened and extremely busy. However, this is our obligation, the obligation of speaking with your constituents and gleaned from them what is important, what is a concern and coming to this Legislative Assembly for us to debate that topic. Out of that debate we hope to achieve an action and ultimately, that action must move us forward in building a better, safer, more productive society.

I recall about two years ago, the Third Elected Member from West Bay and I brought a motion. People called in to the talk show asking why such a motion was being brought. In fact, that motion had to do with persons playing loud music in their cars and driving through the Islands with that booming music all hours of the day, all hours of the night, all hours, Mr. Speaker, and not having the ability to get our hands around that issue and trying to solve it. Some people see issues that others bring as petty, but if there is any issue that our constituents bring to us, we are duty bound – once they are important and they can help improve life in these countries – to bring them here to this Parliament to debate them. Now, Mr. Speaker, not every Motion brings about the change that you would like to see as swiftly as you would like to see it and, indeed, Mr. Speaker, some motions call for actions that are difficult to get our hands around and get a handle on.

I believe that policing and the ability to create a safe and secure Island is of paramount importance. I can remember when I was first elected back in 2000 and my first few debates. I always used the phrase 'everything affects everything'. Whilst there are some issues that certain people feel are more important

than others, at the end of the day I do not think anyone can argue that safety has to be a primary focus of all of us in this Legislative Assembly. The physical safety and physical well-being of our constituents must be high on the priority list. I would have to say that starting off on that platform I feel it gives both sides of this house the opportunity to instantaneously agree. As I look across at my colleagues on the other side, I know that they agree and see that this debate, once I have finished, will be able to provide a platform that allows us to have better policing, but not only better policing but that it can keep police officers safer.

Mr. Speaker, in the district of West Bay, we still have large tracks of land, very often in residential areas—right behind or adjacent to peoples' homes—that unfortunately get used for illegal activity. If you go through the land or go through those pieces of property, it is quite obvious that drug activity is going on. Even with an untrained eye, once you go into some of this property and you see the empty drink cans with holes in them, no one has to guess what that is used for. Everyone knows that once that can has holes and is bent in the middle, it is used for the smoking of crack cocaine. I beg to say to this House that the use of crack cocaine is probably our greatest threat and greatest challenge from a legal standpoint and from a standpoint of the destruction of families and young lives within our community.

Mr. Speaker, hopefully people will resist the temptation to make this a political issue, because we know – those of us who have lived in this Island – the crack epidemic started in the Cayman Islands from the late 1980's. So, it has been around a long time, and I do not think that we should seek to blame anyone, any government, any current or past administration. That does not help us go about getting down the road to addressing the issue.

Now, I will be the first to acknowledge that policing deals with the end result. By the time people who are involved with drug abuse and who are drug addicts, by the time they interact with the police a lot of times they are already addicted. So, yes, I will quickly acknowledge that the work within the Ministry responsible for Substance Abuse Services is of paramount importance and, in fact, one element of policing that does assist with trying to avoid people getting hooked on drugs is the Drug Abuse Resistance Education (D.A.R.E.) Programme. However, at the end of the day, the reality is that we have a serious drug problem within every single district in these Islands. This is not a West Bay issue; this is not a George Town issues; this is a Cayman Islands issue and we know, everyone of us know, how it has ravaged so many young lives and so many young families. How it has ravaged older people. So many times you hear about somebody who is using drugs and you say, *'Wow, they are so old, they seem to have everything together in their life'*. One thing is for sure, drug addiction is not age, race, class, district preju-

dicted. It reaches every single nook and cranny within this Community.

We have in these Islands, many, many empty lots of land that the police will tell you they have great difficulty penetrating and going into for fear of their personal safety. Because when you are going into an area, if you know that there is drug activity and that there is a lot of money to be made with drugs, and therefore, you know there are people with incentives to ensure that they can keep up their trade, therefore the police officers know that they can come in harms way. Not only do you have the persons who are actively involved in the trade of drugs, you also have the drug users who when under the influence of drugs will carry out actions and activities that they would not normally do when they are sober. So, Mr. Speaker, we do have a serious issue when you are going to talk about policing and policing in those types of conditions.

I am not going to stand here and expect any Honourable Member to accept the notion that clearing lands solves the drug problem and certainly, if one was to take that argument and extend it, one would say that we would cut down every empty lot in Cayman but that is not the idea. In residential areas especially, when your constituents call you and you go to their houses and look through the bushes seeing the activity and the people in there, and your constituent says to you: *'I am no longer letting my children out in the yard to play because we do not want them to see that sort of behaviour'*; you then know that is a serious issue. Which one of us in this Chamber would want our children to step outside the door and see people (adults) moving around on an empty lot of land next door to our house?

Mr. Speaker, that particular issue is one that strikes home because I can tell you and this Honourable House—I do not know if other Member has had these complaints—but certainly the four Elected Members from West Bay has as we have had this complaint time and time, and time again. Right now, I have three parcels of land that I am actively trying to get the police and Public Works to assist in clearing it. Now I know that there is a challenge when it comes to going that route, and I will tell the Country we have had had instances where the red-tape has bogged us down and we have gotten private heavy equipment operators in the district of West Bay to assist. They usually ask, as a condition, for the police to be there. I know of a report on one instance where the heavy equipment operator was in a particular area where we knew drugs were being stored and one of the people who is suspected, and I would dare to say well-known in the district, as being a drug pusher did come out and approach the bulldozer driver. However, he did not know that the police were there and when the Police made their appearance he quickly backed down. However, that is what is happening in this country. So, when we look at various sections in the Mosquito Research and Control Law and the Public Health

Law, we see that the police do have opportunity within those two laws to be able to more efficiently expedite what is considered strategic land clearing.

As I have said many times in this House, I am not going to pretend to be a police or be an expert in policing, but Mr. Speaker, we do have a Police Force and I think we owe it to our constituents and to them and their families to be able to try to ensure that we create as much flexibility within reason for them to be able to carry out their work efficiently and effectively.

There was one instance where a particular piece of land was being used—not suspected of being used—was being used for drug activity and the land owner was not in Cayman; he was overseas. That created a great challenge because the police prefer to go through the proper channels and write to the landowner to get permission to clear the land, and I must say in most instances landowners are very receptive; once they understand what is happening on that piece of property they are very, very receptive to having the land cleared. However, Mr. Speaker, I will give you an irony: I know of a person who owned a piece of property and drug activity was not going on within this particular piece of property, but the neighbour wanted to have the property cleared because they were saying it was blocking the breeze and they were not getting proper ventilation within their home. I do not know how long it took because I do not know when the neighbour initiated the action, but certainly the landowner got registered mail from the Department of Environmental Health telling them that within, I think, 21 days of receipt of that letter, they had to make provisions to have their land cleared.

So, Mr. Speaker, I say that to point out that if the Department has that authority already in law, I do not think it is such a farfetched idea to look at the law and to sit down with the police and see whether, within reason, we cannot have this area strengthened to allow the police to move a little quicker and a little more efficiently in regards to some of these land clearings, because some do get bogged down sometimes in the red-tape of trying to get the particular piece of land cleared.

Mr. Speaker, line of sight—the ability to know where you are going and see what is there—is of utmost importance to the police. My contention is that with over-grown land, the police often get put at a great disadvantage and, in fact, a lot of times are unnecessarily put in harms way. I think all of us understand quite clearly the dynamics that have festered within our communities in regards to the public and the police, and the public's confidence in the police. We do need to have a continued emphasis on the police being able to execute some of the things that the public sees as simple. The public looks at these and says, *'this is a simple issue'*. If you know drug activity is going on within a particular piece of land

then it should be cleared and you should be able to get it sorted out.

What is ironic about one of these pieces of property that we had cleared, I think in 2002, which has grown back up again, is the fact that this piece of property is about half a mile from the West Bay Police Station. Within that half a mile, not only is there this particular piece of property, but there is also a well-known crack house in the district. Certainly, as I move through the district, you hear the public talking about why is it that just on the doorstep of the Police Station there is a crack house and certainly, within a stones throw from there is an empty vacant lot, which everyone knows is being used for drug activity. Naturally, this does cause a lot of members of the public to have questions in their mind as to the confidence that they have in the police. We have to ensure, as much as humanly possible, that we turn around that trend of people in this community not having the type of confidence that they should have in the people that we pay to serve and to protect. That is a very, very serious issue. It leads to many difficulties, such as people's willingness to cooperate. The police will quickly tell you that they cannot police any community effectively if they do not have the assistance of the public. They must have the assistance, Mr. Speaker, but a lot of times to have the assistance, you do need to have that confidence in terms of people feeling that everything they do and say will be followed up on and they will see action.

We have heard of cases in this country where homes, structures, or dwelling places have not met certain planning criteria and standards having been torn down. This is a very delicate and ticklish issue. I am not standing here advocating giving the police any sort of sole discretion in being able to do this, but we must have a situation where we look into these problems a little deeper and see what can be done within reason, because it has to be reasonable. When you are talking about clearing, and I do not take the clearing of empty lots lightly; I do not take going on to any private citizens' property lightly, because that is an incredibly important aspect of having a free and democratic society. People must not feel that there is undue pressure or that there can be an ease in which their property without their consent can be cleared. Of course, I think within reason and from the discussions that I have had with many people in our district, there is broad-based support for the notion that we must do and create the possibility for doing as much as humanly possible to ensure that the police are better able to carry out the type of work they need to, especially in the areas where you know drug trade is happening.

Mr. Speaker, I can remember, as a young boy, the days when the majority of drug use and drug pushing was done way in the bush, but these days, it is right on the sides of major streets. This particular home and empty lot that I am speaking about which is within half a mile of the West Bay Police Station are



on Reverend Blackman's Road, and that is a main road in West Bay. So, we have gotten to the point where the public feels very, very frustrated, very frustrated that criminal activity is taking place right on the major roadsides or just off them in the bush. That again erodes public trust and public confidence. We have to be realistic about these things, and let me make it clear that I am not here criticizing or lambasting any police officer or any police administration. However, we have to come to this Parliament and air the concerns and the realities that are presented before us as members of our Community and those that are told to us and shown to us by our constituents.

Just a few months ago, in that same crack house I am talking about, a murder took place! A murder, Mr. Speaker! I can remember so many people making the comment: *'Now look at that, right on the doorstep of the Police Station'*. Mr. Speaker, these are delicate matters to talk about, very sensitive matters to talk about. However, I understand that we have gotten a new type of element of crime in this community, and so I thought very long and hard about what I was going to say and how much I was going to say on the Floor of this House. I say and submit to this House that the day we start to stifle our own voices as representatives of the people and stifle our own conscience that will be a great victory for crime and lawlessness. I think, my record stands very, very, very clear in terms of how I feel about crime and punishment. There are those who criticise me and say I am a hardliner, and yes, I am, yes, I am. Because to sit down and whine and complain gets nothing done. Serious crime requires serious policing and we cannot, we must not allow ourselves—because the buck stops here—to not speak out about these issues or to simply do so in private with our constituents.

At the end of the day, we continue to grow as a community and our awareness as to who we are continues to grow day by day. I say that in any country which has free elections and people who go and represent people, then the buck has to stop in the peoples' house. Now, I know that none of us go out day-to-day and execute policing strategy or are police officers and so there are variables that are obviously outside our control – outside the control of the executive arm of government. Ultimately, this is where the buck stops. We are the House. If that is not the case then why are we here? Why?

I understand that government has gotten in problems. I can remember, in fact, since being elected us having to ratify in Finance Committee, a settlement with a landowner where some property was cleared and, I think, it was some fruit trees and other valuable trees that were cleared. However, for the most part, a lot of this land is empty land. Now obviously, we should go along within the guidelines of what Planning tries to do when they approve any sort of development and that is to encourage the mature trees to remain and not to just go in and flatten things

out completely, but even having said all of that, the safety and integrity of our Communities come first.

Mr. Speaker, the Public Health Law (2002 Revision) Part 3 (12) reads that **"The officer for the time being in charge of the Government Department responsible for public works shall comply promptly with any request made to it by the Chief Environmental Health Officer under this Part."** Part 3 deals with nuisances. I think it would be putting it lightly that vacant lots of land being used for drug use to call it a nuisance. I call it a threat; I call it a threat to law and order; I call it a threat to families; I call it a threat to the neighbours, because you do not know the day when someone could be standing innocently in their yard and you have people in that bush trading drugs and some conflict arises and a firearm is used and some innocent person loses their life or gets seriously injured simply because there is an empty piece of land which provides the perfect cover for using and trading drugs. Some might say that is farfetched, but I do not think it is farfetched at all, not one bit. In regards to use of firearms, I think that is a debate and I should not anticipate, but that is a debate for another day.

Mr. Speaker, the Mosquito Research and Control Law, Section 10 entitled "Bush Clearing on Premises" reads that owners and occupiers of premises shall keep trimmed and cut all trees, shrubs, plants and ripe grass from their premises in order to discourage mosquito resting and increase the efficiency of methods of control. We see that already there is an intention within current legislation where property should not become a nuisance or serve to encourage what all of us has come to consider nuisances, and most people consider mosquitoes as nuisances. We have to act. Let us not take it lightly; let us not laugh at it; let us not laugh at the Motion, and then one day when something happens that we all did not think would ever happen happens, then we rush down here to the Legislative Assembly and say, 'Boy you know we really got to try to do something about this. We really got to try and ensure that next to peoples' homes there is not the type of behaviour that is currently taking place.

I am going to move on to another point that I have personally observed and find it to be most disturbing. When you move around the community and you see people who you know are not going to die from hard work; it is not hard work, Mr. Speaker, that is going to kill them, yet, they are riding around the community, riding through the streets with a machete stuck between the small fork at the back of their bicycle. We know that they are not going to chop any bush. They are not going on their way to work; work? I think most of them have a very, very severe, severe, severe, and I could say severe all day, allergy to work. Mr. Speaker, if hard work was to hit them I feel sorry for those poor souls, because they are going to go away very, very quickly and I feel sorry for the

work as well, because that work is not going to get done.

So, a compliant that I have gotten, not only from constituents who have observed this but in speaking to police officers also, because truthfully, when I first saw it I had to do a double take and make sure that is what I was seeing. On the face of it, one would think this is a very simple issue to be solved. But as soon as you are talking to the Police officers and find out again about all the red-tape they have to go through to prove that this person is not on their way to work, that is 'where the rubber starts to meet the road'. I can tell you that the only rubber that is meeting the road is these guys' bicycle tires all over the community and the machetes are sitting in the back. We know that they have those machetes not to be used for any gainful employment, but to intimidate and possibly be used in terms of criminal activity. All of us read the papers and we understand clearly that it seems as though the machete is one of the weapons of choice these days. How many times do you read a grievous bodily harm case and the very next sentence says 'with a machete'?

Mr. Speaker, I say that we must take on board as the most important thing and that is keeping our citizens safe. When I say citizens, I include the police officers. They have families and they put themselves in harms way on a daily basis in carrying out their duties and we are duty bound in this Legislative Assembly to do as much as we can do to ensure that they are kept safe when they are out there doing their job of keeping all of us safe.

I understand that the police have already taken this issue up with the Legal Department and have gotten a Legal Ruling. Unfortunately, that ruling has not increased the hand of the police. Mr. Speaker, in other words, the ruling does not allow the police to do what they would like to be able to do, and that is to not have people who are able to simply ride around with a machete stuck in the back of it. I say this issue needs to be revisited. If we can save one person in this community from having to go through what must be one of the most awful experiences and that is to have someone attack you with a machete. If we can save one, it will have been worthwhile. I understand clearly, that in all of these things there is a fine line and we have to ensure that the public continues to have certain freedoms. We cannot have ourselves decay and I am not promoting any sort of rigid police state, but I think that all of us know where I am coming from and where I would like us to go.

**The Speaker:** Honourable Members we have reached the hour of 4.30 pm, and I have received notice that it is the wish of Members that business of the House should continue until 5.00 pm this afternoon. I would, therefore, call on the Honourable Minister for Tourism to move the suspension of Standing Order 10(2) to allow the House proceedings to continue till 5.00 pm.

The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I move the suspension of Standing Orders in order to do business after 4.30 pm; Standing Order 10(2).

**Mr. Speaker:** The question is that Standing Order 10(2) be suspended to allow the proceedings to continue until 5.00 pm.

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

**Ayes.**

**Mr. Speaker:** The Ayes have it. The House will continue proceedings until 5.00 pm.

**Agreed. Standing Order 10(2) suspended to allow the proceedings to continue until 5.00 pm.**

**The Speaker:** The Second Elected Member for West Bay continuing.

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

Mr. Speaker, as I said earlier, I think all of us understand quite clearly that there are situations that exist in our communities which you cannot justifiably point any finger at political directorates and blame. I think the issues raised thus far are things that exist, but with a little more cooperation and a little more emphasis, and I think, as I said earlier, the buck stops here. So, that is why I believe we need to give a little emphasis to certain matters. That is why we are the Legislative Assembly. That is why we are here to represent our constituents.

There exists in The Town and Communities Law a lot of old and archaic terminology and principals. I think that became very clear to myself and a lot of us in this Honourable House when the Honourable Third Elected Member from West Bay and I did move the Motion that I spoke to a little bit earlier, in regards to loud music in automobiles. This piece of legislation is designed to try to ensure that peace and tranquillity and productive living is the order of the day within the districts. So, when I continue to get complaints from constituents in regards to that ever frustrating and ever moving target of the people who have about ten nightclubs wrapped up in the backseat or the trunks of their cars that is such a vexing issue, because truthfully, number one, they are a moving target. Therefore, when the innocent person in whatever street in Cayman is awoken at whatever hour – two, three o'clock in the morning because someone has driven by their house with this loud, vexing music, by the time they call the police, the person is gone. Truthfully, even if they knew what car it was, by the time the police catches up to the person, the music is off or at a very generous or reasonable level.

Now, Mr. Speaker, I know this one is, again, a little delicate because I think there are many of our citizens who feel it their mission in life to deafen themselves. They believe that it is quite cool to blast the music louder than the other guy, to have the muffler that you can hear him when he takes off in East End and only God can help your ears by the time he arrives in West Bay. They have these special exhaust mufflers that they put on cars and trucks or vehicles, to make them scream as loud as they can. Years ago, you had to have a hole or had to have the silencer on your exhaust system fall off to even come close to making the noise that these cars make. However, they are built and designed to make this noise.

Mr. Speaker, there will be those critics who will say, *'Now listen to this. On the Floor of the Parliament we are talking about noise in cars.'* Unfortunately, we have people who live on certain main roads; not everyone is lucky enough to live a little off a main road. There are still many, many, many homes that were built on the traditional main roads throughout these Islands. Therefore, every one of those citizens, at some time or another will have to have been – I am confident – disturbed by the loud obnoxious noise that comes from passing vehicles. Again, Mr. Speaker, we brought a Motion in regards to it. In sitting down with the police, we understood how difficult an issue it is from a policing perspective. The people who practice this are not only trying to make themselves deaf, but are a real threat to emergency vehicles when they are on the roads. How can anyone argue that with the volumes that they have music at, combined with these mufflers or exhaust systems, no one can convince me that when an emergency vehicle is approaching them that they are going to have the ability to hear them. It is impossible, Mr. Speaker, impossible! In fact, I think that if you are driving in another vehicle close enough to them, you might not hear the emergency vehicle that may be approaching you, especially when it is approaching you from behind where it is not in your line of sight.

So, I acknowledge that that vexing issue still exists; however, I acknowledge that it is a very, very difficult one for the police to get their hands around. However, every other country faces this issue and I am sure that somewhere with a little research, we will find that there are moves elsewhere to try to tackle this particular issue.

Mr. Speaker, I still say The Town and Communities Law is a useful piece of legislation for the police and citizens, but it does need—and I call upon the Government to have it reviewed with a view to making it modernised. We still have provisions in this Law that if a person is disturbing the peace, and with your permission, Mr. Speaker, I quote from Section 16, which deals with street musicians etc. **“Any householder, personally, or by his servant or any constable may require any street-musician, juggler, dancer, actor, or showman to depart from the neighbourhood of the house of such house-**

**holder; and every person who sounds or plays upon any musical instrument, or makes any other noise or disturbance in any thoroughfare near any house, after being so required to depart, is guilty of an offence and liable on conviction to a fine of twelve dollars.”** Twelve dollars, Mr. Speaker, one, two, 12; let me make that clear, \$12.00! So, when you look at some of the fines and the terminologies, this piece of legislation, whilst it is there, it does need to get a little more teeth in it because this is yet another vexing issue for a lot of people in our communities and for the police in dealing with this whole issue of people's right to be able to have a good night's sleep and other people seemingly feeling confident that they can blast music at any volume, up to any hour of the morning.

Let us turn our attention to another small issue – on the face of it – in the Traffic Law. I think that we will find in that Law that there is no requirement for police to take a breathalyzer of a person who is involved in a major accident. I have had personal experience some 19 years ago. I know you should not make politics personal and debate personal but hear me out, Mr. Speaker and Members, because it is a serious issue. My eldest brother died in a motorcycle accident. Many people told the family and the police afterwards that one of the persons involved with that accident was drinking. However, there is no requirement; it is at the discretion of the officer to take a breathalyzer when major accidents happen. I think whilst that term 'major' is subject to some interpretation, I think, most of us know what I am driving at.

More recently, I had a constituent tell me that they were involved in an accident and luckily they did not get a lot of personal harm but their car sustained a lot of damage and they were convinced that the person who was involved with the accident had been drinking. However, the officer at the scene, using his discretion, did not think that the person was under the influence and had any substantial level of alcohol in them. That is not something that you can readily avail by just looking at a person, because each person has a very, very different level of tolerance to alcohol and other substances. So, one person may get a 'whiff' of a glass of wine at a party and be drunk and somebody else may have half a bottle and not appear to be under the influence. Therefore, Mr. Speaker, I think this too is another issue in speaking to the police that they readily acknowledge and would allow them to more effectively police and not have instances where the public looks at a situation and feels as though something unfair has transpired. What you do in a case like that, in my view, is not to put the police in the untenable position of having to make a judgement call which is open to critique. As I said, this is when you have serious accidents. I think when there is a serious accident, you must err on the side of caution, and again, I believe this would assist the police greatly.

Mr. Speaker, when we look at the Police Law itself, we see that the Governor is the Post to whom certain discipline goes. I believe that we have moved in this country that certainly when there are allegations made against an officer up through the ranks of Chief Superintendent that the Commissioner of Police should rightly be the person who investigates those cases. Then, if need be, for the time being, those could be appealed up to the Governor if the person who is being investigated feels aggrieved. This element of policing is very important; it is critical to the police themselves, maintaining a certain feeling of equity as to what happens within their own ranks.

Just last week Monday, the four Members from West Bay were invited to attend a meeting that was organised by some residents of our district. They had invited us and the police. Three officers came, there were about six residents and they wanted us to come and see and talk to them about a situation that exists in their neighbourhood. For easily 15 to 18 years we have had a particular individual in a particular residence who is involved with the drug trade. Things have gotten to the point where people on this particular street, a small side road, keep their children at home and do not allow their children to venture too far out because these guys hang out on the side of the street. These guys often block peoples' access; they just blatantly stand in the middle of the road when people are going home or leaving; they try to intimidate the children and the residents.

Mr. Speaker, they had become successful at it because in speaking with one of the officers on Saturday – the meeting was on the 12<sup>th</sup> – I was delighted to hear that the garbage truck was now going back into that road, because the situation had gotten so bad that all the residents had to take their garbage from their homes out to the main road, because the garbage trucks were no longer going into the road. These guys have taken that road for themselves. Again, there is a large vacant lot of land right next to their residence where these guys hide stolen goods and drugs. Imagine this, Mr. Speaker! Some of the residents have called the police to come and recover stolen vehicles from that vacant lot of land. It is vacant lot, but they have cut out certain small paths in it.

The people in that area have come to ask their representatives to try to assist them in coming up with an alternate road to get to their homes. They are so frustrated and do not feel safe driving by this yard any longer. Mr. Speaker, there are illegal buildings in that yard; the road is extremely narrow and has become even more narrow over the years because an illegal structure is on what should be the road; and one of the residents who was very, very agitated was straightforward and put the police who attended 'on the spot' all night because he wanted to deal with 'the bottom line'. He had copies of police reports as to when he had gone to the police. Sure enough, there it is in black and white – he had called,

he had come by the station – he had made the Report, nothing improving.

Now, Mr. Speaker, knowing that road and knowing that area, if I was to put myself in the shoes of the police, I would think twice about going in, because I know that I would be putting myself in harms way if I were a police officer. So, I am not trying to blame anybody, but it is a good example, a classic example of why it is so important that we move forward in trying to ensure that the police in this country have a greater possibility to shut down the known drug selling yards and the known crack houses. If we did not know where it happened, it would be a completely different debate, but when we know, when everybody knows then it becomes an even more vexing situation.

Another complaint that you get from the police is the number of ferocious dogs that the owners of these drug yards have. Again, this makes it extremely difficult for policing purposes. Again, I move back to another Motion that was brought to this House. I cannot remember precisely who brought it but I am confident that the record would bear out that there was a combination of myself and the other Elected Members from West Bay. Again, we received a lot of criticism for bringing about that debate, but I am not reviving that debate but I am pointing to an example of one of the real issues that these Cayman Islands face.

We know how a lot of these dogs are bred. I am not going to blame the breed of dog, because we had three meetings after that Motion that did educate us a little more in terms of some of these breeds of dogs, and so whilst many people have their own opinions as to whether or not the breed itself is ferocious, that is neither here nor there. The bottom line is that many of these drug pushers have in their yards, ferocious animals roaming freely knowing that this will frustrate the police in their efforts to try and shut them down.

Simple, Mr. Speaker, a shop owner has a door and a lock on his business, and a lot of times an alarm system. They want to protect their business. Drug pushers want to protect their business as well, and so they utilise ferocious dogs in a lot of instances and this makes it virtually impossible for the police to effectively deal with policing those yards. Now, my understanding is, and maybe after this Motion we will have dialogue between the Portfolio of Internal and External Affairs and the Portfolio of Legal Affairs, and my next statement may prove to be incorrect, but to the best of my knowledge, the police does have sophisticated enough equipment to be able to prove that there is illegal activity going on through surveillance techniques. So, Mr. Speaker, the question is begged, asking if you can prove through surveillance techniques that illegal activity is going on, we must do what it takes to ensure that the police are more able to deal effectively with these yards.

**The Speaker:** Honourable Members, we have reached the hour of 5.00 pm, and I would now call on the Honourable Leader of Government Business to move the Motion for the adjournment.

**Hon. W. McKeever Bush:** Mr. Speaker, I move the adjournment of this House until Wednesday at 10 am.

I understand there will be another meeting, which all Members should be at 9.00 am and then the House will resume at 11 am.

**The Speaker:** The question is that this House do now adjourn until 11 am on Wednesday, 21 July, 2004.

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

**Ayes.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 11 am on Wednesday, 21 July, 2004.

**At 5.00 pm the House stood adjourned until 11 am Wednesday, 21 July, 2004.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**21 JULY 2004**  
**11.13 AM**  
*Ninth Sitting*

**The Speaker:** I would invite the Honourable Third Official Member to lead us in prayers.

**PRAYERS**

**Hon. George A. McCarthy:** Let us pray:

How good and pleasant it is when brothers live together in unity! It is like precious oil poured on the head running down on the beard, running down on Aaron's beard, down upon the collar of his robes; it is as if the dew of Hermon were falling on mount Zion for there the Lord bestows His blessings, even life forevermore.

*Eternal God and Father is in whose presence our souls find delight: 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 Cabinet 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 are now resumed.

**Proceedings resumed at 11.16 am**

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

**Apologies**

**The Speaker:** I have not received any apologies for the absence of Ministers or Members of this Honourable House. I have, however, been told that the Honourable Minister for Education is off Island on official business.

**PRESENTATION OF PAPERS  
AND OF REPORTS**

**The Traffic (Public Transport Appeals Tribunal)  
Regulations, 2004**

**The Speaker:** The Honourable Minister of Tourism, Environment, Development and Commerce and Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg to lay on the Table of this Honourable House the Traffic Law (2003 Revision), the Traffic (Public Transport Appeals Tribunal) Regulations, 2004.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. The Public Transport Board was established several years ago to manage and regulate a public transport system for the Cayman Islands. However, the Law is broadly ineffective in the absence of a clearly defined appellate process, thus the reason for the Traffic (Public Transport Appeals Tribunal) Regulations, 2004.

The main problems being faced by the Board are as follows:

a. There is no properly constituted tribunal appeals process.

b. There is no clear system in which decisions may be appealed after the Board's decisions.

c. The Regulation is long overdue and will add credence to the appeals process of decisions made by the Public Transport Board. Therefore it will remove the Cabinet from being the apparent appellate body for aggrieved or dissatisfied individuals. In so doing those persons would now have recourse of appeals through the Public Transport Appeals Tribunal.

d. This Regulation is modelled after the Immigration Appeals Tribunal Regulations. Therefore to address the outlined deficiencies of the Law it is desirable that the composition of the appellate body be structured so that the appeals making role is separated from the Cabinet and the Public Transport Board whereby the body has similar stature to that of the Immigration Appeals Tribunal. The attached Regulations provide the teeth necessary to allow the body to function in an autonomous manner.

The economy is doing well and whilst the deficiencies in the Law affect licence holders or persons desirous of getting a transport license in good or bad economy, we find today that many Caymanians are affected because they want to get into the transport business. The smallest of an issue at times affect them. We have had persons with a conviction who got a license while others were turned down. My advice is that the Cabinet cannot be the appellate body therefore it is judicious for us to have an established appellate body to deal with such matters and address the concerns of various applicants and matters connected to transport.

Thank you very much, Mr. Speaker.

### The National Gender Policy

**The Speaker:** The Honourable Minister responsible for Community Services, Youth, Sports and Gender Affairs.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, and Members of the Legislative Assembly it gives me great pleasure to present to the Honourable House, the Cayman Islands National Policy on Gender Equity and Equality.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Dr. the Hon. Frank S. McField:** Mr. Speaker, the Cayman Islands began work on the development of this document in June 2000 under the guidance of the Research and Development Team chaired by the Permanent Secretary of the Ministry and the assistance of two experienced external advisors. A list of the Research and Development Team (R&D Team) is attached to the Policy as Annex 4.

Many hours of research and dedication of the Research and Development Team, over a period of two and a half years went into this document. I would like to thank the advisors, the Research and Development Team and the Ministry's staff for their dedication in getting this document to the Legislative Assembly.

I would especially like to mention Mrs. Marilyn Conolly, the First Officer responsible for Women's Affairs (now renamed Gender Affairs), for her dedication in the initial stages, and Miss Estella Scott, and

Mrs Tammy Ebanks-Bishop for seeing this project through to its final stages of development.

However, none of this would have been possible without the Government and the full support of the Legislative Assembly. I would like to thank the two lady Members of the Legislative Assembly, both of whom were Ministers during the development of this Policy—the Honourable Juliana O'Connor-Connolly, JP and Ms Edna Moyle, JP for their dedication to gender issues.

Mention would also be made of the various women who served in this Honourable House and in their communities, many of whom have passed away and who were instrumental in insuring that the rights of women and families were always at the forefront of the needs of the people of the Cayman Islands. Special mention of these women is made on pages 23 to 35 of the document.

The development and production of this policy by the Cayman Islands Government is a significant milestone towards sustainable human development in our country. We can proudly be recognised as the first Caribbean country to produce a gender policy document. Gender equity is the process of being fair to women and men. Despite the effort made by the Government in the public sector there is still some work to be done, both in public and private to ensure that women and men are operating on a level playing field. This policy seeks to improve gender awareness among policy makers, planners, implementers and the general public in order to achieve equity, equality for men and women, boys and girls.

The ability to view issues from a gender perspective is imperative if policy makers, planners, administrators and society at large are to understand the underlying causes and find adequate long-term solutions for crucial national and global issues such as labour, trade and immigration migration problems.

Implementation of this Policy will produce a partnership between our men and women, not a division. Therefore politicians and the people of the Cayman Islands must see this as a positive undertaking, for the future depends on maintaining mutual respect between women and men who raise our families, which are the foundations upon which our country will continue to develop.

Mr. Speaker and Members of the Legislative Assembly, I would now like to draw your attention to the major issues and highlights of this Policy.

### Part A : The Policy Framework and Formulation Process of the Cayman Islands National Policy on Gender Equity and Equality.

This part covers the following sections:

#### Section 1 – Principles, Vision and Aims

- Pages 8-16, covers the principles, vision and aims of the Policy. Important aspects of this sec-

tion are the strategic objectives of the Gender Policy on pages 11 and 12.

- The strategies to achieve policy objectives – pages 12 and 13.
- The role of the National Machinery and the roles of other institutions – pages 14 to 16.

### **Section 2 – The Consultation Process**

- Pages 17-19, explains the consultation process that was carried out to produce this document. Annex 3 at the back of the Policy document shows the wide range of persons and organisations that were consulted during the formulation of the Policy. It also outlines other consultative means of information gathering for the Policy.

### **Part B**

#### **The Local and International Climate**

- Pages 20-42, this part covers the enabling environment, section 3 and the international context, section 4.

### **Section 3 – The Enabling Environment**

As mentioned in the introduction, section 3 speaks of the efforts made in getting the issues of women and families brought to the stage that we are at now in the Cayman Islands.

We all are aware of the importance of the Caymanian women in keeping many of the families strong and I am sure that many of us are aware of the saying: “the hands that rock the cradle rule the world”. I do believe that we join the rest of the world with saying that our women rank with some of the strongest, smartest and most competent in the world. I will not single out any of these women mentioned as they all played vital roles in advancing the Cayman Islands to the stage where we can have a policy that deals specifically with gender issues. I would like to thank them all from the bottom of my heart for their stalwart and selfless efforts.

This section also speaks to the establishment of the Woman’s Resource Centre on pages 35-37. I would like to publicly thank the program manager, Mrs. Tammy Ebanks-Bishop and her staff, as well as the many volunteers and donors for making this an important and effective part of our struggle to equip women to deal with issues surrounding families, many of whom are working mothers. On this I would like to reiterate that this Centre will continue to be called the Women’s Resource Centre as a specific, if not exclusive needs of women, such as child maintenance and domestic abuse are still, unfortunately, existent in our society.

I do, however, recognise that there are issues and needs of our men that we must address and to this end I am in the process of developing a family and parenting centre, which will address many of the

needs of the family. In addition, as the Policy calls for a male support officer to be part of the gender management team on pages 74, 75, and 77, I am quite competent that in implementing this Policy the issues that affect the men will also be addressed.

### **Section 4 – The International Context**

Section 4 speaks to the international context. Of particular importance is the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), which is covered on pages 38, 39, 40, 41, and 42 of the document. I am pleased to inform this Honourable House that I will be seeking your support in having this Convention extended to the Cayman Islands during this sitting of the House.

### **Part C**

#### **Analysis, Policy and Implementation**

This is the most important part of this document as it clearly outlines what is needed in order to ensure that this Policy is implemented. Of importance is section 6, the Cayman Islands Policy and Gender Equity and Equality pages 53-71. This section clearly outlines what is required from various sectors of our society for this Policy to be fully implemented.

These sectors include the family, household, housing, immigration, labour, health, education, religion and constitutional and legislative framework.

### **Section 7 – Strategies for Implementation**

Section 7 outlines the strategies for implementation pages 72-77. This is summarised in Annex 2 - Action Plan and Indicator Matrix.

In conclusion I would like to again thank all the persons that were instrumental in getting this Policy to the Legislative Assembly. I would like to thank my colleagues of the Cabinet for their support in having this document brought to the Legislative Assembly.

Mr. Speaker and Members of the Legislative Assembly I thank you for your support in having this document supported by the Legislative Assembly and we look forward to seeing this Policy implemented. Thank you.

## **STATEMENTS BY MEMBERS/MINISTERS OF THE CABINET**

**The Speaker:** I have received no statements by Honourable Members or Ministers of the Cabinet.

## **GOVERNMENT BUSINESS**

### **BILLS**



**Suspension of Standing Orders 45, 46(1), (2) and (4) and 47 to allow the Bills to be read a first, second and third time**

**The Speaker:** I call on the Honourable Deputy Leader of Government Business to move the suspension of Standing Orders 45, 46(1), (2) and (4) and 47 to allow the Bills to be read a first, second and third time.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Orders 45, 46(1), (2) and (4) and 47 to allow the Bills to be read a first, second and third time.

**The Speaker:** The question is that Standing Orders 45, 46(1), (2) and (4) and 47 be suspended to allow the Bills to be read a first, second and third time. All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

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

**Hon. D. Kurt Tibbetts:** Mr. Speaker, could we have a Division please?

**The Speaker:** Madam Clerk.

**Division No. 1/04**

**Ayes: 6**

Hon. Gilbert A. McLean  
Dr. the Hon. Frank S. McField  
Hon. Donovan Ebanks  
Hon. Samuel W. Bulgin  
Hon. George A. McCarthy  
Capt. A. Eugene Ebanks

**Noes: 4**

Hon. D. Kurt Tibbetts  
Mr. Anthony S. Eden  
Ms. Edna M. Moyle  
Mr. V. Arden McLean

**Absentees: 7**

Hon. W. McKeeva Bush  
Hon. Roy Bodden  
Hon. Juliana O'Connor-Connolly  
Mr. Rolston M. Anglin  
Mr. Cline A. Glidden, Jr.  
Mr. Alden M. McLaughlin, Jr.  
Mr. Lyndon Martin

**Mr. V. Arden McLean:** Mr. Speaker . . .

**The Speaker:** Honourable Member for East End I have taken note that the Honourable Leader of Government Business was not here when the vote was taken and he will not be recorded.

**The Clerk:** 6 Ayes, 4 Noes and 7 Absentees

**The Speaker:** The Motion is carried for the suspension on the results of 6 Ayes, 4 Noes and 7 Absentees.

**Agreed by majority: Standing Orders 45, 46 (1), (2) and (4) and 47 suspended.**

**FIRST READINGS**

**The Penal Code (Amendment) Bill 2004**

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for Second Reading.

**The Elections (Amendment) Bill 2004**

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for Second Reading.

**SECOND READINGS**

**The Penal Code (Amendment) Bill 2004**

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I beg to move for the second reading of a bill entitled a Bill for a Law to amend the Penal Code 1995 (Revision) and for Incidental Purposes.

**The Speaker:** The Bill has been duly moved, does the Honourable Mover wish to speak thereto?

**Hon. Samuel W. Bulgin:** Yes, Mr. Speaker, thank you.

I must apologise to Honourable Members for the relatively short notice in taking this particular Bill, but I think circumstances cannot be attributed to anyone in this House why this matter is being dealt with now, and it is probably to our credit that we are seeking to address what is a long outstanding issue and to bring closure to this matter.

This matter has its genesis in a number of select committees in this Honourable House and a number of recommendations were made in the 1990's for the Penal Code to be amended. At the time, Honourable Members put forward very useful suggestions which would enhance the capabilities of the investigative, prosecutorial and indeed judicial arm of these Islands to deal with certain criminal matters, thus enhancing the criminal justice system and the legal systems.

The recommendations were put forward and enacted in the 1998 Penal Code. They are as relevant now as then. However, in the 1998 Penal Code Amendment Law which was assented to on the 19<sup>th</sup> of this month, there was a particular provision which would have the effect of abolishing common law offences. After the Law was passed and before it was assented to there were conflicting views as to the correctness, for the want of a better word, of seeking to

abolish common law offences and so there were ongoing debates, and at the end of the day, the Bill was never assented to.

A decision has been taken, by the Government that it would be unwise to seek to abolish common law offences. It is a tool that every civilised society wishes to have up its sleeve in dealing with crime. So, in order to address the issue, the amending Penal Code Bill before this Honourable House, when it is enacted, has the effect of repealing section 3 of the 1998 Penal Code (Amendment) Law, which has the effect of abolishing common law offences. Therefore, it was thought that it was best to bring the 1998 Bill into affect virtue of assent by His Excellency the Acting Governor and seek to enact this Amendment Bill, which would remedy the problem this contravenes without common law offences and hence the whole objective of the Bill currently before this House.

Mr. Speaker, I need not remind Honourable Members that the 1998 Penal Code Amendment has some extremely useful provisions, for example, if a person is found guilty by committing a category A offence for the second time, the Court may in its discretion sentence that person to imprisonment for life for that second offence. There are also provisions dealing with obtaining services by deception, obtaining a money transfer by deception; provisions which in today's commercial world are very important. We have incidents of mortgage fraud taking place globally and in some instances we have our own problems domestically. So, these provisions are aimed at addressing contemporary issues. I therefore seek the concurrence of Honourable Members of this House in putting forward and agreeing to the enactment of this Bill.

I must also say that during the hiatus, between 1998 and 2004 there were certain amendments that were made to the Penal Code, a number of them are dealing with sexual offences concerning young people. Those amendments were made and are in effect since 2000 and 2001. Although they were also reflected in the 1998 Law what will happen is that when the 1998 Law is brought into force, because it is a later Law, there will be implied repeals and so where there are duplications they will be addressed by way of a revision exercise and avoid difficulty with duplications and so on.

Mr. Speaker that in a nut shell is the spirit and intendment of the Bill before the House and I seek the concurrence of Honourable Members in its passage.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

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

Mr. Speaker, lest it be misunderstood, the Opposition's vote of no for the suspension of Standing Orders to allow the two Government Bills to come forward, and in dealing specifically with the Penal Code (Amendment) Bill was not because we did not welcome not only the fact that the 1998 Law will come

into effect, but the fact of the matter is that we have a very serious question with the regards to the procedure.

The Honourable Second Official Member has outlined the reasoning for the new amendment to the Law and we understand that. We understand the difficulty with the original repeal of the words common law, which would cause for voids in certain areas. So, this new amendment brings back the words common law into section 2A so that it fills the gaps that were created. However, the coveting letter, first of all, the 1998 Penal Code amending legislation, we have just seen it this morning, and the covering letter says: **"To All Honourable Ministers, Official Members and Elected Members of the Legislative Assembly: Attached is the copy of the 1998 Penal Code which the 2004 legislation (circulated on Business Paper No. 9) proposes to amend.**

**I have been advised by the Attorney General that the Law was assented to on Monday, 19 July 2004. Although the Law has not yet been gazetted the Honourable Attorney General desires the amending Bill to come forward as soon as possible."** The Honourable Second Official Member explained that in his presentation.

If we look in the Interpretation Law section 15(1) reads: **"Every Law shall, unless it is otherwise therein expressly provided, come into operation on the day of the publication of the notification of assent."** What we are not sure of is if procedure actually allows for us to be doing what we are doing now. This Law has not been gazetted as the cover letter has said and the Interpretation Law speaks to notification of the assent.

My understanding, and I could be incorrect, is that the publication of the notification of assent would be the gazette. I do not know any other method where the notification of assent is published, so there is a question there. Under the Memorandum of Objects and Reasons of the new Bill, the very last line says: **"This Bill will come into force immediately after the 1998 Law comes into force."** We need to know whether the 1998 Law is in force or not and go back to the Interpretation Law and understand whether this can be done.

If the 1998 Law is interpreted that it has come into force on the Governor's assent and this piece of Legislation says the Bill will come into force immediately after the 1998 Law comes into force, then what we are expected to do is pass retrospective and retroactive legislation, if that is the case; I am not saying that is the case.

So, if as the letter states, the Law was assented on 19 July 2004, today being 21 July 2004, therefore we are only speaking of two days but it is two days. If that is the case, perhaps one may say that we should be looking at this, but what happens to an offence that was committed between then and now?

Mr. Speaker, there is another point and I will come to that but I was just making the point that it is entirely up to what the proper interpretation is. 1. If it is interpreted that the Law came into force when it was assented to on the 19<sup>th</sup> and the fact is that what is before us is on the 21<sup>st</sup> and it is said that this amending piece of legislation will come into force immediately after the 1998 Law comes into force—I will quickly repeat that. If it is interpreted that the Law came into force when it was assented to on 19 July 2004 then this amending legislation which is suppose to come into effect immediately after that Law comes into force causes for it to be two days retroactive; that may not seem to be a point but the Honourable Second Official Member needs to address that. If that is not the case, and the 1998 piece of legislation has not come into force yet, but will only come into force upon publication of notification of assent, which we interpret to be the gazette, then we are dealing with amending a piece of legislation that has not come into effect. I do not believe that we can do that.

If we look at the Interpretation Law, to make the point clearer, I quoted section 15(1) I will now quote section 14 to have a clearer understanding. Section 14 reads: **“In the case of every Bill, which may hereafter may be passed in the Islands the Governor shall, on assenting thereto, or on to receiving official intimation that the Bill has been duly assented to, cause a notification of such assent to be gazetted.”** Clearly section 14 speaks to the gazette.

Section 15(1) reads: **“Every Law shall, unless it is otherwise therein expressly provided, come into operation on the day of the publication of the notification of assent.”** We are dealing with two pieces of legislation. The 1998 legislation has run its natural course and was assented to on 19 July 2004. There was no indication in that Law—as in this Bill, which specifically states: **“This Bill will come into force immediately after the 1998 Law comes into force.”** The point cannot be argued with this Bill but the fact that, as I understand from the cover letter where it reads: **“Although the Law has not yet been gazetted”** we are to assume that the Law is not yet gazetted therefore we have to assume that the Law is not in force. So how can we amend a law that is not in force? That is my question.

If it has been gazetted since we received this letter then maybe we do not have a point, but I am going by the information that is in front of us. The point about being retroactive is a valid point because on many occasions we have had to argue that and the principle that is always applied is that retroactive legislation as a rule, is a no, no.

I remember a case many years ago, in my early days in this Honourable Legislative Assembly, when a Bill was brought to amend a Law; it had to do with a yacht being seized by the Court. I do not remember the details of it but retrospective legislation had to be passed for it to be legal to seize the yacht

with some drug business or something. That is the only time I remember this Honourable Legislative Assembly getting together and understanding the specific circumstances, agreeing unanimously to retrospective legislation.

This situation, in my view, is not similar and should not run that course. What I argue may seem to be of no consequence but we have to be absolutely clear in what we are doing. As I said, we are only going by the information that has been handed to us today so we will have to hear what the Government or the Honourable Attorney General says in order for the matter to be cleared up.

Clearly for it to be into force the 1998 Law has to be gazetted. So, unless it has been gazetted since the letter then the point needs to be addressed.

Thank you.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

I intend to be brief. What we understand is that the 1998 Law had not been assented to but on Monday, 19 July 2004, it was assented to and as the House saw it, they got the Bill in May. So, the Bill was here from May.

The Members of the House did not get the Bill until this week but a law will come into force when it is gazetted. The importance of what we are doing here is that it becomes law when the Governor assents to it. The publication is only to say it has been assented to. From what I understand of something being retrospective is when we backdate something and we are not doing that. So, Mr. Speaker, perhaps it is a storm in a teacup.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If not would the Honourable Second Official Member wish to exercise his right of reply?

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.

Before I respond, may I point out that I have given notice of a Committee Stage Amendment to deal with the transitional provision?

I have listened to the observations of the Honourable Leader of the Opposition. The position is and has always been that a bill becomes law when it is assented to by the Governor. Section 39 of the Constitution says: **“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 a Proclamation.”** That is, in itself, a complete act; that is when it becomes a law and cannot be changed. Section 39 of the Constitution says that it

becomes law when it is assented to by the Governor. The publication of it merely signifies to the public that it is in operation. It is a notification to all in sundry that henceforth, and as of this day, the law that has been assented to by the Governor on the 19 July, is now in operation.

Mr. Speaker, we are not unmindful that the issue might be raised. As a matter of fact, when the Bill came to this House in May, and since it has been here, there has been correspondence between my office, the Legislative Drafting Department and the Clerk of this Legislative Assembly, as to how best to address this matter and deal with it, and our research took us all the way to the UK. They were kind enough to write back to us and say to us in terms and I am paraphrasing that there is nothing to prevent the Bill from being debated even though the Penal Code Law has not been assented to. There is a question as to what is the best practice, but there is nothing unconstitutional about the issue; there is nothing unlawful and there is no issue as to retrospection in those circumstances respectfully.

May I make the point about retrospection because I have heard it being said on the Floor of this Honourable House on numerous occasions that there cannot be retrospective legislation; that is not what the Law says. The law has always been that a law ought not to be interpreted or deemed to be retrospective unless the Legislative Assembly expressly so provides. The Legislative Assembly can make retrospective legislation but it must be expressly so provide. The caveat is always in respect of criminal matters because there is a canon of interpretation, which says it is undesirable to have a retrospective criminal offence so that a person is not prosecuted for committing an offence when on the date when the offence or transaction took place it was not an offence.

The law has always been that it can be retrospective as long as the Parliament expressly so provides. That has always been the canon of construction, but in this case the issue does not arise because the Law was assented to on 19 July and it becomes Law and the publication of it and the notification to the public as to the existence of it is what the gazette is all about. It is a procedural requirement.

So, I hope I have laid the fears of the Leader of the Opposition in that regard but there is nothing either in Erskine May, the Constitution or Standing Orders, which says that it is unlawful and constitutional undesirable practice to amend a law that has not yet been in operation. I use the word "law" advisedly because it is a Law as of the 19<sup>th</sup>. Once it is a Law it can be amended and that is what is being done here. I am sure, Mr. Speaker, you are not unmindful of the recent incident where the Public Management and Finance Law where certain provision of it were amended before it came into effect. It was a law but was not published but amended to deal with certain incidents interpretation sections. I am only saying that

it is not unprecedented and it is not unconstitutional or illegal. It is a Law, it is amended and what will happen is that it is hoped that there would be at least a day that separates the publication of both of them.

What we are trying to avoid is to have a situation where we go months or weeks without having common law offences on our books, because God forbid that something happens, which is not covered by the four corners of the Penal Code, then a useful fall back has always been the Common Law and so we would like to have that as part of our fall back position.

So, what is hoped is that the 1998 Penal Code (Amendment) Law will be gazetted probably a day before the 2004 amendment, if it is enacted, so that the period of hiatus would not be so great as to cause any lacuna in our crime fighting. Thank you.

*[Pause]*

**Hon. Samuel W. Bulgin:** May I just crave your indulgence, Mr. Speaker? Thank you, Mr. Speaker.

The proposed amendment speaks for itself. What we are hoping to do is to make sure that with the passage of the 2004 Amending Law and the coming into effect of the 1998 Law, that no trial, which is currently ongoing, would be affected by any of those amendments so that the position of persons who are currently before the court will not in any way be prejudice by any of these amendments. They are perspective rather than anything else. We are trying to preserve a person's position up to the date of the coming into effect of these laws.

Whatever the system, penalty and provisions are as at the date of the amendment, those defendants or accused persons will continue to enjoy those rights as they existed prior to the date of these amendments, and hence no retrospection.

**The Speaker:** Honourable Members having read the Interpretation Law (1995 Revision) I am inclined to concur with the explanation given by the Second Official Member, especially on the strict reading of section 15(1) of the Interpretation Law which states: "**Every Law shall, unless it is otherwise therein expressly provided, come into operation on the day of the publication of the notification of assent.**" I understand the point being raised on the question of the publication of the notification of assent but I am also mindful of the section which states: "**Unless it is otherwise therein expressly provided**", which in the Bill it states that this Law will come into force immediately after the 1998 Law comes into force, which is expressly worded.

I have no hesitation in supporting the explanation that has been given by the Honourable Second Official Member.

Accordingly I propose to put the question on the Bill at this time. The question is that a Bill shortly entitled the Penal Code (Amendment) Bill 2004 be

given a Second Reading. All those in favour please say Aye. Those against, No.

**Ayes.**

**Agreed. The Penal Code (Amendment) Bill 2004 read a second time.**

### **The Elections (Amendment) Bill, 2004**

**The Speaker:** The Honourable First Official Member.

**Hon Donovan W. F. Ebanks:** Mr. Speaker, I beg to move the Second Reading of the Elections (Amendment) Bill, 2004.

**The Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. Donovan W. F. Ebanks:** Thank you, Mr. Speaker.

Unlike the previous Law that was being dealt with, I am sure all Honourable Members are fully familiar with the Election Law because of the rules of the game that get people here, and in this pre Olympic/pre Election season obviously all contenders are very much aware and interested in any changes to those rules.

We think that the Bill being brought to the House today is one that will enhance the Election process. I do not expect that it will provide all that each Member may wish to see in terms of changes, but I think that the net effect will be a better Law and hopefully for a more efficient process.

As a bit of background, there was an independent review commissioned by the Supervisor of Elections after the last election. The Supervisor and his staff have always been keen to try and learn from the experiences of each election, I think that we all agree that these Islands are fortunate to have well established organisation and machinery that manages the election process. To this end a gentleman by the name of Mr. Carl Dondus who is a very prominent authority, both regionally and internationally, visited and in consultation with the supervisor's office, produced a report making various recommendations on possible changes and the Government endorsed the sharing of these recommendations with all Members. I think all Members some time ago had an opportunity to see that range of suggestions that were being put to the Government and obviously, what is in the Bill today is not a duplicate of that. The Government has listened to the reaction of Members and while there were things in the Report that some Members would have wished and things that others did not agree with, the Government has taken its position of what we feel is the most essential and appropriate changes to look at and make at this stage. That does not preclude the fact that other changes can be made in the future, but the changes being suggested now are aimed at gen-

erally remedying some of the deficiencies and improving the overall timeliness and expediency of dealing with election, and in particular, the results after. There are some other changes and I will touch on them briefly.

It is proposed to make clear provision for the appointment of more than one deputy supervisor, and in fact, to appoint three, one of whom would be responsible for Cayman Brac and Little Cayman and eliminate the need for a supervisor to be scuttling to and from here to Cayman Brac to perform certain functions.

One of the most significant areas when I mentioned efficiency and expediencies, the whole situation whereby in a country this size it has taken us about 24-27 hours to get the results in the two larger districts. That certainly seems unacceptable for a jurisdiction that is outstanding on other areas such as business and governance as a whole to be still having to take that long to arrive at the results at an election.

To this end it is proposed to appoint additional deputy returning officers and provide for the establishment of additional counting stations so that ballots can be counted at more than one counting station in an electoral district at the same time and those results can then be assimilated.

The Election Office feels that with these provisions a 24 to 27 hours wait can be reduced to within 6 hours and hopefully by midnight on the day of elections, even in those two larger districts, we can have results. That would certainly be a worthwhile accomplishment and a tremendous relief for both electors and candidates in those districts.

There is also a requirement that the revised electoral list is posted on a website to be decided by the Supervisor of Elections, but basically a requirement to make information that previously had been available only in a physical visible form at an office or some other prescribed location is to be made available electronically. Related to that likewise, a provision that allows the Supervisor of Elections to, at a cost commencing with the provision of the register or a copy of the register, to make such copies available for sale to those who may wish the convenience of having their own rather than having to go look at it somewhere else or print it off a computer, or whatever. It is basically to cater to the fact that some people would wish the convenience of having a list. The information is public information so why not provide it at a cost commensurate with producing it.

There are also provisions for the registration of political parties, which are now relevant and required. There are new provisions in relation to election expenses, some of those provisions are aimed at clarifying the period to which expenses relate. The current Law had a very cumbersome definition of 110 days before during and after, whereas it is aimed now to be very clear that expenses become relevant when a candidate becomes a candidate, which is the nomination day. There is a set period after the date that the

results are determined within which claims are to be made (21 days after the results are determined), which closes off the period when expenses can be lodged. There is also similar clarity to when the time frame within which those are to be settled, which is within 7 days after that or 28 days after the result, and also, a very rigid provision in terms of a requirement for the reporting of expenses to the Elections Office within a further 7 days. There are also penalties introduced for those who contravene any of these whether elected or not.

A provision is there to ensure that individuals do not seek to be candidates in more than one electoral district, as unfortunately, is possible under the Law, as it currently stands. There is also a provision to regulate political broadcasts, which have become very popular and quite appropriately so. The expanse to the audio/video media has afforded the opportunity for a lot of people who previously may have found it impractical or difficult, for whatever reason, to attend political meetings, to now see and hear what goes on. This provision is simply intended to afford some basic discipline as to what is allowable and not allowable, and hopefully to ensure the quality of . . . perhaps not to ensure, but the potential by-product is to the extent that we regulate what is broadcast and we will enhance the quality of what previously had not been broadcasted. Hopefully our meetings will be conducted obviously at a standard that meets the broadcast standard.

Mr. Speaker, none of these provisions that were mentioned impact electors or voters directly, and even though it is relatively late in the day that we are bringing these amendments, we do not foresee the need to embark on any major public education campaign, or that the changes will in anyway negatively impact the ability of people to take part in the process as they have always done. Rather they are aimed at enhancing the machinery and improving the efficiency of it.

At the outset I said that there are some changes that some Members would like to have seen that are not a part of this package. I trust that the Members would find the package overall one that can only make the process better and that they in turn will support the Bill.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

#### Point of clarification

**Hon. D. Kurt Tibbetts:** Craving your indulgence, not to speak but for an explanation.

We have met on more than one occasion as an informal committee about this matter and the last time that we met I understood that there were several changes to be made to the document that we received. I say this looking you squarely in the eye, Sir—we do not know what to debate because we do

not know what the final product is that the Government is bringing. Is it the document that we received and nothing more? If so, that changes the picture and we would very much like to know that before we participate.

**The Speaker:** The document that has been given the Second Reading has been moved by the First Official Member and is the document before the House. I would however, ask the Honourable First Official Member if he would wish to make a comment based on the point raised by the Honourable Leader of the Opposition.

**Hon. Donovan W. F. Ebanks:** Thank you, Mr. Speaker, and I thank the Honourable Leader of the Opposition for making the observation that he made.

At the meeting which he referred to yesterday afternoon, there was an undertaking that there were a couple of changes that would be put forward as committee stage amendments and I have belatedly, this morning, tabled with the Clerk two such amendments which he may have not seen as of yet.

**The Speaker:** Thank you Honourable First Official Member. Does any other Member wish to speak?

The amendment spoken of by the Honourable First Official Member is now in circulation. Does any other Member wish to speak?

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if I may?

**The Speaker:** Please continue.

**Hon. D. Kurt Tibbetts:** I crave your indulgence as this is an important matter and we would like to debate from an informed position. The proposed Committee Stage Amendments while they are Committee Stage Amendments may well have specific bearing on our line of debate and our content of debate. So, if you would permit, Sir, to take the luncheon break, which would give us an opportunity to have sight of these amendments and be able to place our thoughts in perspective.

**The Speaker:** The request made by the Honourable Leader of the Opposition is a reasonable one.

I will accordingly take the luncheon break at this time to allow Members to study the amendments that are now being circulated of which they have not yet had the opportunity to study and we will resume at 2.30 pm.

**Proceedings suspended at 12.33 pm**

**Proceedings resumed at 3.17 pm**

**The Speaker:** Proceedings are resumed.

The continuation of debate on the Elections (Amendment) Bill 2004. Does any other Member wish to speak?

The Second Elected Member for George Town.

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

There is before this Honourable House a Bill shortly entitled the Elections (Amendment) Law 2004. As I commence the debate on this important Bill, the elections are, by my calculations, 119 days away.

We were delivered a copy of this Bill on Monday afternoon (just passed). Notwithstanding the fact that the issues in relation to the current Elections Law have been well known to all of us in this Honourable House and to the Elections Office for a long time. I have in my possession a document shortly entitled "Comments on the draft amendments to the Elections Law" that bears on its last page the following, Carl W. Dundas, Election Consultant, 1 September 2003. I also have in my possession, Mr. Speaker, a document entitled "Memorandum to the Permanent Secretary, Planning, Communications, District Administrations and Information Technology" copied to the Honourable Acting Chief Secretary from the First Legislative Council, dated 11 December 2003. Subject: The Elections (Amendment) Bill 2004. Attached to it is a document which has at its top: "Preliminary Draft—This Draft does not contain any amendments relating to electoral district constituencies—10 December 2003."

I have been struggling in my mind to recall when these documents were handed to us by representatives of the Elections Office and the Legislative Council, and discussions first ensued about proposed amendments to the Elections Law. I am reminded by my colleague, the Elected Member of East End that it was in March of this year. I say all of that to say that it is nothing short of a disgrace. Forget about the disservice, inconvenience, difficulty to us the Elected Members on this side of the House, Members of the Opposition, for us to have yet again to deal with a matter of such importance, 119 days before the Election, on such short notice.

Why is it that it has been left by this Government on virtually the eve of the Elections, to now come with substantial amendments to the Elections Law? We were elected more than three and a half years ago. Then they send the poor Deputy Chief Secretary, the Honourable Acting First Official Member, to this Honourable House to present this Bill, thereby, in my view, giving the impression that this has nothing to do with the elected Government, this is the official arm of Government doing this, but we all know better!

What is before us is what the United Democratic Government wants to happen. The delays which has occurred; the rush which has become one of their trademarks in relation to important legislation is their responsibility and no one should proceed on any

other premise. We are left to believe and to feel that they think that there is some tactical advantage in springing this sort of legislation on the Opposition, rushing it through the House suspending Standing Orders to obtain what they think are the best provisions in this Elections Law.

There are a number of proposed changes, which in the short time that I have had to look at this and from discussions with the Deputy Supervisor of Elections and other Members of staff, we certainly understand are important and necessary to make the functions of the Elections Office and the operations, particularly on elections day, that much easier, more effective and also assist with protecting the integrity of the whole process. However, our point is that these changes ought to have been brought to this House a long time ago. I am not going to deal with those, what I shall term, technical amendments to the Law; I simply have not had the time to analyse them in the way that I would like. Some of my colleagues on this side will no doubt have their comments to make and will address some of these, but I can say that by and large we understand their importance and the need for them and those particular provisions do have our support.

In our view, there are two fundamentally important areas that I am going to address. The first is the absence from this Bill of any provision to deal with mobile polling stations. In the comments on the draft amendment to the Elections Law, which appears to have been prepared by Mr. Carl Dundas, the Election Consultant—it certainly bares his name at the end of the page, although it is not signed—there are some very useful comments, observations and recommendations.

He notes on page 2 that, quote, "**The concept of mobile polling stations is well known and widely used in different jurisdictions for different reasons. It may be for topographical reasons or increasingly to offer better quality election service to remote dwellers, the disabled or the infirmed. The key elements of the successful use of mobile polling have been taken into account, in particular, appointment of teams and team leaders for the purpose. Timely publication of the times and places when voters can expect to attend these stations and the voting materials and supplies necessary for the station's operation.**" So, when Mr. Dundas made those observations he also attached to that document some proposed amendments, which would give effect if accepted to those recommendations.

If you would give me a moment, Sir, to turn to the section that relates to mobile voting, I will read what the proposed amendment was. I am quoting from that text and it says: "**Mobile polling stations may be used to take the poll at a hospital, rest home or other such institution or geriatrics at home. The supervisor subject to the approval of the Governor may appoint persons to be mem-**

bers of a mobile polling team and in respect of each team, a person to be a team leader. The supervisor may by notice published in the gazette:

- A. At any time determine the places that will be visited by the mobile teams,
- B. Determine the time of the visit to each such place,
- C. Give public notice of the times and places.

“Each Mobile team when it is in place for the purpose of taking votes in an election shall have ballot boxes, ballot papers and such things that are necessary for the votes of electors to be taken.

“Every registered person listed at the mobile station is entitled to have his or her vote taken.”

Sub-section (5) of the proposed section – “Agents of candidates and political parties shall be entitled to be present at the voting at every mobile polling station.”

So, there is their set out in a very lucid and logical way, provision for what I think is a very useful proposition, the creation of mobile polling stations.

For reasons which I am sure are known only to the Government, that very forward thinking and very progressive provision is omitted from the Bill, which is before this Honourable House. The question is why? Why is the Government resisting such a provision? We all know who have been around the elections process for any length of time and I have been involved in every election campaign since 1992, that one of the most troublesome, difficult, time consuming, and one of the areas that is most fraught with suspicion is the whole question of postal ballots.

The provision in our legislation which would have permitted mobile polling stations would to a large extent mitigate and alleviate those concerns. It would significantly reduce the number of postal ballots which are cast, and for those of us who have been involved in the counting process we know the length of time it takes to count postal ballots; it is a very involved process. Further, Mr. Speaker, I know this one from personal experience, the postal ballot system does permit persons to know who voted for whom. I am not asking anybody if that is the case. I can relate to an incident which occurred during the last election campaign that brought a tear to my eye; it was a very poignant moment for me because I knew a person who had died since she voted, who had voted for me and I knew by virtue of that process which vote was hers. The reason I knew was because of the witnesses. I knew because I had spoken to her a week before she died, I knew where she was and who lived in the house with her and during that process of counting postal ballots the persons who signed the forms their names were read and I knew that was her ballot. That is a fact, as I said it brought a tear to my eye as she was very dear to me but it told me that the process that we have— nothing to do with the

Elections Office being right or wrong, it is that the system which we have does permit, if you know certain information you can know who voted for whom, as far as the postal ballots are concerned.

There is absolutely no reason why we should not seize this innovation of mobile polling stations, which will permit the Elections Office and their staff and agents of candidates or candidates themselves to go around at prearrange times in advance of Election Day to places like the Pines, Hospital and places like the Sunrise Cottage in East End and elsewhere where people have great difficulty in being able to get out. To shut-ins at homes people would be given advance notice that this is going to happen and that they ought to make an application to the Supervisor of Elections to be permitted to vote in advance of Elections Day at a mobile polling station. It is something that is done in other parts of the world; it is a recommendation by Mr. Dundas, the Election Consultant to whom we have paid good money for good advice.

**The Speaker:** Honourable Member I need to enquire whether that document has yet been tabled in the House. I am not sure if it is available to all Honourable Members. If not, I would ask the Honourable Second Elected Member for George Town to table it.

**Mr. Alden M. McLaughlin, Jr:** Thank you, Mr. Speaker, I am happy to do that. Just to explain, this is something that was handed to all Elected Members who were present when the discussions took place. I think all Members do have it but nonetheless, I am happy to table it, Sir.

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

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, in the document which was just tabled, there is an indication that countries which have used mobile polling stations include India, Malaysia, Guyana, Australia, Namibia and Zambia, but that is not the entire extent of countries that have employed this innovation. We know on this side from a recent visit to Dominica, when Members of the Opposition attended the funeral of the late Prime Minister, Pierre Charles, that they were then in the process, at that time, of conducting mobile voting, two weeks in advance of the by-elections which would be held to replace him upon his sad demise.

So, it is employed in the region and I have not heard one creditable reason proffered as to why it ought not to be employed in Cayman. I have been around the elections process as long as I can remember. My grandfather served many years as a vestryman in this Honourable House, my uncle Haig, and many more as well. From the moment I was old enough to be involved I was involved in one way or another, and I am well aware of the rumours of untoward practices that occur in certain districts in relation to postal ballots.



I remember a scandal, of course, in these things most of the time nothing is ever found, but I remember well a scandal, quite some years ago when there were allegations that postal ballots were being sent to a certain candidate's post box in West Bay. If this proposal for mobile polling stations were employed it would limit the extent of the use of postal ballots, it would restrict the opportunity and occasion for suspicion and concern about the use of postal ballots to wrongly influence the result of an election. The public would be far more content as a result of that. It would reduce the length of time it took to count postal ballots following the taking of the poll on Election Day.

There are numerous reasons, everyone good, why this ought to be employed and I am hoping that at some point in this exercise the Government would explain why despite the far reaching provisions, some of which I will come to shortly, that are being proposed in this Elections Amendment Bill, why something as innovative, useful, proven as a system of mobile polling station is not being proposed.

Mr. Speaker, I am not seeking to anticipate a motion which I am bringing to this Honourable House, but I am going to say that I am giving the Government notice now that the Opposition, with your permission, is going to propose an amendment to this Bill, which will include mobile polling stations.

#### Point of Procedure

**Hon. Gilbert A. McLean:** Mr. Speaker, on a matter of procedure.

**The Speaker:** The Honourable Minister for Health Services.

**Hon. Gilbert A. McLean:** Mr. Speaker, I question the debate on the document which was prepared by the Boundaries Commissioner. That was not a document which had to go to Cabinet to be decided upon, it was but a report to the Supervisor of Elections and so it was not tabled in this House and the fact that it is tabled now I do not argue with. However, I think from a procedural point of view it needs to be noted that this is not a document on which Cabinet was required to take a decision and so it should not be implied that something was overlooked in terms of the procedure or the way it has been handled.

**The Speaker:** Honourable Minister I agree with the point that you have raised. If indeed this document has not received the approval of Cabinet then it is hardly a valid document to be brought to the House as Government's position.

I am not sure that the Honourable Member speaking was implying that it was indeed Government's position but a document that was prepared by Mr. Carl Dundas, and I believe the Honourable Member made that point that it was a document handed out at a meeting to members of the Legislative As-

sembly but has not yet received Government's approval.

We need to bear in mind when any reference is made to this that it is not Government's policy as yet but a report made by Mr. Carl Dundas, the Election Consultant to Government.

Please continue Second Elected Member for George Town.

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

Just to clarify, Mr. Speaker, I have never suggested that it went to Cabinet or it was Government's policy. In fact, quite the opposite, my point was that notwithstanding this sage advice the Government appears by virtue of having omitted such a provision from the Bill to have rejected it.

No doubt the Minister who is very able will get up and articulate the Government's position when I sit down.

Mr. Speaker, I have been assisted by my colleagues who have pointed out to me that in the Memorandum, which I referred to a little earlier, to the Permanent Secretary of Planning, Communications, District Administration and Information Technology, copied to the Honourable Chief Secretary and the First Legislative Council on 11 December 2003 has attached to it a preliminary draft of the Elections Amendment Bill 2004 providing at section 45A for mobile polling stations to be part of our Law. So that everyone is clear, this is the draft that was presented to us when the Elections Office and the Legislative Council with the Government in attendance, and the Chief Secretary, attended a meeting Chaired by the Honourable Chief Secretary when we were over at Kirk House in March of this year.

So, the Government may use as many semantics and technical points as they wish but I think it is beyond doubt that at the very least they were fully aware of those provisions and the proposal that they be part of our Elections Law.

I think I have exhausted that point. The other matter which we take great issue with is the question of Election expenses. Election expense is a troublesome area all over the world when it comes to these matters. The current legislation I acknowledge right from the start, is one that is unsatisfactory, has led itself to much abuse and confusion and it ought to have been addressed a long time ago before we began the "silly season", which we are now in. the reason it lent itself to so much confusion, and I believe it has never had the effect that is ought to have, was for a number of reasons. To begin with, the sum to be spent by any candidate was limited to \$10,000. Section 61 of the current Election Law says: "**No sum shall be paid and no expense shall be incurred by a candidate at an election less than one hundred ten days before, during or after an election on account or respect of the conduct or management of the Election which will exceed in aggregate**

**\$10,000 and a candidate knowingly acting in contravention of this section is guilty of an offence and liable in summary conviction to a fine of \$5000."**

It talks about any expense incurred by a candidate at an election less than one hundred and ten days before, during or after an election. So, it created a period of one hundred ten days before a certain date and one hundred ten days after; that date being the Election Day, whenever that was. The result of that was that you can go and spend as much money as you wished outside that one hundred and ten day period, pay for t-shirts, television coverage, bookings on the radio, advertisements in the newspaper or whatever, buy whatever paraphernalia you thought necessary to advance your cause in the campaign outside that one hundred and ten day period.

There was a further problem with it. It says in the definition section that a candidate means a person who is elected to serve in the Legislative Assembly at an election or a person who is nominated as a candidate at an election, or is declared by himself or others to be a candidate on or after the day of the issue of the writ for the election. So, as long as you were not a candidate you could spend as much money as you wanted to spend and you only became a candidate at the earliest when the writ of election was issued, which is seven days before nomination day.

There were no end of problems in terms of determining what money could be spent and when it could be spent as a result of the current situation. So, we acknowledged, in fact, from the day that I saw this, which was a long time ago, I remember I was asked to give an opinion on this in connection with the 1996 Elections. I have been of the view that this was very poor drafting; it certainly did nothing to restrict what persons could spend and created all sorts of confusion and concern. This needs to be fixed and should have been fixed a long time ago.

Having said that, Mr. Speaker, what is being proposed, in this legislation, is even more alarming. In my view, what is being proposed here is a license to spend as much money as you possibly can find and gather in the run up to elections and not have to account to a penny of it before nomination day. Anything spent before nomination day does not count and nomination day is a mere six weeks from election. Those of us who have been around this for any length of time we will know that virtually anything that you were going to spend or buy, you had better do so before nomination day because there will be no space left on the television for any advertising; you might get something squeezed into the newspaper. Every available minute that you can get on the radio—although these days I should perhaps not say that so categorically because it seems like every day we have another radio station. We should be able to find space on the radio stations so I will conceive that. However, what I would call the serious radio stations,

will no doubt, well in advance of nomination day, have every available slot booked and paid for. This is the season when everybody involved in the media walks around with a permanent smile.

So, what is being proposed here is \$35,000 per candidate, if you are standing alone, or \$30,000 per candidate if you are standing as a part of the political party or team. For those who do not think that what they are trying to put together is going to be a political party, this legislation says that teams for all intents and purposes are political parties for the purposes of this Law.

In the multi member constituencies if you are running as a party or a team, it is going to be \$30,000 per candidate and single member constituencies it is \$35,000 per candidate. For George Town if you are running four candidates that is \$120,000 available to spend from 6 October to 17 November and whatever you have spent before does not count. Further if it is a political party, which you are a part of, you then get to spend a further \$10 per elector in your electoral district. George Town will have around 5000 voters that is another \$50,000. So, in George Town the two political parties will be able to spend \$170,000 between 6 October and 16 November.

Mr. Speaker, our view is that the Government is seeking to create a situation where they can throw loads and loads of money at this election campaign, in advance of nomination day and not have to account to the Supervisor of Elections or anyone for it. That is dangerous and those sorts of provisions ought not to appear in this Law. What we ought to be doing—

**The Speaker:** Honourable Member did I hear you say that was your opinion?

**Mr. Alden M. McLaughlin, Jr:** Yes, I said it is the view of the Opposition.

I see my friends on the other side getting very antsy, but those are our views.

In our view, what we ought to be doing is creating legislation which places a reasonable cap on election expenses; not the nonsensical \$10,000 figure which appears in the current Law, but a reasonable figure which will place everybody on a level playing field with the sums that any party or independent can spend are the same and that any which is expended in furtherance of the election campaign is accounted for.

This charade which we are seeking to create in this Law ought not to be allowed and the Government ought to be ashamed to seek to introduce provisions in the Law, which have little or no effect at all on capping election expenses in reality! We are creating a system by which candidates are almost completely unaccountable to anyone from the sources which they get money, the amounts they get from an individual and how much they are going to spend in furtherance of the election campaign. You are only called to ac-

count for money received and spent from 6 October until Election Day; it is wrong, wrong, wrong! We are setting this up, in our view, to a situation where the Elections can be bought and paid for; where you can go to any source or any source can come to you and dump thousands and hundreds of thousands of dollars on candidates and they can spend it at their will in furtherance of the election campaign and are not called to account for it. I am here to say, on behalf of the Opposition, that as long as this provision is in this Law we will not be supporting this Bill despite whatever good it has in it. This is one of the greatest threats to democracy and to independent candidates being able to stand up and be a part of the system which is a level playing field.

When we create a situation whereby nobody is called to account until the nomination day and whatever money they spend, from whatever sources does not matter, we have destroyed the level playing field and that, in my view, goes to the heart of the democratic process. This Opposition, of which I am proud to be a part, will have no part of this and will not support a Bill which does not call on every candidate to account for all money spent in furtherance of the campaign, whatever reasonable sum the Law provides for in that respect! This is dangerous, deadly stuff and I really hope that the Government did not believe that despite the shortness of time that that would have escaped our attention.

There are a number of other aspects of the Law which calls for examination and analysis in debate, but on this side of this Honourable House that is going to be left for some of my other colleagues. I have dealt with the two fundamental matters of great concern to us and in case the Government did not understand, we are not supporting the Bill in its current form.

The elections are eminent and are of critical importance. All Members in this Honourable House, I believe, with the notable exception of your good self, Sir, will seek to be returned and we ought to accept that each individual and each party are going to seek to advance their positions and campaigns in the most vigorous way they can; that is all a part of the democratic process. However, we who are here, at the moment, charged with the trust and responsibility to continue to support the democratic principles on which this country has been built, should not be party to an exercise, which in my view, seeks to undermine the elections process.

I want all Honourable Members of this House to look within themselves and think, beyond their return to this Legislative Assembly because the day will come, shortly for some, but eventually for all, when we will leave this Honourable Chamber and others will replace us. Let the legacy we leave be one which promotes and enhances the democratic process. Even when some of us may feel that we need to sure up our own positions, let us resist that urge by making

these sorts of proposals to amend critical legislation like the Elections Law.

We have a long and proud history in this country of free and fair elections. I am not aware that there has ever been any serious challenge of the integrity of the electoral process in these Islands, but I say that provisions such as this will serve to weaken that process. To admit elements of doubt whether the process is truly democratic, can everybody who wishes to participate in the process really believe that they are getting a fair shake or that the playing field is level, or that all Members and candidates are accorded the same opportunities.

Mr. Speaker, we ought not to get to a point in this country where the elections are won and lost on the amount of money you spend. Money has to be spent in an election campaign and nobody is trying to pretend otherwise, everybody need to get the message across, but we do not need a situation which admits of the possibility of millions of dollars being spent on an election campaign of a political party or grouping and as the proposed legislation stands it admits of that possibility.

Mr. Speaker, I am saddened that it has come to this point where one hundred and nineteen days before the elections, this Honourable House and this country is faced with this sort of possibility. I am hoping as one who never gives up hope, that the Government will hear my voice and that they will not, in their typical manner, simply rise to beat me up for what I have said but that they will perhaps look again at the legislation; look within themselves and ask themselves if this is really the sort of legacy they want to leave; do they want it said about them that they opened the election process in these Islands up to the highest bidder? I am trusting, hoping and praying that good sense and reason will prevail on the other side and that they will seek to amend, redraft those provisions particularly in relation to the election expenses.

The Opposition reaches across the Floor of this Honourable House to say to the Government, as we have said to them before, that we are prepared to sit down with them and try to arrive at some arrangement, which will cap election expenses in this country. Following the meeting that we had in March, we were promised that we would have another opportunity to discuss this matter. That did not transpire although we did have the benefit of a presentation by the Elections Office yesterday evening. What is necessary is dialogue, discourse and discussion, not a presentation, if we are going to be able to reach any agreement on this.

The Government have the numbers, we acknowledge that, and they will have their way, but if they want consensus on this Bill they are going to have to go back to the discussion table with the Opposition because we are not going to support what is proposed here.

Mr. Speaker, I thank you for your indulgence, Sir. I will now resume my seat and listen to what the

Government has to say in response. Following that I believe others of my colleagues have a number of points which they also wish to advance.

Thank you, Sir.

**The Speaker:** Does any other Member wish to speak? The Honourable Minister for Health Services.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

Listening to the Second Elected Member for George Town reminds me of the days when I was in Opposition, where I spent most of my time in the House and if you wanted a motion to fail all had to be done was to let me move it.

The Member is attempting to give that kind of impression where the Government is concerned and that is unfair and it gives the wrong and erroneous impression.

The first point I would like to make is that the only Law in effect now is the Election Law (2000 Revision). What is being attempted is to bring an amendment to this Law. Therefore, most of what the Second Elected Member for George Town says really does not exist at this point in time and certainly, the spin which he put on it is so far fetched that one should not, in reality, believe that particular spin.

I would like to point out that after every General Election in the Cayman Islands the Supervisor of Elections does a report to the Governor, which he did after the 2000 Election. However, the Report that the Second Elected Member for George Town was referring to, was one that was prepared by Mr. Dundas, as he said, and Mr. Dundas was the Boundaries Commissioner; the Commissioner who was hired to look at single member constituencies, who made a report and who was asked to make certain recommendations in his Report, which he did. This Report might never have made the light of day with any group except the executive, had it not been that the executive of the present Government took the position and agreed with the Chief Secretary that all Members should get a copy of this Report, and so it was done. As the Second Elected Member for George Town has said, we all met and it was distributed and some discussion took place on this particular Report.

This Report did not make it to Cabinet as any submission to Cabinet for a decision to be taken on it, we simply all had it and knew what its contents were. What did make its way to Cabinet were the amendments here. Various amendments were recommended to the Cabinet, which were originally distributed and it was the view of Cabinet that it was too wide and encompassing for the same reason that the Member cited, in that the time before the election was too short and the matters could be very controversial. I am the first to admit that these amendments ideally should have been here long before now but they are here now and I believe that the amendments in this Law deals with matters which are some of the areas

that need to be revised in the present Law. That is why these sections are here.

Only yesterday all Members had the opportunity of sitting in the conference room with the Deputy Supervisor of Elections and other election officers, to look at a highlighted copy and it showed what was in the original draft and what was acceptable to the various persons. Both the Opposition and Government Members were there. I had to leave around 4.30 pm, I do not know what happened after that but everyone had the opportunity of looking at this matter and discussing it.

I hear grumblings from the other side that it did not include all of the originals. Well, I would not try to stand here and say there were seventy originals and that maybe eight or ten had not been taken out; I am not saying that. I am saying that the document which the Government has been working from and has looked at with the view of accepting or rejecting, which the Government executive is suppose to do, is the document which the Opposition also had access to yesterday.

The marked up copy would be what a revised law would be like if everything was accepted, which included the old law and the amendments combined.

The Second Elected Member for George Town knows that what he said about the elections and the election expenses being calculated on the basis of the number of electors in that electoral district, multiplied by a factor of ten, is not the case. That is what was in the amendment originally and the acting Chief Secretary has circulated an amendment for committee stage which takes that out. Personally I do not think it should have been in there in the first instance. I can also say that I have moved different amendments and bills in this House with the best intention and later discover some of the things in it and wonder how on earth they got there and how were they missed. At least I do not think it is any skin off my nose when I come back to amend them and I have done that.

This particular part here, if I am not mistaken, I heard an Opposition Member in the dining room speaking about this and it really caught me by surprise. I can only recall that when we went through this if you were an independent candidate you would be allowed \$35,000 and if you were with a party it would be \$30,000. So, I would like to clarify that the sections which the Member raised as if that was being proposed for passage is not so because there is an amendment which says that the Government and the Mover proposes to remove that section. The Member knew if of course, but be it far from him that he would have clarified it as I just did.

I do not see any grave problem with making the Report, which the Member has tabled, available to the press, media and so on, because those are the views of Mr. Dundas and the media, therefore himself and anyone else can have their views on it. Again, the Second Elected Member for George Town and all

Members of this House know that any Government executive, be it whichever, is charged with making decisions in regards to what comes to the House and what should not otherwise it does not come when it comes down to legislation.

Again, this Government is accused and it is implied, through innuendo, this thing about undemocratic. I think if there is one thing that I would accuse this Government of is that it is too open. There is too much openness. Let me explain a bit on that, Mr. Speaker. We go to an extent that virtually everything that the Government is dealing with the Opposition is brought in on it. How many Bills come here of significance, including this one, that has not been made available to the Opposition.

Mr. Dundas' Report has been made available to it. It is a basetting sin of the United Democratic Party Government that we show our opponents everything and like the Second Elected Member for George Town, he has a favourite saying, and he has left the Chamber but he says no good act goes unpunished; they sure punish us for it. Too open is what I say! So, he or his colleagues may try to refute that but that is something that I think we do repeatedly, maybe we like the beatings that we get, I am not sure, but every time we do it we sure get what the old people use to call, a 'tallawapping'.

Mr. Speaker, on the question of—

**The Speaker:** Honourable Minister, we have reached the hour of 4.30 pm, it is my understanding that it is the wish of Members to continue beyond 4.30, perhaps until 8 pm. At this time I will call on the Honourable Leader of Government Business to move the suspension of Standing Order 10(2) to allow proceedings to continue beyond 4.30 pm.

#### **Suspension of Standing Order 10(2)**

**Hon. W. McKeever Bush:** Mr. Speaker, I move the suspension of Standing Order 10(2) so that business can be conducted after 4.30 pm.

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow for the proceedings of the House to continue 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 to continue beyond 4.30 pm.**

**The Speaker:** The Honourable Minister for Health Services continuing.

**Hon. Gilbert A. McLean:** Mr. Speaker, just too add another point to the business of openness. Up until

today and Monday we were having presentations on another Bill and it is not something that has been due process in here by other governments, from what I can well remember. We sat down with other Members of the House and discussed these with power point presentations and the fact that they can accuse us truthfully of openness, sometimes work to our detriment. I see the Member for East End making gesticulations and I hear him saying that he is not going to anymore of those presentations.

Mr. Speaker, on the matter of Election expenses, the Second Elected Member for George Town correctly cited that in section 61 of the Law it sets a ceiling of \$10,000 that a candidate can spend, and I agree with what he said that the way it was generally drafted thereafter left it to an open exercise of attempting to find out what the Law was really attempting to achieve.

I was in this House as a Member representing Cayman Brac at the time when these amendments were passed and it came about because it was the desire of Members then to put limitations on this and to set up a process by which candidates would have to report on how much they had spent, what they had spent it at and where the money came from. If I remember correctly, one had to report on as little as \$5, I do not see it here immediately but I do not think I am dreaming it, we had to report on as little as \$5. So, the Member should not attempt to give the impression that it was a wide open situation even under the present Law.

What is proposed is that in the proposed new section 61(1), "**Election expenses shall not exceed the sum stipulated in subsection (2).**" In subsection (2) it says, "**The maximum amount of election expenses to be incurred in respect of a candidate at an election shall;**

- a) where the candidate does not belong to a political party, or there is no other candidate belonging to the same party at an election in an electoral district, thirty-five thousand dollars; and
- b) where the candidate is not the only candidate belonging to a party at the election in an electoral district, thirty thousand dollars."

(3) "**In determining the total expenditure incurred in relation to the candidature of that person at any election, no account shall be taken of-**

- a) any deposit made by the candidate on his nomination in compliance with the Law; or
- b) any expenditure incurred before the date of nomination of the candidate with respect to services rendered or materials supplied before such notification."

Mr. Speaker, it has been questioned by many, this present existing requirement about the one hundred and ten days after the writ has been issued.

That created a situation whereby one had to start keeping account one hundred and ten days before a person was nominated. I argue and I do believe it is rational that irrespective of what one might say about a person being a candidate, I hold that that person is not a candidate until they have gone in and paid the returning officer that \$1,000 then they are officially a candidate. Anyone can say that they are a candidate prior to nomination day and not even nominate, in fact they can nominate and drop out of the elections. So, it is wide open and flexible to the whim and fancy of the person who wishes to get into the election process.

We all know, and certainly, I would like to draw to the attention of Members, particularly the Opposition if they do not know, that the Election Law applies to the Government and the Opposition, and indeed to anyone in the country who wishes to get into the election process. Therefore, as the Second Elected Member for George Town claims, people who are running on the Government side could spend all sorts of money, but the Opposition is under the same law and could spend all sorts of money too. I believe that they represent certain sectors of this community where they would have more money than the people in Government to spend.

*[Inaudible comments]*

**Hon. Gilbert A. McLean:** Mr. Speaker, having made that irrefutable point, with what the Second Elected Member for George Town was trying to do, anyone who considers that fact, has no argument.

The other fact that I would like to make is, the Government nor this Honourable House has not created any change whatsoever up to this point in time. It is a Bill before the House and one Member of the Opposition has spoken and made his views known and I suspect there will be others.

Speaking about the undemocratic process and this creating a situation of undemocratic process in this country where tons of money can be spent, that applies to everybody in it and I hope the Second Elected Member for George Town would bear in mind that it also applies to him. So, no one should attempt that those of us on the Government side has any greater or lesser ability to spend more than the \$30,000 proposed in the amendment because we are a party. Anyone who runs as an independent can spend \$35,000.

I would like to postulate that the election process this year is one that is moving very slowly; it is very unusual and I think I understand it somewhat. It is because the country is doing so well; employment is so high; the business sector is so happy that it makes it difficult for any Opposition to criticise the Government, unlike the days when I use to be the Opposition where there was always something that you could beat the Government to pieces about. In truth, the challenges that have been outstanding for years and have popped up during the course of a

year that this Government, whether it wanted to or not, had to face and did face, and I believe, generally made the right decision, has made a situation where any reasonably citizen understands that they are enjoying a time of good governance. Definitely! The Second Elected Member for George Town said that the United Democratic Party ought to be returned, definitely, Mr. Speaker.

*[Inaudible comments]*

**Hon. Gilbert A. McLean:** Mr. Speaker, I would suspect that both parties and indeed even those who will run as independents have been attempting to buy their t-shirts and so on ahead of time because until now the one hundred and ten days do apply. Also buying the space on television and all the rest of it is a natural process which is to be done, so I suppose that has been done by most candidates. The only thing is that there will be a longer time for such undertaking for spending to be done. I suspect that the election in this country will really start on nomination day and I do not necessarily believe that it is going to be any more respectful this year than it was in the past. In fact, there are people who are in the process which I have heard about that makes me believe it will be muddy.

I do not for one minute accept the point made by the Second Elected Member for George Town that the Government, in any way, has any advantage by anything that will be in the Law because whatever is in the Law will apply equally to the Opposition Members. So, the Member's attempt is pretty much lost in that regard.

I would like to say on a more serious note that unlike other countries which we like to emulate, where you hear of 'hanging chads' and where people win by two votes—the popular vote goes one way and another vote goes another way; I have never heard of that in Cayman. The only challenges I have heard as such are when people, during an election, get accused of a cow that fell in a well and the person turned around and sold it for beef; those are the type of things that I hear about in Cayman. In all of my time I can only recall one instance where there was a contested election where supposedly certain ballots that should have been in one box turned up in another and the court did not find on behalf of the plaintiff; in fact, it turned out that it was a slight of hand that someone flicked one book into the other box. So, we have to be very careful when we use these highfaluting words about democracy is challenged and a breakdown of democracy that we truly do not break down what we have in these Islands.

If we had gotten President Carter to come in here I do not think that he would find anything that he could report on to find that democracy in its truest sense does not prevail at the polls in the Cayman Islands. I would say to all of us let us be careful that this argument is not taken too far to give the impression to

people who do not know and understand our political posturing, to believe that our election process is one that in anyway would be questionable.

The other sections of this Law I do not choose to comment on because it is quite straightforward and it allows certain opportunities including people being able to put their own ballot into the box that we have not had ever; that was done by a presiding officer and so on. It is such things as that in these amendments. All of those things are improvements including where there is more than one counting station; that makes sense to me and the opportunity of having additional agents, it all makes sense. It makes sense that there are more deputy supervisors also and these are the type of amendments in the Bill before the House. I support the Bill with the amendments which have been circulated by the Honourable Acting First Official Member and I believe that rather than doing harm it will do considerable good for this country and the election process.

Mr. Speaker, I think I have completed what I wish to say in refuting the mischievous spin that has been brought by the Honourable Second Elected Member from George Town. Thank you.

**The Speaker:** Honourable Members I propose to take the afternoon break at this time and resume in fifteen minutes.

#### Proceedings suspended at 4.51 pm

#### Proceedings resumed at 5.21 pm

**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?

The Second Elected Member for West Bay.

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

I think it is fair to say that all of us, Government and the Opposition, but especially those who are either in the executive or on the Back Bench that lend support to the Members of the Government, find ourselves in a position of disadvantage to be debating this Bill at this time.

I think it is fair to say that given the fact that we are less than four months from the General Elections, having to debate an issue that all of us, other than your good self, have a vested interest because we are going to be standing for Elections back to this Honourable Legislative Assembly. So, just from that perspective this is one of those Bills that I think all of us have been very anxious about getting here, because the closer you get to the date of the Elections the more you are going to be criticised and accused of amending the legislation that deals with the process under which all of us have to operate to try and get back here.

There are a number of new ideas in the draft bill before us; a lot of which I think are relatively uncontroversial. It will be new but I think when the public understands what is being sought and what will be achieved once they are passed into Law, will by and large agree with. There are some that are contentious but I think some that are contentious often become more contentious once a particular perspective or as most of us call it, a spin is put on it.

Mr. Speaker, having gone through the 2000 Election process it is fair to say that this whole business of the amount of money that candidates are allowed to spend does cause difficulties. All of us will quickly agree that the amount in the existing legislation of \$10,000 is woefully inadequate and needed to be increased. When it comes to the issue of campaign financing we will find that the Cayman Islands is not alone in trying to come to grips with this issue. I think it is fair to say that probably there is not any country, any democracy on this earth that has the right system.

The United States is looked at by many as one of the global pillars of democracy and certainly they have struggled with this issue. We have seen the controversy of the former Vice President, Mr. Al Gore and we have seen on the media all that was made about him visiting the temple of monks and who gave and did not give to the Democratic Party. Go to all of the countries—look at the G8 countries; they have not come to grips with this issue.

Quite recently the United Nations finally got its long awaited charter in regards to corruption. We all know that the United States is the main player in the United Nations and the United Nations did not sign that charter until they took campaign financing off the table. So, for us to sit here in Cayman and believe somehow that we are going to get this perfect system that everybody is going to look at and agree with, I do not think is rational or reasonable.

Now, Mr. Speaker, as responsible legislators we have to give it our best effort. I had a discussion yesterday evening with a senior member on the elections team and it revolved around this whole issue of treaty because I did hear mention, thus far, in the debate about this issue of spending large sums of money to win the election. The typical campaign expenses are manifestoes, t-shirts, caps, television appearances for public meetings and advertisements, radio advertisements and meetings being aired live on the radio. Those are the bulk campaign expenses and certainly when the average person on the street hears about spending large sums of money to influence and win an election, my read of the public of this country really are not talking about those bulk standard items. I do not think they are thinking about manifestoes, television appearances and advertisements, t-shirts, radio appearances and meetings being aired live on radio, I do not think that is what they are talking about so if we are going to debate this is-

sue then we might as well throw all of the cards on the table and talk about what the public talks about.

You hear it on the radio, you see it in the newspapers with the letters that are written talking about this one, warning the public—do not fall prey to those who buy you fridges and stoves and does this and that. There is an old train of thought that somehow politicians are so magical and mystical that when a constituent comes to you for help and you help them— I do not think there is any Member in this Chamber, or certainly a majority of Members in this Chamber that can truthfully say that constituents do not come to them for assistance and we assist them, therefore people somehow draw the conclusion that what that does is equates to what they term buying votes.

Mr. Speaker, people seem to think that once someone declares for politics that means they are absolutely brain dead because everybody on the outside can do it better than all of us; they can do it better than Government and its Back Bench supporting Members, and better than the Opposition. All of the experts are always outside of this Legislative Assembly. So, they all look down on us as though we are these lowly creatures who when someone comes to us in need and we assist them that somehow we are so ignorant to believe that that is getting support. All of us have been around politics and we understand that they not only come to us but they go to the other guys as well, especially during a political campaign! Once you hint that you are going to be a candidate, the time that you get treated as a candidate is once you have made it public; any utterance that you are going to be a candidate they come and ask.

So, how can it be if they come to me and I offer assistance that the guy down the street who also offers assistance as well, may not be seen to buy a vote? I do not subscribe to that notion whatsoever! When we are going to talk about the whole issue of campaign financing we need to start talking about what people really perceive as the challenge. I do not believe the challenge is the standard items that we all pay for. We all will get the television time and manifesto and have it printed really nice so you know it is going to cost a decent amount of money. We all get different things that have to be purchased. So, this business of people being able to spend large sums of money, millions on an election and somehow this is what is going to influence, I think it truthfully degrades a lot of people in this country. I say that because like anywhere else the Cayman Islands have people who are poor, people who are in need and people who are rich, like any other country we have it all in terms of the types of people that our community contains.

As far back as I know and when I listen to the older people from various districts, in particular West Bay, this whole issue of politicians and candidates being approached by people and assistance being offered have gone on for years and years in this country. I understand from the time shop-keepers

were still adding up your bill on the back of a brown paper bag the wink was given and the customer walked out without paying anything for their groceries. That has been going on for a long time, we are going back decades! There will be those who will look at it and continue to make the argument and say, *'well politicians and would be politicians should not take part in it'* and that is their right to say that. However, I think that all of us in this Chamber understand, with the exception of one or two of the districts, I think the issue may vary a bit from district to district, but I think in general terms it is pretty much the same where we will all quickly admit that this is something that goes on all year and all term, so it does not end. It is not like it starts during the election— whatever people want term the election season or process. It goes on from one election straight through year one to three of a term and right into the next election.

I am not sure what is going to be proposed but certainly if you were to extend the argument we certainly could not say that we are going to propose that such monies are going to be reported by a candidate because some people see that as buying votes therefore it would qualify as treating.

Let me get back to a conversation I had with one of the senior election officials. We also know in this community that when the Election season comes you get those who ask who truthfully come and treat us because they come and the first thing that is asked before any problem or issue is discussed is, *'what ya say the Elections is in November?'* So, as far as I am concerned, every one of us has been through that and everyone of us who is going to be truthful knows that what I am saying is true. Therefore, I say that we need to think carefully about what we are going to call campaign financing and campaign financing reform and how it is going to be approached. To simply get up and say that because anything spent before the day of nomination could amount to exorbitant sums I do not think addresses the issue of what the people of the community are talking about.

It is easy to not get up and talk about this and in an open forum, like the Legislative Assembly, it is difficult to because you know the spin the Press and others can put on things. I think most in this House know, whether to my demise or detriment or not, I get up and speak from my conscience and of what I see as the reality that exists in this country. I say that irrespective of what is the cut off or of what the sum is, that what is being spoken to and what will be reported has absolutely, positively nothing to do with what I consider others in the community believe to be the items that influence the decision.

Looking at it from a slightly different angle I believe and I assist people on the basis that I think they truly need assistance. It is a tradition in this country and it is one that is not going to be broken tomorrow. You get people who come to you and say that none of you should do that and everybody should sign a pact to not do it, it should not happen. It is a



good theory but it ends there and truthfully speaking when you look at the conditions that some people have to operate and live in within the community (as I said, we do have poor in this country), I do not believe that any of us can truthfully say that a lot of the people are not in genuine need and therefore for us to assist them is something that just from a humanity standpoint is the right thing to do. There will be those who will abuse and lie but I do not think that any of us are the judges of that and can accurately judge that because we do not know precisely what every person situation is we can only go on what we believe and try somehow to use our conscience at that particular level.

When you talk about this issue and get political posturing, all sorts of things can be accused and planted in people's minds. You can easily get up and talk about millions being spent and this that and the other, but truthfully I do not think collectively between the Government and the Opposition that we have the wherewithal to spend millions of dollars collectively on an election. So, in my humble submission that sort of reference is really irresponsible. I can accurately, honestly and truthfully say that I know that on the Government side there is no access to funding to spend millions of dollars on any campaigns. Political posturing always enters debates because I am as I am always reminded 'this is a house of politics'.

I do not believe that any Member in this Honourable Chamber is so misinformed or under any such delusion that any assistance they offer a person is going to secure them support. I do not believe that and what is even worst is that you just do not get asked by people in your own district, but you also get asked by people in other districts and the last time I checked all of us are going to be running in one district. So, if I am running in West Bay and somebody who is living in North Side, Bodden Town, East End or George Town or Cayman Brac and Little Cayman ask me for assistance and I think it is a genuine case and I assist them, what vote am I buying? They cannot vote for me because they are not registered as an elector in the district of West Bay, and certainly the politicians from the bigger districts, George Town and West Bay, all of us have had people from other districts ask us for assistance. I think we can all say that. We need to openly and frankly talk about this myth, as I believe it is, about buying votes. I do not see a huge issue with what is being proposed here. I do not believe that the references which are being made are valid references when it comes to this issue. I really do not believe it, Mr. Speaker. I do not believe it!

Mr. Speaker, what is being proposed is that you can spend certain sums and it gives you until nomination day to do so and after nomination day you have to account for certain sums that are spent and it puts a certain amount. I think there may be some who could make a valid argument and say that anything which is a benefit that accrues after that day should

be reported but that opens another can of worms. Using the example of manifestoes and t-shirts, certainly when we print our t-shirts (speaking for myself and my colleagues in West Bay) that has on it "vote for Rolston Anglin, McKeever Bush, Eugene Ebanks and Cline Glidden", most t-shirts are going to be worn before and after nomination day. So, what are we going to do, take it from the day of purchase and you amortise based on the number of days from the day that the person first put it on up to nomination day and anything before that is not counted then from nomination day onward you take those number of days and those then get counted. I think we all just have to be real about the issue. I do not think it is fair comment to say that the problem is the sum or that some people in the community perceive that the whole issue is from what date you have to report.

I know after this you are going to get all sorts of mouth champions writing in the newspaper and on the radio talking that they cannot believe that a Member of the Legislative Assembly would get up and say what I said. Well let the truth be known about the majority of them, especially those who are going to be candidates; let the truth be told. It is easy to say but they themselves, if they are not, they are going to be under the same pressures.

Mobile voting versus postal ballots—this issue was raised and a passionate plea was put forward by the Second Elected Member for George Town in regards to all the virtue that there is in regards to the mobile voting system. Whilst that is his opinion and there are those who say that there are issues surrounding the system as it is, at the end of the day there are still going to be people for whom postal ballots must be prepared. With four months before this general election I cannot say that it would be prudent or wise for us to now put forward something that is completely brand new to many citizens who voted by postal ballots in the 2000 Elections and previous elections and will do so again in this election, God's willing. This is the sort of thing that need public input and they need to have wide public consultation because the public needs to know and feel comfortable with what is being proposed.

If the Opposition feels strongly about this point then I implore them to get their own education campaign going and do what representatives do; that is to represent the public. You go out and explain it to people, get examples of how it would work; go ahead and do that. Let us get the public education process so that the public knows what it is because we are less than four months from the day of the general elections and therefore we need to ensure that whilst we have some changes that we do not believe somehow that we can just push any and every idea that come from another country onto the public in the Cayman Islands.

In regards to the charge that was made that during some election large amounts of postal ballots was sent to a candidate's post office box. I say there-

fore that it is incumbent upon the Elections Office to scrutinise and ensure that they are sending postal ballots to the right location. Surely if you see a large volume of postal ballots going to a particular post box in a particular district that it is incumbent upon the Elections Office to ensure that is where they want it to go.

Taking this argument one step further, I say to the Second Elected Member for George Town and the entire Opposition, so what, if fifty or one hundred people want their postal ballots mailed to a particular post office box? That is up to them, that is their right. I do not think anybody can tell people where to send their mail. Further, there are many of people who have general delivery and no post boxes. For years there were many people in our district who did not have a post office box and still do not have one. So, it is easy to throw these little sound bites out there for the press and the public to pick up on to try to make it look as though something that is untoward is what is going here. I like to look at things and scrutinise them and certainly, I am not going to stand, argue and defend any position that runs contrary to what I believe to be right and wrong. I think I am as honest as any other Member in this Chamber and as good a judge to see what is right and what is wrong.

The people of West Bay did not send me, or the people in any district did not send any of us here to stifle and vote against our conscience, but at the same time, they also sent us here to be responsible legislators on their behalf. It is a representative form of government; you are the voice of the people.

I believe that it is easy to throw out the juicy sounding stuff because we know human nature is human nature. You can put a million positive stories in the *Compass*, the radio and on the television and they will get the lowest ratings and readership ever, but as soon as you talk about a piece of juicy gossip then you are appealing to the masses. That is why soap operas are so popular. Are any of us surprised that soap operas are so popular? Soap operas are popular because people like gossip, rumours and all of that stuff; they feed on it and there is no better aroma than to say that the MLA's are doing something that they should not be doing. The depth upon which people do look at issues and that there is that sort of feeling and mentality in the community is really so sad.

Before you are a politician you are the nicest guy; most honest and upright fellow, good guy, parents raised him good, did good and if you were fortunate enough to get an education, got an education and doing good, but as soon as you get elected then you become such an awful creature. That is very sad because what it does is continue to keep good people, young and old, but especially young, away from the political process either as candidates or just being involved. That is what it does, it drives them away. They know how people are going to look at them; they know what people are going to say about them

and they know how people are going to feel towards them, unjustifiably.

As I have heard it called, I am not supportive of any such progressive thought or any such radical shift. I am not going along with any of these radical shifts at this particular point in time without having the benefit to have gone to the public to make sure the public understood what we were talking about and made sure that the public are comfortable with the system; after all democracy is about the people not about us. Democracy is about what the people feel. We are simply here to represent their views and we cannot truthfully say that any of us have any evidence whatsoever that would support us coming forward with the view that that is what the majority of the people in the country would want. I know that all of us have to look at things rationally and as representatives look at things and use our own good judgement. We cannot relinquish that because I believe that when an elector relinquishes good judgment then he or she has failed as a representative. So, I think we just have to be careful with those sorts of shifts that would be sudden and unfortunate because the public would not have had the opportunity to have seen, learnt and heard about what it is.

Mr. Speaker, there is a small point that I have not seen come around yet as a proposed committee stage amendment and it is in 34(1)(b) which deals with polling and counting agents. 34(1) says: "**A candidate may at any time, after being nominated but at least ten days before the commencement of the poll, appoint;**

- a) **Two polling agents to attend a polling station and;**
- b) **two counting agents to attend at the counting of the votes, being persons who are entitled to vote in the same electoral district as that in which the candidate has been nominated."**

It all makes sense. However, if we look at 34(1)(b) more closely one would infer that it has to mean for those two agents to attend the counting of the votes, because of the fact that the vote counting is now going to change, we are going to be counting at the respective polling stations. We are going to break down and count there to allow the count to be more efficient. It is not going to be like it was before where you would go to one central location and count there. I think out of the abundance of caution and to make this absolutely clear and not open to any interpretations, we should say here that we are talking about two counting agents to attend at the counting of votes at each of the stations. It may sound like a spoiled point but we are doing the Law now so let us get it as right and specific as we can get it because we would not want to have any sort of question arise about that. Let us just make it clear, Mr. Speaker.

In regards to some of the other major items covered in this Bill, I think the Acting First Official Member has spoken adequately to a number of those. One of the things I like about debate is that

others will speak so it does not make sense for me to go through a lot of them because I am sure that as others speak a lot of these other points are going to be raised. We cannot anticipate, but I would encourage all Members to take a close look at the committee stage amendments that has been circulated, especially the one that has to do with form 16A because I think we do have some potential issues there, which will need to be addressed. In reading through this and knowing the exercise we went through last Friday in regards to the short Motion we passed in this House saying to Her Majesty's Government just what we were recommending in terms of the minor change to the Constitution, I think somehow this amendment may very well have caused some problems with that particular move because that change is not yet in the Constitution. As of today it is not, and our understanding is that the Privy Council is meeting July 24 or 27<sup>th</sup> and so it is not going to be a part of the Constitution for a good number of six more days.

Mr. Speaker, we are in an election season; we are winding down our term; everyone is posturing for themselves to be returned as the majority so that they can form the Government. So, there is also to temptation to utilise anything that comes through these Chambers to further that. I think that in my contribution, not yielded to that temptation, I have pointed out certain items that were flagged up by earlier speakers, but I think I was very fair in my analysis of what I think is responsible and constructive debate. Everyone might not agree with it but I believe that we are in a most unfortunate situation to have to be debating this Bill at this particular point in time, simply because of the perception that will be out there, that all of us, especially those on this side of the Floor, are sitting Members of the House and that somehow any change we make will enhance our possibility to be returned. I say that I have not lost that much faith in the Caymanian public.

I still believe that at the end of the day when people get into that polling station by themselves and nobody else is there, no candidate is there looking over their shoulder, I believe that when they get into the voting booth by themselves they ultimately vote for who they want to freely and who they think is going to do the best job. That in my humble submission is the essence of democracy. Say what you want about all of the other things that are going on. Once people are going to the polls and they are not under any influence inside that polling station, and they are voting for those they think are the best people for the job, who they want as their representatives; that is what they are doing, they are choosing who their voice is going to be in this Legislative Assembly. Once that is the case we have a lot to be thankful for in this country and I think all of us would agree that that is how our elections are administered. I think we have a very good elections staff, a very good election team, a good Superintendent of Elections, experienced and I think they do an exceptional job. I there-

fore look forward to the day when all of us are going to be judged and have our ultimate account to the people.

So, with those short words I now eagerly await the remainder of the debate because I am very interested to hear what all other Members are going to say and what items they will focus on in regards to this Bill.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Last call!

The Elected Member for East End.

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

Compared with the Second Elected Member for West Bay, I rise to make what I consider a short contribution to the Amendment Bill of the Election Law that is before us.

There are a number of issues and a number of proposed amendments to the Election Law in this amendment, which I personally support. There are two major issues, as the Second Elected Member for George Town said, which we do not support in the current form. We support the concept of change but we do not support it in the manner in which it is currently proposed. I will touch on those even though those who have spoken before me have made their contribution.

Many of the proposed amendments, such as electronic names for the distribution of the list of electors and the sale of electors and the like, should have been done a long time ago. We are now in the electronic age and I believe it is to the government's and the country's benefit if we do that.

I must record my disappointment in the manner which all amendments were brought about and the end result, that is, what we currently have in front of us. Some time ago when this amendment to the Elections Law was talked about, and the as the Second Elected Member for George Town said, it was earlier this year, we were invited to a meeting called by the Honourable Chief Secretary and we attended that meeting. At the end of that meeting we were told that we would have subsequent meetings in order to reach consensus on what the changes would entail.

I know the Minister for Health spoke of it and he said that I said that I would not be returning to anymore meetings. I still consider myself a freshman in politics especially when I compare myself with you, Sir and other Members of this Honourable Chamber. However, my record will stand in here, and that record is that I am always on time and I am always present at any meeting held. There are a number or reasons for that, but in particular, the main reason is that I made the people of East End a promise that I was going to represent them for four years and I believe that is representation. The other thing that could be considered primary is that I am very afraid to miss

anything. I like to be involved because this is my country and it is part and parcel of the people I represent, and whatever is in the best interest of this country I am going to be there.

Mr. Speaker, I always believed that the reason for these meetings was to reach consensus. I am not overly excited about those meetings because on a recent parliamentary seminar in England one of the things discussed was that the Labour Party in England is creating committees so that when the conservatives get on the floor they cannot argue with the Labour Party because there is consensus already. So, I am a bit skeptic to why the Government usually brings them. Nevertheless, I think they served their purpose. However, it is obvious, as was the case with the Election Law, that there were a few differences at the word 'go' in the meeting and the time which was allotted to that meeting expired. It was decided that other meetings would be held, and I thought that was the right thing to do. Up until this week there were no other meetings held. I am very concerned about that because it appears that there was not a genuine effort made to take input from the Opposition to reach consensus and our ideas put into this amendment to the Election Law.

The Second Elected Member for West Bay spoke of how it affects us all and the Minister of Health spoke of how the Bill and in particular, the Election Law, affects us all. Therefore I thought it should have been absolutely necessary for the Government to show a little more respect for the Opposition in getting their views prior to the completion of the amendment to this Law. It certainly would have been a lot less adversarial if that was done but it appears that the Government is going to do what they are going to do regardless of who says 'no' and thus, we have an amendment to the Election Law.

Contrary to other Members in this Honourable Chamber saying that East End deserves better, I know what they are promoting is not better than me because I am here and I do my job while making worthwhile contributions to anything that goes on in this Honourable House. They cannot say that I am absent; look at the records of others. The other districts deserve better than what they have now also. I am leaving that as is; I am not going any further. So, all of those who talk about East End deserves better, they had better think about their own district and whether their district deserves better.

Anyway some of the things I thought we would have also included in the Election Law is about fraud. People who are convicted of fraud should not be allowed to run in a General Election in this country. I believe if we did have the meetings that were proposed, all of these things would have been discussed prior to us coming here to the Floor of this Honourable House.

I move on to the areas in the amendments that I believe are not in keeping with what is in the best interest of the election as proposed by the Gov-

ernment. The Minister who spoke first from the Government spoke of how the Government is transparent and how the initial draft amendment did not reach Cabinet. I am not trying to refute the Minister's argument that it did not reach Cabinet but certainly, Cabinet knew of that first draft. There were a number of other amendments in that which were proposed by the Supervisor and his able deputies after enlisting the assistance of an able consultant in the form of Mr. Carl Dundas.

If that first draft did not reach Cabinet and the second one that we are now debating did, I wonder who omitted things like the mobile polling stations; unless, of course, the Supervisor of Elections had a change of mind and I will accept that as an answer, but within a year the Supervisor of Elections, if you can extrapolate from what the Minister said, that it did not reach Cabinet. That means that the Supervisor of Elections changed his mind for a very good provision to be put in the amendment and eventually in the Law. That has to be the answer; it cannot be that the Government saw it and decided that it was not because it did not reach Cabinet. It disappeared on paper. However, it is for the Government to explain to the county why it is not so.

Mr. Speaker, I would like to turn to section 21 of the amendment. The change proposed is: "Any person whose name appears on the Register of Electors and who changes his name, occupation or street address shall-

- A. Within six weeks of such change, give to the registering officer for the electoral district in respect of which he is registered as an elector, notice in writing in Form 13 together with such supporting documents as the registering officer may require;"

Section 21 in the current Law says: "Any person whose name appears on the Register of Electors who changes his or her name or place of residence shall, within twelve months of such change give notice in writing in Form 13 to the registering officer for the electoral district in respect of which he is registered as an elector. . ." and it goes on and on. I believe that a year is reasonable and to propose six weeks is absolutely unreasonable.

We know that there are many people in our country who live in a rental apartment and they shift from one apartment to the other. To ask a person after six weeks to change his registration on the Elector's Register is rather unreasonable when six months later he may move to a different district. I can appreciate that someone has a contract for at least a year but six weeks is a little unreasonable. People move from one district to live in another district with family and they may stay two or three months and go back to the other district. Are we are going to have people changing constantly? It is unreasonable! That proposal is highly unreasonable and maybe the Government will consider doing something about it. The next section I would like to address is section 60 which

says: "Unauthorised expenditure". Maybe I should read both sections, 60 (1) and (2).

**"60. (1) Where an expenditure is incurred in contravention of this Part, the person by whom such expenditure was incurred and the candidate in connection with whose candidature it was incurred shall in addition to any other penalty to which either of them may be liable, be deemed to be guilty of an illegal practice.**

**" (2) No candidate shall be deemed to be guilty of an illegal practice by reason of any other person having incurred any expenditure in connection with the candidature of the candidate in contravention of this Part, if the candidate proves that such expenditure was incurred without his knowledge or consent and that he took all responsible steps to prevent the incurrence of such expenditure."** I understand the attempts and what they are trying to achieve but I do not know, if on the face of it, that that is the total intent of that provision.

I would like us to think that yes, if someone goes out and promotes me and I know nothing about it then certainly, I have not committed an offence. It is highly unreasonable to expect me to pay the price for someone promoting and advancing my cause when I knew nothing about it. However, the flip side of that is that you could have a candidate who has a trusted lieutenant whom you allow to promote your cause, but then the candidate could stand up and say that he does not know anything about it. How am I going to prove as a candidate that I did not know? The burden of proof is going to be on me and it should not be on me. The only way I can prove that the gentleman down the street who was wearing my t-shirt, passing out one hundred dollar bills or buying drinks is to say I did not know. I did not know! I did not send him there and he cannot say that I sent him there; what proof does he have? However, I have to prove that I did not because the person does not have to prove that I did; I have to prove that I did not send him and how am I going to prove that? All I can do is to stand under oath and say I did not do it, I knew nothing of it. Is that sufficient proof? Is that what we are asking for? I am sure that is not what this wants.

The onus must be on the person laying the charge, not me. Maybe nobody saw the flip side or maybe they did, I do not know. I certainly know that this needs to change to prevent the same expenditure that others have talked about because if you think a candidate would not be able to get rid of some money in any election, think again. This is the same refrigerator that we were talking about a while ago. If you have a trusted lieutenant you can give him the money to expend on your behalf and all you need to say is: "I did not know"; claim ignorance and that is it. They are asking me to prove that I was ignorant of the fact when the third party accused someone else of furthering my cause. That is the way it is going to come out. A third party would say that that other individual was doing it on my behalf and then all of a sudden I have

to prove that I knew nothing about that second individual doing it. No, Mr. Speaker, something is radically wrong with that. Whilst there needs to be provisions to protect the candidate from such, this does not do it and we need to start drafting something different.

Mr. Speaker, under section 61 where limitation on election expenses are covered it is interesting that we are proposing to remove subsection 4. Please allow me to turn to the limitation on election expenses. Like all other Honourable Members, all fair thinking members of this society have been aggrieved by what currently exists in the Law. Ten thousand dollars is absolutely unreasonable to expect and the one hundred and ten days on one side of the election and the other side of the election is totally unreasonable as well. There needs to be change! However, when we look at what is proposed, \$35,000 for independent candidates and single member constituencies, and \$30,000 for multi member constituencies if you are with a party; that is pittance on what can be spent in a general election under this proposal. I agree that every country in this world is grappling with election expenditure reform; in America, everywhere, however, they are tightening theirs in and we are loosing ours up. It appears like this is Government's way of legitimising what they have already spent prior to nomination.

#### Point of Order

**Hon. W. McKeeva Bush:** On a point of order, Mr. Speaker.

**The Speaker:** Honourable Leader of Government Business, please state your point of order.

**Hon. W. McKeeva Bush:** I think the Member is imputing the conduct of Members with his innuendoes. He has gone too far this evening in any event!

*[inaudible interjections]*

**The Speaker:** Order please! Honourable Members I would draw your attention to Standing Order 35(4): **"No Member shall impute improper motives to another Member."** I do not need to do that because I know Members are well acquainted with the Standing Orders on points of order. I have distributed them to Members in addition to them being contained in our Standing Orders so I would ask Members to please make every effort to comply with the Standing Orders. I know it is getting late and perhaps Members are getting a little edgy but let us do our best to work within the Standing Orders of the House.

Honourable Member for East End please continue.

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

The General Elections is one hundred and nineteen days away. Under the current Law any money spent outside one hundred and ten days you do not have to give account for. So, nine days from now up to the Elections and thereafter under the current Law you would spend only \$10,000. If we are bringing those one hundred and ten days to nomination day, which is 6 October, we are legitimising what is spent prior to 6 October. That is what we are doing! We are legitimising it! Who is going to spend it is entirely up to anybody else who wants to say that.

So, the Minister cannot jump up on a point of order when he has no point of order! Talking his rubbish!

**The Speaker:** Honourable Member for East End I have made a ruling on this matter, I would ask you to move away from the point of order that was raised. Please continue with your speech and do not question the ruling that was made on the point of order.

Please continue with your speech and move away from that position.

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

As the Second Elected Member for George Town said earlier, we cannot support something in the Election Law that gives free reign for expenditures; there needs to be a cap. What that cap is, I do not know. If it is \$50,000 we need to come up with some formula that is reasonable which includes all expenditures relating to furthering your cause during an election.

We cannot leave so many loopholes. It is like the Second Elected Member for George Town said, independent candidates are an integral part of the system and it is highly unfair for two or three parties to financially blow them out of the water. People have choices, they do not have to join parties, this is a democratic society and they can run on their own and once you have qualified to run in the General Election you do not need to run with a party. There are no such draconian laws in this country but all those, including the PPM, would have so much more resources available to them than an independent candidate. If you pool your resources, yes you are going to have more but when you go out there and receive donations we need to cap expenditure. Those two provisions are not capping it, particularly the one where someone can spend anything they want on behalf of the candidate. The Minister of Health said: "who said so". Obviously Cabinet did not see this here.

I propose that we go back to the Table and start discussing the possibilities of capping expenditure for elections in this country. It is a dangerous thing and not all candidates, in any election, have the same resources available to them. We all know it is not unique to Cayman. I saw on more than one occasion in the last few months where the Republicans and Democrats raised hundreds of millions of dollars.

If there was independence there the independents who run for the presidential position in America are billionaires themselves so they spend their own personal money. However, I believe that there is a need to cap it off and I cannot support that section of this Bill and by extension I cannot support the Bill.

The other area I would like to discuss is that which the Second Elected Member for George Town covered quite a lot, but I think I should come back to it and that is the mobile postal ballots. As we know them now, they are absentee voting. Many countries—

### Point of Order

**Hon. W. McKeeva Bush:** Mr. Speaker, I rise on a point of order.

**The Speaker:** Honourable Leader of Government Business please state your point of order.

**Hon. W. McKeeva Bush:** I seek your advice. The Member has been going on quite a bit this evening and perhaps others did as well in regards to this Report. We are not debating the Report that Mr. Dundas made, we are debating a bill before the House and I think the Standing Order says that we should be debating what is before the House.

I seek your guidance, Mr. Speaker. Maybe I am wrong but I am wondering whether we are debating the Report or the Bill.

**The Speaker:** Thank you Honourable Leader of Government Business.

Honourable Members earlier I called on the Second Elected Member for George Town to lay on the Table of the House the Dundas Report because he had made reference to it. It is now available for all Members to make reference to but I take the point made by the Honourable Leader of Government Business that we are indeed debating the Election Amendment Bill 2004, and whilst I would expect some latitude to be given to reference to any materials that has been laid on the Table of the House I feel that we should move back and I would ask the Elected Member for East End to stick as closely to the contents of the Bill before us.

Honourable Member for East End please continue.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I was not going to refer to that Report but since the Minister brought it up I think I will.

What I was going to say is that when Members of this Honourable House was presented with the original draft of the Election (Amendment) Bill 2004, sometime earlier this year, the proposal in that was to amend the principal Law after section 44 and include 45 (a) mobile polling stations; this is on page 13 of the initial draft amendment. So, what I was go-

ing to say was that somehow this one vanished in thin air. I am not here to cast any aspersions on anyone, any one candidate or a group of candidates that have ran in any election in this country, in the past or for the future. However, I must say that we have enjoyed for many years the privilege of having what we consider fair elections and I pray to God that continues.

However, there is one area, I believe, that is open for abuse and that is absentee ballots. I really believe that needs to be tightened. There are so many capabilities of abuse and whilst the Election Office try to do their best, and they do a good job, there is opening for abuse in that particular section of the election process, and I believe we need to close it out. In many other countries, as I understand that was the area that was most vulnerable, in fact, no one in the majority of the Caribbean countries can vote by absentee ballots. Even the attachés from the independent countries must return home on the day of election. As far as I am concerned that might be taking it a little too far because we have students overseas and certainly we do not want to disenfranchise anyone and ask them to travel from their school to come home. Certainly for those who will be in the Cayman Islands on that day there needs to be another method of allowing them to exercise their democratic right to vote and it is not through absentee balloting. There are many ways that it can be done but the one that was proposed was mobile polling stations. As far as I can see it is a simple procedure, you travel with the agents and the returning officer and all the necessary people who will also be at the elections that say and they conduct the voting for those individuals in their place of abode.

Mr. Speaker, in many of the other Caribbean countries the emergencies service people are given a particular day to go to vote before the General Election, like the day before, and they stagger it so all of them are not off from their post at the same time. On the day of Elections they are at their post. So, these are different ways that we can graduate to and since we are now amending the Law that we should look at these things. The hospital, nurses, we cannot have all of them going the same day. For instance, the nurses work a twelve hour shift, 7 in the morning until 7 at night. Their chances of going to the polls is probably about an hour and the Election Law says that employers have to let off the employees; they are required by Law to do that to allow them to vote. I am saying that there are other ways that we can get these people to vote prior to the General Election Day and the Election Office can have these boxes in safe-keeping, but nobody wants to do that. We are talking about modernising the country to meet with the 21<sup>st</sup> Century, then let us do it, let us make it that much easier for our people.

The police, nurses, doctors, firemen, prison officers, employees of Caribbean Utilities Company (CUC) who work in the engine room, people at the Pines, those that are shut in— these people can all

vote prior to the election and these are the people we need to ensure are not disenfranchised and there is no need to send a postal ballot out to them in order that there is no chance of abuse. That is the only area in the process that I see where there is a possibility of abuse. Over the years we have heard the allegations of it. Others can talk of allegations but no one else can, there are plenty of those flying around here.

Mr. Speaker, the issue of buying votes, as is commonly termed, was brought up by the Second Elected Member for West Bay. That is where we will get our problems with giving someone money. Not all people are honourable and we can find candidates who are not honourable in any place, not only Cayman, and they will use whatever means available to them to their own advantage; any loophole! People who are dishonest will find the loopholes long before anybody else finds them.

I really believe that there is a need for tightening and I would invite the Government to consider: Tightening up the allowable expenditure section and the inclusion of some means of getting those people who are not capable of getting out to the polls to vote other than by absentee ballots. It is absolutely necessary! We cannot afford to open this up further to future possible abuse.

Mr. Speaker, as I said earlier, unlike the Second Elected Member for West Bay, I am not going to stand here long. I believe I have touched on the critical sections of this Bill; the other sections of it are fine by me. It is a means of cleaning and tidying up, and tightening up the reporting of expenditures and I believe that is welcomed and I welcome it. However, it does not make sense to tighten that up and we are letting the candidates go elsewhere to spend as they please.

I trust that my contribution has been taken in the spirit that it was given. Thank you, Sir.

**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 like to make some comments in relation to the proposed new Election (Amendment) Bill 2004.

It is a bit unfortunate that we are addressing the issue of an election law so close before the General Elections, but it quite obvious that this Honourable House has been very busy and that the Government has also been very busy, and it is up to the Government to bring the legislation here.

The Opposition had the opportunity to bring as a private members motion amendments to the Election Law and it appears as if they have an amendment which they were suggesting at this particular time and not before. So, they too seem to have not been able to get anything to this Honourable House before this particular time.

What is disturbing about the Opposition's position that has so much time to create mischief is that they politicise, especially at this time, every single issue brought before this Honourable House except the issue that might have disqualified them from being Members of the Legislative Assembly, simply because of the British Nationality Act which granted British citizenship to the dependent territories in 2002. So, when it came to jumping together to make sure that everybody could run, including them, there was no opposition.

With regards to the Election Law it would be good for them to get up and try to somehow insinuate that the Government and its Back Bench that brings this Bill is doing so in order to create an unfair advantage.

The Government is capable of running under the present Election Law and still whopping the Opposition, simply because the Government's performance has been excellent. I would say that the Opposition's intention is to try to make the public believe that there is something unfair about the spending policies being suggested in this particular Law. They too understand that they should be honest with the general public because many members of the general public who are listening know Members of the Opposition and they know exactly what they do and do not do in an election. So, do not try to fool the general public.

Mr. Speaker, I would repeat again that the Members of the Opposition are known by the general public and that the general public know exactly what is spent and what is not spent by Members of the Opposition, at least during the last election.

When I hear people talking about buying votes I can only say that when I started off in 1996 I had no money to buy any votes and I had not accumulated any money in 2000 to buy votes, and I did not top the polls so I obviously can say that I did no such thing. So, if the Opposition wants to insinuate that this is what is happening— What I want the Opposition to admit is the fact that they know that the amount of money that is allowed to be spent is not the amount of money that they spent in the last election.

The Opposition knows very well—

#### Point of Order

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

**The Speaker:** Second Elected Member for George Town please state your point of order.

**Mr Alden M McLaughlin, Jr:** Mr. Speaker, the Honourable Minister has just stated as a fact that the Opposition Members have spent money in contravention of the Law. That is the impact of what he just said and he must withdraw that remark. He is effectively charging us with a criminal offence. He stated it as a matter of fact.

**The Speaker:** Honourable Minister for Community Services, was that a categorical statement or your opinion you were stating?

**Dr. the Hon. Frank S. McField:** Mr. Speaker, I am not going to say it is a categorical statement, I will say that it is my opinion that the Members of the Opposition know, in my opinion, that they spent more than what was allowed to be spent.

**The Speaker:** Please continue.

**Dr. the Hon. Frank S. McField:** With a little bit of confession I guess this is one of the reasons why we are coming before this Honourable to make it possible for people to genuinely spend on their campaign without hiding what they are spending in any matter. The sense of this particular amendment is to allow people to genuinely, above board, honestly spend on their campaigns.

I remember that I did some commercials with the television stations and the radio stations and we now have two newspapers, so I know that it is very difficult to reach all of the people, and even when you spend with all of the media, people will still say: "*I did not know that you were having a meeting; I did not know what it was that you stood for, tell me what it is that you are standing for*". So, to be honest we know it takes more than the \$10,000 that was allowed to be spent for an election campaign therefore many people would rush to buy t-shirts and other items that they would use in the election campaign before the one hundred and odd days that the Member for East End was talking about.

The truth of the matter is, especially in the districts of George Town and West Bay, I have knowledge that people do come to politicians to ask for certain favours and that nobody is sitting there keeping any record, so why is it that the Opposition seems to have this attitude that the Government here is any better at doing that than they are? That is what I want to know. Do you think I am better at doing it? No, I am not better.

*[Inaudible comments]*

**The Speaker:** Order! Please continue Honourable Minister.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, I do not want to bring the level down to the level it is at. I just want people to be aware of the fact that when they get up and cast aspersions at this particular side of the House, suggesting that people will buy votes or they will use money to create unfair advantages, they have to remember who we know that has the money. If they do not have it now they had it then. So, I will not stand here and be accused as the one who was successful because of any use of any monies.



Mr. Speaker, I think it is time that we were able to make it a little more above board, at least for this election, the amount of monies that could be spent legitimately by candidates. I think part of the reasons why we did get into researching the amendment possibilities to this Election Law was in order to make sure that candidates in the 2004 Elections were able to pay the cost of their elections, and that we recognise as a Government, as a Legislative Assembly that the cost continues to escalate; the cost of advertising in the papers, of having television shows, having television advertisements, of printing manifestos and of printing t-shirts, all these costs add up to much more than were originally thought of. I never supported the idea that people should be restricted in any way.

I was one of the persons who argued in our deliberation on this Bill before it came to this House that perhaps people should be allowed to spend the amount of money that they were capable and there should be no cap. My argument was, why tempt people to be dishonest. Why assume that because you can put more commercials on there that you will be able to win an election? If there is no substance to what you are proposing then I think that regardless of how much you go on there people at the end of the day will walk away from you. So, there is no proof that money itself is what causes people to be elected. There has to be some political substance in what the candidates or the particular parties are advocating. So to make the emphasis money is something that is very subjective because some of us will believe that money does play a role and some of us will believe that the role in which money has is incidental and not the primary role. It is absolutely necessary for us to think about our program.

There will be those of us who will say the United Democratic Party won the Election by a landslide simply because the United Democratic Party had access to money because the United Democratic Party knows business people. That is what they are preparing to say because they are trying to find an excuse for why they will lose the election. That kind of psychology is very bad for them because they are programming themselves to fail and I do have some respect for some of the Members of The Opposition and would like to see them back as Members of The Opposition, but if they continue to programme themselves to fail by having these excuses for why the United Democratic Party won, then they are going to be in serious difficulties.

So, Mr. Speaker, I am saying this to say that let us go in with the idea that if I have to spend \$35,000 for my election campaign, that is a big sum of money, and obviously, I would not be able to put my hand in my pocket and do it all by myself, but we are accepting the fact now that the role a candidate plays is more than a role he or she is playing for himself or herself. We are playing a role for other members of the society who also have self-interest and

general interest in making sure that the conditions to get somebody elected are there. Therefore, we would expect that people would be donating to the different parties, and I am quite sure that some of the PPM supporters have so much money that the PPM will not have a problem finding the money. What they will have the problem with is finding the substance to put the money behind. It will be like putting a lot of money on television ads, but all they can say on the television ads is why there is something wrong with us rather than showing what is good about them then people will understand, at the end of the day, there is no substance behind the PPM and therefore the PPM will not benefit from the fact that they have very, very, very rich supporters.

Mr. Speaker, if we look at just the amount of money that you pay for a live broadcast these days I think there are some people out there in the journalistic world who are just waiting for us to charge us high prices for this and charge us high prices for that. I do not know whether or not speech writers will be paid in this election and whether or not people will be declaring what they pay speech writers; I do not know if that will be part of what people will be declaring; I do not know whether or not they will do this; at what point they will start making those declarations as to what amount those persons are being paid, but there are so many things that you can pay for in an election campaign. People can come and put out chairs for you and you have to pay for that . . . so there are a lot of expenses. So, what I am saying is that at the end of the day, let us be realistic about what it is that people can legitimately spend.

I will assure this Honourable House that Members will find that they are going to exceed, in many cases, the allotted amount of money, and when they exceed it, they will conceal it. Therefore, it is my philosophy that there should not be any caps on what you are allowed to spend. Perhaps, there should be some direction as to how you can spend it, but not what you can spend if it is all above board because the voters themselves will see when you are going overboard and when you are trying to be too greedy in terms of 'hogging up' all the time and space in the different newspapers. However, the majority of Members in this Honourable House disagree with my position. I go along with the majority on the side of the Government that has brought this Bill that says there should be a cap at C\$35,000. However, the Member from East End has gone beyond in criticising the Government even for the fact that that starts at the date of nomination. Much attention had been given to that, because if what you want is to control what people spend rather than create a fair playing field, there is a difference. If you want to create a fair playing field, Mr. Speaker, be fair and realistic about the amount of money that will be needed to effectively get your message across to the general public and you allow that to be spent by candidates, and if you are going to put the amount in Law, then when you put

the amount in Law, please be as realistic about that as possible.

Now, what is being suggested is that at this particular point or at least in a few days under the present Law, that the new amendment should also include that whatever a person spends up until the date of nomination, from a few days from now, should also be calculated as part of what they spend for their election campaign. Now, what it creates is a great policing problem in terms of how do you control how people spend. What you will be controlling is what people spend on advertising, on obvious things, but not what people spend on light bills and refrigerators, on stoves and different things like that. So, let us be careful how we make the assumption that somehow the Government is not concerned about spending at this particular point and somehow that the Members of the United Democratic Party will be spending in such a way to create an unfair advantage to the independent candidates and the PPM candidates as well.

I remember one person who was in an election here in the district of George Town who bought the T-shirts long before the period began. So, although the period might begin from now for the 2004 November Elections, some people would have six months ago bought up everything and it would not have counted anyway. So, at what position do we have to be in terms of controlling spending to be able to manage it in such a way that it does not create an unfair advantage? If somebody has already, for instance, spent \$100,000 on T-shirts, pens, hats, and all of those things, and on electricity bills, and all that sort of stuff, it does not start off so it avoids that particular thing. People find ways around these things; people find ways to achieve what it is that they want to achieve, which is to influence voters to vote for them; they find ways of doing that.

There is also, in some countries, where you have organizations that are willing to pay for ads and just say, *'Okay, this organization is for Progress and Prosperity and we would like to sponsor the United Democratic Party or the PPM Party or this individual'*, therefore somebody is paid out of their amount and you have not paid anything yourself. These are situations where they are called soft advertising or something like that in the United States. So, there are always issues for Government as to how to make it fair and how not to get into a situation where the Election Office has to become so bureaucratic and so staffed to be able to follow politicians and make sure that this one is not doing this that is wrong, and the other one is not doing this thing that is wrong in order to create these unfair advantages. At the end of the day, I do not think that there is any solution to these problems. All we can do as legislators is to set the moral and legal foundation for the procedures that people ought to follow, but we cannot make people good. We can only make the criteria for them to follow that we think is the correct criteria at that particular time. That is what we are doing here.

If people choose to find ways to destabilise the Election Laws by spending more money in these particular ways that we know that people do spend money, there is not very much that the Election Office and those people who are responsible can do. Of course, if we get people who are willing to adhere to the particular principles that they are advocating in here today, then there is nothing to worry about; the Law would have set the foundations and we would have taken instructions from the Law; we would have abided by the Law and we would follow the Law regardless of what the consequences will be with regards to outcome of the election.

So, I am just up to say that although it is being suggested by the Opposition that this Law again is an indication of this Government's – United Democratic Party's Government's – inability to be fair—that it is absolutely the wrong interpretation and it is only being done in order to again inflame that small segment of the population that they speak to and for.

Mr. Speaker, this Law comes late! Again, I say that, but the Opposition had its time to have brought amendments that they thought were desirable. They have failed to do so up until this moment, therefore, it shows something about their concerns, their preoccupations, because obviously, if the Election Law had been so much of a concern and a preoccupation of the Opposition, they would have brought amendments before now and those amendments would have been addressed in this House because each Thursday when this House sits we have priority given to Private Members' Motions. Saying this, therefore, I would say, Mr. Speaker, they have benefited very little in terms of their political gesturing by trying to do what they have done here, suggesting that they cannot vote for this Bill. This House should at least try to be unanimous when it comes to an Election Law that will govern the conduct of all candidates in the General Election. To give the people, at this time, the idea that the Government again, must pass this Law by itself with the support of the backbench, when I know that the UDP did not devise this Law.

I, therefore, would like to extend my thanks and my gratitude to the people from the Election Office who worked so hard to develop this Law, to make the relevant amendment and to be able to introduce to this Honourable House, not by the United Democratic Party Members, but by the Acting Chief Secretary who brought it to this Honourable House. So, there is no way that the Opposition should sit there and try to get the general public to believe that the people in the Election Office are so dishonest that they have not given good thought and consideration to this piece of legislation that is being brought here today. It is a shame from them because they are so disadvantaged when it comes to having things that are relevant to say that they come up with this kind of situation.

People like Mr. Orrett Connor, Mr. Kearney Gomez, and Mr. Colford Scott, those types of people have helped. I have not had very much to do with this particular piece of legislation because it was not something that I had time to get involved with. I would just like to say that the people like the Honourable Chief Secretary and all of those persons who worked so hard, would have felt that their work would have been in vain if we were not able to take this up in this sitting and pass it so that it would be able to be used for the upcoming elections. So, let us not see this as a Bill that should divide this House again, and it should divide this House, Mr. Speaker, only if the Members of the PPM Opposition feels that they have to think so low in order to make political mileage.

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?

The Honourable Member of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

Clearly there are a few facts that need to be cleared up from, first of all, what the Minister for Community Affairs just spoke about and I am going to try to remember, perhaps not in sequence, but as they come to mind.

First of all, none of the speakers from this side of the House, in anything that was said, either by innuendo or any direct accusation levelled any criticism or anything of the sort at the people who work in the Elections Office.

The Minister for Community Affairs, in his own way, spoke to what other Member speaking before me on this side may have said, as if it were demeaning to the Supervisor of Elections or any of the other members of the election staff, and that is certainly not the case. He went that route because he said that the Bill before us was prepared by those people, so any criticism of the Bill is criticism levelled at them.

We need to understand very clearly that the original proposal from the Elections Office was a document which headlined itself by saying that this document is not to be submitted to the legislative assembly, and we understood that. That was the document which we originally received sometime in March when we first met and that document was accompanied by what you have termed, Sir, as the Dundas Report, which has been the object of some crosstalk between Members here today. Our side has spoken to the original document, which obviously took into consideration the Dundas Report, all of the experiences of the Supervisor and his staff and their exposure in other jurisdictions, which many of them have simply to ensure that they are up to scratch with procedures here and what some might call 'the cutting edge' when it comes to keeping abreast of standards.

So, what we got originally when we had the first meeting, at which point in time many concerns were raised, and what we end up seeing here now is not the same, which includes some of the provisions made in the original document prepared by the Elections Office after Cabinet had discussed and decided what should be the final version coming to the Legislative Assembly. It must be clear and understood that the Minister for Community Affairs cannot try to say that the entire process was one corralled by the Elections Office and they brought the big document first, then they sat by their little selves, decided it was too much and slimmed it down to this, and then gave it through the Honourable First Official Member's office to be presented to the House. That is the way the Minister for Community Affairs presented the case and it is not so. Absolutely not! What was presented by the Honourable Acting First Official Member is obviously as a result—I hear the Leader of Government Business saying, I would know. Whether he likes or admits it or not, the little time that I was there I did learn some things and his deputy in the subsequent presentation was very precise in outlining to those of us who were at the presentation what the procedure was, so it was very clear to us.

First of all we need to establish and understand that the Bill before us, which we are debating, is what the Government thinks should be the amendments to the Elections Law which come to the legislature at this time seeking passage. Let us have that crystal clear.

In looking at the Bill that has been presented and my colleagues have raised some issues, which are of concern to the Opposition, it is very obvious that some of the issues which have been raised are perhaps going to have to be raised again for all speakers and different input put towards this. I will do my best not to be tasked with tedious repetition. Before I get to the concerns I am going to take a couple of minutes to speak to a few of the proposed amendments and the vast majority of them are amendments which we the Opposition, clearly support. We accept that the existing legislation needs to be changed to suit the times.

The clause under the Memorandum of Objects and Reasons where it speaks to Clause 9 on page 4 of the Bill itself, I want to raise attention. I did have a short conversation with the Deputy Supervisor of Elections. Clause 9 in essence, repeals and replaces section 21 of the principal Law. To shorten the time frame within which a person whose name appears on the register of electors must notify the registering officer of a change in his name or street address. Notification in a change of occupation would also be required.

Mr. Speaker, with your permission, so that everyone is clear on it, I want to take just a minute to compare the now legislation with what is proposed.

In the existing Law section 21—the marginal note for section 21 speaks to the change of electors

name or residence and it reads: **“Any person whose name appears on the Register of Electors who changes his or her name or place of residence shall, within twelve months of such change, give notice in writing in form 13 to the registering officer for the electoral district in respect of which he is registered as an elector and shall where the change of residence is from one electoral district to another, at the same time, send a copy of such notice to the registering officer for the electoral district within which the new place of residence is situated and shall also, where the change is from one electoral district to another or from one polling division to another within the same electoral district, return his elector registration card to the Supervisor for it to be altered accordingly and replaced.”** It is proposed for that section which I read, to be repealed and for the following section to be substituted. The marginal note with what is proposed will now read: “Change of elector’s name, occupation or street address.” The new section 21 will now read: “Any person whose name appears on the Register of Electors and who changes his name, occupation or street address shall;

(a) within six weeks of such change” that is compared to twelve months. It now requires instead of the original Law for a change of name or address. In the Law it reads, **“name or place of residence.”** What it now requires or what it will require with the new change will be the name, occupation or street address within six weeks of such change rather than twelve months. That person must give to the registering officer for the electoral district in respect of which he is registered as an elector, notice in writing in the same form together with such supporting documents as the registering officer may require.

Where the change of street address is from one electoral district to another he must also send a copy to the registering officer for the electoral district within which the new street address is located, and where the change is from an electoral district to another or from one polling division to another within the same electoral district, he must return his electoral registration card to the supervisor for it to be altered accordingly and replaced.

So, Mr. Speaker, when we compare those two I am presuming, Sir that the addition of occupation and street address in the new section 21 is to not only comply but to ensure that the database for the Elections Office for each of the electors is kept up to date and correct. I do not think there is any question as to what is required there. If I may take a minute here to say this for the benefit of the public; The reason, as I understand from the supervisors of the Elections Office, for wanting to update the electors ID card is because the existing voters registration cards, which all of us voters have, does not have a street address on it and it is the intention of the Elections Office to be able to have a database and to be able to correctly locate all of its voters, and the new voters

registration card is going to have a street address on it; hence whenever there is a change of address you need to go in and notify and get a new ID card, which will change that address.

I take the moment because unfortunately many members of the public are gaining the impression that if you do not change the existing voter registration card you will not be able to vote during the elections. I want to categorically state having spoken with the officers that this is not the case. Electors are encouraged to change their cards and the Elections Office staff are going out to various locations on given dates and times to accommodate the public and they are really making a strong effort to get as many, if not all, of the voters registrations cards changed to have the street address on it. The fact of the matter is that by Law if you go to the polls and you forgot your voter’s registration card, once you have a method to prove your identification and the officer is able to find you on the voter’s list they cannot prevent you from going through the exercise of voting. So, I want to make sure that the public do not continue to believe that if you do not change the registration card or if you do not have it that you will be prevented from your right to vote. Nevertheless, I also take the same opportunity to encourage people to change their voter’s registration card and get it updated with their street address because it only means smoother operations for the Elections Office and for the voting process to be able to flow smoothly on that day.

The question I have with section 21 between the Law which exists and the law that is proposed is simply the timing. It is twelve months that exists and what is being proposed is six weeks. I am not quite sure where this proposed time limit has come from. What I readily accept is that the twelve month period is not practical because while it may seem advantageous or disadvantageous, depending on how you look at it, if a person has made a conscious decision and changed where they reside and have become a part of a separate community, their demands on their representatives are most likely going to relate to the communities in which they live. Therefore the voting process that they should participate in should be for whoever is going to represent where they live. I think that is logical and make sense, but if you have an entire year in which to make that change you could physically be living in another district or another location for just about that same period of time and still be able to vote in wherever you were voting before. It exists up until now and we hear of many cases like that. People might prefer to do so and in some instances it is beneficial to some of the candidates and the opposite for some, but I am not looking at it from that angle so I am just looking at what is practical and what I think should exist.

So, the fact that they should notify the office and make the change there is no question there. The only question of timing whether it is a year or six weeks. I personally think that six weeks might be too

short a period of time. Mr. Speaker, I perhaps will need a few more moments to do this so I would be very happy to continue to tomorrow, Sir.

**The Speaker:** Honourable Members we have reached the hour of 8 pm, the hour of adjournment. Before calling on the Honourable Leader of Government Business to move the motion for the adjournment I would take this opportunity to remind all Honourable Members and through this medium also all associate members of the local branch of the (CPA) the Commonwealth Parliamentary Association of the CPA's Annual General Meeting (AGM) scheduled for 4 pm tomorrow, 22 July 2004.

It is proposed to adjourn the House at 3.45 pm tomorrow to allow for the CPA AGM to hopefully start properly at 4 pm.

The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I know that we have those other meetings scheduled for tomorrow and I had not adjourned and set a date at 8 o'clock. I simply said to carry on business after 4.30 pm and seeing that we have quite a bit of business left and just a few of us left that may want to speak on this I think that we should finish this because it cannot be that long and at least tomorrow all we would have to do is go through the committee stage of the Bill.

I think we should do that—I am sorry but I think that we need to continue and we did give the House an indication that we would continue sometimes until 10 pm and we do have a lot of business left.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if I may.

**The Speaker:** The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, we had notice from your good self today that we would go on until 8 pm. I then set a meeting for 8 o'clock which people are waiting for us to attend and I am—

**Hon. W. McKeeva Bush:** Lying.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, the Leader of Government Business has just said that I am lying and I am not lying. I am telling the truth, Sir.

**Hon. W. McKeeva Bush:** You did this more than once and you did not have any meeting, I know that to be a fact.

**The Speaker:** Honourable Members I had given notice that we would end at 8 pm but as the Honourable Leader of Government Business has stated we are close to completing the debate on this Bill. I am completely in the hands of the Member of the House; if

you wish to continue until we finish this I would be happy to do so.

Honourable Member please let me have your wish on this matter.

**Hon. W. McKeeva Bush:** Mr. Speaker, I did not realise that you had given them some notification of 8 o'clock, but I will tell this House how I feel.

The Opposition has made too many attempts to stretch out the meetings of this House; they stay outside when we need quorums and they say that they set meetings and I see them going somewhere else, not for meetings but I will give them the benefit of the doubt and since you had given an indication we have to abide by that therefore I will go along with that

We have a lot of business to conduct. We have so much business to conduct that pertains to the House.

*[Inaudible comments]*

## ADJOURNMENT

**The Speaker:** Honourable Members please stop the crosstalk.

If it is the wish of Members we will adjourn at this point.

Honourable Leader of Government Business, please move the motion for the adjournment.

**Hon. W. McKeeva Bush:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow morning, being Thursday morning.

**The Speaker:** I would just like to again repeat—please remember that there is a CPA meeting tomorrow afternoon at 4 pm but we plan to adjourn at 3.45 pm so that Members can assemble and we can start promptly at 4 pm.

We will not be coming back but adjourning at 3.45 pm.

The question is that this House do now adjourn until 10 am, tomorrow Thursday, 22 July 2004. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**At 8.04 pm the House stood adjourned until 10 am Thursday, 22 July 2004.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**22 JULY 2004**  
**11.13 AM**  
*Tenth Sitting*

**The Speaker:** I invite the Honourable Leader of Government Business 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 Cabinet 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 are now resumed.

**Proceedings resumed at 11.16 am**

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

**Apologies**

**The Speaker:** I have received apologies for absence from the Second Elected Member for Cayman Brac and Little Cayman, and apologies for the late arrival of the Honourable Third Official Member.

**Change in Adjournment time**

**The Speaker:** There is a change in the time that was stated for the adjournment for today's meeting, which was announced last night. This change is from 3.45 pm to 8 pm this evening. The House will suspend as was announced at 3.45 pm to commence with the CPA Annual General Meeting at 4 pm and it is planned to reconvene at 6 pm to continue the proceedings until 8 pm this evening so as to get through with as much on the work on the Order Paper, as possible.

**QUESTIONS TO HONOURABLE  
MEMBERS AND MINISTERS  
OF THE CABINET**

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

**The Speaker:** I call on the Honourable Leader of Government Business for the suspension of Standing Order 23(7) and (8) to allow questions to commence and continue beyond the hour of 11 am.

**Hon. W. McKeeva Bush:** Mr. Speaker, I move for the suspension of Standing Order 23(7) and (8) in order for questions to be asked after 11 am.

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

**Aye.**

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

**Question Put: Agreed. Standing Order 23(7) and (8).**

**Question No. 03**

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

**No. 3: Mr Alden M McLaughlin, Jr.** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, in light of the clo-

sure of registration at the George Hicks High School, what is being done about students who are unable to be given a place at that school?

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

**Hon. Roy Boddén:** Mr. Speaker, there are no outstanding applications for places at George Hicks High School. Twelve applications were received after the deadline for the closure of registration. These were processed and students were placed in their respective grade levels.

The Ministry has set the cut-off point for enrolment at 1100. The early indications from the principal are that this number of places will be sufficient.

**The Speaker:** Are there any supplementaries?

If there are no supplementaries I will ask Madam Clerk to continue.

## STATEMENTS BY MEMBERS/MINISTERS OF THE CABINET

**The Speaker:** I have received no statements from Honourable Members or Ministers of the Cabinet.

## GOVERNMENT BUSINESS

### Suspension of Standing Order 14(3) to allow Government Business to take precedence over Other Business

**The Speaker:** I call on the Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, before I move the suspension of Standing Order I would say to the House that we are not going to move into the Elections Bill first, we have some amendments to do so we will take the continuation of the Elections Amendment later on so we can move to other business.

I move the suspension of Standing Order 14(3) to allow Government Business to take precedence over other business.

**The Speaker:** The question is that Standing Order 14(3) be 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:** Honourable Members I also wish to draw the House attention to Standing Order 14(4)

which states; “**Subject to paragraphs (1) and (2), Members of Government may place notices of motions and orders of the day on the Order Paper in any order they please.**”

Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, we do not intend to move with the next suspension but we intend to go right to Motions, Government Motion No. 3/04.

## MOTIONS

### GOVERNMENT MOTION NO. 3/04

#### The Convention for the Elimination of all forms of Discrimination Against Women

**The Speaker:** The Honourable Minister responsible for Community Services, Youth, Sports and Gender Affairs.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, I beg to move the Motion on the Convention for the Elimination of all forms of Discrimination Against Women.

“**WHEREAS the Convention for the Elimination Of All Forms of Discrimination Against Women was adopted by the General Assembly of the United Nations in December 1979 and came into force on 3rd September 1981;**

“**AND WHEREAS as of 26 March 2004, 177 countries -over ninety percent of the members of the United Nations are party to the Convention and an additional one has signed the Treaty, binding itself to do nothing in contravention of its terms;**

“**AND WHEREAS the United Kingdom and Northern Ireland which ratified the Convention on 7th April, 1986 included several overseas territories in its instrument of ratification;**

“**AND WHEREAS the Convention was not extended to the Cayman Islands; and the question has arisen as to why the Convention was not extended;**

“**AND WHEREAS the Government of the Cayman Islands, on its own initiative, has requested that the United Kingdom extend the Convention to the Cayman Islands.**

“**BE IT THEREFORE RESOLVED THAT this Assembly requests that the Government of the United Kingdom and Northern Ireland, extend its ratification of the Convention to the Cayman Islands before its next Report to the Committee on the Elimination of Discrimination Against Women.**

**The Speaker:** The question is that BE IT THEREFORE RESOLVED THAT this Assembly requests that the Government of the United Kingdom and Northern Ireland extend its ratification of the Convention to the Cayman Islands before its next Report to the Commit-

tee on the Elimination of Discrimination Against Women.

The Motion is open for debate; does the Honourable Minister wish to speak thereto?

**Dr. the Hon. Frank S. McField:** Thank you, Mr. Speaker.

On 18 December 1979 the Convention on the Elimination of all forms of Discrimination Against Women were adopted by the United Nations General Assembly. It entered into force as an international treaty on 3 September 1981 after the twentieth country had ratified it. By the 10<sup>th</sup> Anniversary of the Convention in 1989 almost 100 nations have agreed to be bound by its provisions.

The Convention was the accumulation of more than 30 years of work by the United Nations Commission on the status of women, a body established in 1946 to monitor the situation of women and to promote women's rights. The Commission's work has been instrumental in bringing to light all the area in which women are denied equality with men. These efforts for the advancements of women have resulted in several declarations and conventions, of which, the Convention on the Elimination of All Forms of Discrimination Against Women is the central and most comprehensive document.

Among the international human rights treaties the Convention takes an important place in bringing the female half of humanity into focus of human rights concerns. The spirit of the Convention is rooted in the goals of the United Nations: to reaffirm faith in fundamental human rights, in the dignity and worth of the human person in the equal rights of men and women. The present document spells out the meaning of equality and how it can be achieved. In so doing the Convention establishes not only an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of those rights.

In its preamble the Convention explicitly acknowledges that extensive discrimination against women continues to exist and emphasises that such discrimination violates principles of equality of rights and respect for human dignity. As defined in Article 1, discrimination is understood as any distinction, exclusion or restriction made on the basis of sex in the political, economic, social, cultural, civil or any other field. The Convention gives positive affirmation to the principle of equality by requiring States parties to take all appropriate measures including legislation, to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

The agenda for equality is specified in fourteen subsequent articles. In its approach the Convention covers three dimensions of the situations of women; civil rights and the legal status of women are dealt with in great detail. In addition and unlike other human rights treaties the convention is also concerned

with the dimension of human reproduction as well as with the impact of cultural factors on the gender relations.

The legal status of women receives the broadest attention. Concern over the basic rights of political participation has not diminished since the adoption of the Convention on the political rights of women in 1952. Its provisions therefore are restated in article 7 of the present document thereby women are guaranteed the rights to vote, to hold public office and to exercise public functions. This includes equal rights for women to represent their countries at the international level – article 8.

The Convention on the Nationality of Married Women, adopted in 1957, is integrated under article 9 providing for the statehood of women, irrespective of their marital status. The Convention thereby draws attention to the fact that often women's legal status has been linked to marriage making them dependent on their husband's nationality rather than individuals in their own right.

Articles 10, 11 and 13 respectively affirm women's rights to non discrimination in education, employment and economic and social activities. These demands are given specific emphasis with regards to the situation of rural women whose particular struggles and vital economic contributions as noted in Article 14, warrant more attention in policy planning.

Article 15 asserts the full equality of women's civil and business matters, demanding that all instruments directed at restricting women's legal capacity shall be deemed null and void.

Finally in Article 16 the Convention returns to the issue of marriage and family relations, asserting the equal rights and obligations of women and men with regards to choice of spouse, parenthood, personal rights and command over property.

Aside from civil rights issues, the Convention also devotes major attention to a most vital concern of women, namely their reproductive rights. Their preamble sets the tone by stating that "the role of women in procreation should not be a basis for discrimination". The link between discrimination and women's reproductive role is a matter of recurrent concern in the Convention. For example it advocates in Article 5, "a proper understanding of maternity as a social function", demanding fully shared responsibility for child rearing by both sexes. Accordingly, provisions for maternity protection and child care are proclaimed as essential rights and are incorporated into all areas of the Convention, whether dealing with employment, family law, health care or education.

Society's obligation extends to offering social services, especially child care facilities that allows individuals to combine family responsibilities with work and participation in public life. Special measures for maternity protection are recommended and shall not be considered discriminatory - article 4. The Convention also affirms women's' rights to reproductive choice, notably it is the only human rights treaty to



mention family planning. State parties are obligated to include advice and family planning in the education process - article 10.h; and to develop family codes that guarantee women's rights to decide freely and responsibly on the number and spacing of children and to have access to the information, education and means to enable them to exercise these rights - article 16.e.

The third general thrust of the Convention aims at enlarging our understanding of the concept of human rights, as it gives formal recognition to the influence of culture and tradition on restricting women's enjoyment of their fundamental rights. These forces take shape in stereotypes customs and norms which give rise to the multitude of legal, political and economic constraints on the advancement of women. Noting this interrelationship the preamble on the Convention stresses "that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality of men and women". State parties are therefore obligated to work towards modification of social and cultural patterns of individual conduct in order to eliminate prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or stereotype roles for men and women. Articles 5 and 10c - mandates the revision of textbooks, school programmes and teaching methods with a view of eliminating stereotype concepts in the field of education.

Finally cultural patterns which define the public realm as a man's world and the domestic sphere as women's domain are strongly targeted in all of the Convention's provisions that affirm the equal responsibilities of both sexes in family life and their equal rights with regards to education employment. Altogether, the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based upon sex.

The implementation of the Convention is monitored by the Committee on the Elimination of Discrimination Against Women (CEDAW). The Committee's mandate and the administration of the Treaty are defined in articles 17 through 30 of the Convention. The Committee is comprised of twenty three experts nominated by their Governments and elected by the state parties as individuals "of high moral standing and competence in the field covered by the Convention".

At least every four years the States parties are expected to submit a national report to the Committee indicating the measures they have adopted to give effect to the provisions of the Convention. During its annual sessions the Committee members discuss these reports with a government representative and explore with them areas for further action by the specific country. The Committee also takes a general recommendation to the State parties on matters concerning the elimination of discrimination against women.

Mr. Speaker, it is possible for Members of the Legislative Assembly who would want to have the full text of the Convention on the Elimination of All Forms

of Discrimination Against Women, to have that document. I have already outlined many of the Convention's attempts to assist with ways to eliminate the discrimination against women. Having been responsible for bringing the Cayman Islands National Gender Policy to this Honourable House I now take the opportunity to suggest to Honourable Members of the Legislative Assembly that in fact, the Government of the Cayman Islands has not only asked to be included in this Convention but the Government, as I stated yesterday, is one of the first countries in the Caribbean to develop a policy specifically related to the issue of gender bias and equality.

Mr. Speaker, many times when we tried to break down the Convention to the laymen, as I will try to do now, is that many men in our society feel that they have issues in dealing with relationships between men and women. Our society sometimes take for granted that this very important aspect of societal relationship is natural and because it is natural there needs to be no input from the various institutions in the society that have an interest in the family and family relationships. For this reason we sometimes do not pay enough attention to the issues of bonding between the members of the different sex that will then be responsible for creating the marital relationship; that will then be responsible for crating the homes and the households in our country; that will then become the primary socialisation agents in our society; that will determine whether or not the values of the society are carried forward and supported or not. Therefore when they hear people talking about equality between men and women the assumption is that there is a natural spontaneous instinctive reaction from some men; that there is no need for Government to get involved in the domestic realm in the public realm with regards to the issue of status of men and women in the society.

Many men also believe that there is no imbalance between the status of men and women in their society. I know some men who have said that they have difficulties in accepting voting for me because I seem to be biased towards the women because of the programmes in which my Ministry have been responsible for developing, which specifically attempts to monitor and assist with issues we feel are negative, not just towards women, but towards the children who women reproduce and assist with in the socialisation process. Our concerns are not totally altruistic, in other words, it is not totally because of an interest in women, it is also because of a greater interest in the society. Without the recognition that women play an equal role and should have the rights to the same humanity, the same support that men have been given through custom and tradition in our society and in other societies, then we cannot deal with some of the more challenging, social, educational and cultural issues which we have in our society.

The fact is that we understand the same men who would criticise us for providing shelter for women that are being abused are the same men who have

great respect for their own mothers and love their mothers like they love no others. Mothers are women too! So, when we are talking about the protection of women we are not just talking about the protection of someone's girlfriend or wife because of a dispute, but we are talking about the protection of women.

We know that in the domestic realm most people who have issues with domestic violence have also experienced some form of domestic violence as children. Many of us Caribbean males have not been spared this experience of having been exposed to domestic violence, so we accept that from a cultural and social perspective that those very men who would now challenge me to say that I am trying to create shelter for their women; that we are trying to give the women all the power, must recognise that we are trying not to give women power but we are trying to give the society the power to be able to reproduce, for future generations, the types of people we all know are necessary to create a harmonious and God fearing society.

Mr. Speaker, I wrote extensively on the issue of domestic violence. In my plays, *Time Longer dan Rope*; *Down Side Up*, those issues reoccurs. What I attempted to do in those plays is to show the fact of the traumatic effect that a fight between members of the family, say the father and mother, and the grandmother getting involved as in the case of *Time Longer dan Rope*—the traumatic effect it has on children; the fear the child feels when he or she experiences, feels, sees or imagines that the father is going to physically hurt the mother or that the mother will physically hurt the father. That is what those plays attempted to bring as a message to this society in part many years ago.

The fact that I felt that a crisis centre was something that I wanted to see come under my administration and that I made all efforts to get going, does not necessarily mean that I as a man feel that somehow that there are not things in me that causes me to sometimes become temperamental and tempered and want to hit somebody. I know where I come from, I know my culture and I know the influences, but it does not mean because the influences are there that we should not set goals and ideals beyond the position that we are coming from. That is why we can climb up from the pit that we find ourselves at because we look towards the stars. We do not let our ideals be our feelings or imagination, as they are limited by our social, economic and spiritual circumstances.

We allow ourselves to be guided by higher principles and ideals and so sometimes when we find, for instance, the Convention of the Elimination of all Forms of Discrimination Against Women, this is a higher ideal that has been accepted by members of the world community, and we in the Cayman Islands should strive to use this as the yardstick and not our culture and tradition with regards to women, and the relationship between women and men. This is not to say that the Cayman Islands do not have, perhaps, a better tradition than most countries when it comes to relationships between men and women. We have had

our troubles and traumatic periods as well, in families, in some classes in the Cayman Islands. I cannot speak for all of the social groupings but I know that I can speak for some groups where they were very much of this type of traumatic domestic arguments and domestic violence, as we call it today.

There are some places where women are sold and places where women have no possibility to choose their mates. These are extreme countries and we can see why countries of the world would want to bring this as an issue where discrimination is more pronounced, serious, institutionalise and more a part of the culture and tradition of those countries. However, that does not go to say that the Cayman Islands still does not have issues with regards to discrimination. We also bring the convention not because there are cases where we can obviously prove discrimination, but because we know that we want to make sure that there is no discrimination if there is attempt by people if they think there should be. We also want to support those countries in the world who know that we need to stand together as a global village to say that we do not accept the discrimination against women in any of these areas.

I think that the challenge which we have in the Cayman Islands is a greater challenge in terms of having the issue of men who are many times less educated than our women. We have a phenomena in our society where many of our able bodied men are not as competitive in the new system, therefore they are finding themselves at a disadvantage and people are talking and asking: "*How can you talk about discrimination against women when it seems today that there is more discrimination against men?*" They seem to always be willing to take the woman's position when she goes to the police rather than take the man's position when he goes to the police.

So, there are concerns in our society that perhaps more has to be done to achieve the end of the gender policy, which is to establish equity and equality between men and women. It also means working with men to make sure that men are able to fulfil their role as men, fathers and uncles in a society and therefore in order to do that we must become educated. We must pay special attention to the education of these men to make sure that these men can be partners to these women who are now becoming educated and so professional.

Perhaps when we are talking about the gender policy it is necessary for us to communicate the fact that the gender policy is a very advanced way of thinking about human relationships. That the Gender Policy accepts the fact that there are inequalities that are developed, not just because of discrimination, but inequalities can be developed also because of the fact that people were given privilege positions. The mere fact that a man might be seen as privileged might not cause him to get the same tools, pay attention to getting the same tools that he needs in order to continue to be competitive with his female counterpart. So, at

the end of the day because we were protected, to a certain extent, we felt we were men and could get anything we wanted; we felt strong and gifted in whatever way, but we felt that we were so special that we could survive and be head of the family and still command women and be in this kind of prestigious position, only to find at the end of the day the women needed to work much harder to be accepted to have public and professional positions, and they knew that. They started at a very young age to work hard and as a result, because of the system we have that values people according to their productivity and their ability, they have found themselves in positions we might consider to be economically and socially advantageous.

We still have to look at tradition and the Convention tells us about traditions and customs. Although a woman becomes professionally more qualified than perhaps her male counterpart, the woman will find herself in a situation where the challenge to her position, as being more qualified, becomes even more intense. So, men and women start arguing and having quarrels and fights based upon the fact the man feels that he has to challenge her to show her that she does not wear the pants and is not the boss. This is where tradition and custom continues to play roles in structuring the relationships between men and women and causing it, at the end of the day, to be something that we need to definitely look at regardless of whether or not we think that women are educated and not discriminated against; that in itself is a form of bias as a result of gender issues.

We need to make ourselves more gender conscious of the real need to have equity and equality between men and women and we are not just talking about in the public sector but also in the domestic sector realm. Even when we go back to the 1970's to the girls who were working in the banks because the men had gone to sea and they were still oriented towards that. The girls got the jobs in Royal and Barclay's Banks, bought the nice Toyota cars and would drive the boys. There are different things there where again, the men feels that that is their privilege and right to have them do things for them because they have a good job. The men look at it in way of saying that the women should support the children because they work in the banks. I only have this little job and she has this good job so she should be supporting the children.

The idea is to have everybody, male and female, regardless of the occupation or educational level, to recognise that there is a need for the co-operation and collaboration between the two sexes in order for the reproduction of the society to take place, and the proper socialisation to happen.

Mr. Speaker, it is something that we need to continue to examine. The Gender Policy, in looking at the historical development of women in the society and looking at women becoming involved with the educational, public, political and other systems, and looking at discrimination as something that is institutionalised is a mistake to think that discrimination only exists in

its institutional ways and that you cannot have discrimination if it is not institutional. A lot of discrimination happens whether or not there is a law that says you can and cannot do this. Whether or not the system allows you to pass through there is still a lot of discrimination because it is a social psychological part of your value system and of your culture and tradition. Even when you cannot act it out in a public sector you go back to the domestic realm and act it out.

What we are talking about is the rearing and education of men that whether or not we are in the private, public sector or in the domestic realm that we pay attention to the fact that tradition has created in us certain biases. It is not for me to come here and be pretentious like I am bringing this because I think I have escaped my tradition and heritage, I am only saying that if we only look beyond our own social and cultural limitations and have ideals that will lead us forward, then my son perhaps will have a chance and opportunity even if I was not that kind of person.

Society takes time to change and it takes generations to change. Social change is slow but we have to create the framework and the foundations for it to take place for people to be guided and activated and involved in that particular change. We perceive that the change in the relationships between men and women to a point where they can be harmonious, supportive relationships is one of the fundamental needs of our society.

It is important to see that the development in the area of gender affairs in our country has been related to developments in other parts of the world; that it has been based upon the whole concept of the elimination of discrimination. When we therefore look at the issue of maternity leave in our laws; when we look at the way in which women are discriminated against by men in the workplace because of maternity, which is what the Convention is saying—that because a person is the primary agent for reproduction does not necessarily mean that they should be put at a disadvantage in the workplace. So, women have certain issues that are women issues, even certain biological and physiological issues that are specifically women's issues, the result of them being women. If they were not women then nature would not have a way of reproducing itself therefore they should not be discriminated against because of those issues. Those issues should not be viewed as issues that make them inferior or disadvantage; those issues should not create disadvantages for them and therefore, sometimes in the workplace although there is not an outward way of saying: "*Look! this is so*". We know that some people would say if you go to get a job tomorrow and you were pregnant, because at a particular point they would recognise that and probably say: "*We are not going to hire her because she is pregnant and before you know it she is on maternity leave*". We are talking about that sort of thing; the discrimination could be like that.

There could become a point for promotion and some people might say: *"Well she has two children already and if we promote her she might have a third one and might not be as good as she is now"*. So, she might not be as good as she is if she starts having children. Although there are people who would say: *"Yes, we will give her a job"*, but as soon as the point comes where she might want to start having children it becomes an issue. So, these are the areas of the definite non-institutionalised discrimination because there is nothing in the Law that says that can happen. As a matter of fact, the Law says it should not happen but people through their customs and their traditions in the workplace practice that kind of situation.

There is also a note here where for instance, if a man would have a child out of wedlock there would be a certain degree of acceptance of that in the Caribbean, whereas if a woman is to have a child there would be a certain penalty. I have seen that with regards to the school system, where the school have penalised women who have been young and decided to have a child and because the child is not in a marital situation they have been penalised. We have also seen that with regards to young mothers where when they get pregnant they are asked to leave school, whereas the fathers of those children were able to continue and therefore had no responsibility. That is what we are talking about when we talk about gender bias and discrimination; those are all the areas.

I am sure that many of us can sit down and think about it because the interesting thing about it is that we have to accept the fact that our culture is a culture of gender bias. Whether or not we want to recognise this is beside the point, it is a culture that is biased towards a particular sex, just as it is a culture that is biased towards a particular race. We know this to be the fact and it has its social consequences and many psychological consequences as well.

We have been doing a lot to try to develop equal opportunities for women and men by making sure it is like they have talked about; what is in our text books and that our text books are not depicting that stereotypical division of roles between women and men, but making it clearer to young women from the very beginning that their role is not in the domestic realm only, but also in the public realm. Therefore making it known to young men that their role is not just in the public realm but also in the domestic realm, that they also can learn how to cook, sew, change diapers and do things like that without being sissies.

There is a necessity for us to also look at the macho men image that many of us portray in our society and to give boys the confidence that because they hold a book in their hands does not necessarily mean that they are girly, girly and sissies. We have noticed a very interesting thing in the theatre and it is that a lot of people acquaint people in the theatre with some feminine type of moves and it is hard to get male dancers in our society. Males will go to the disco tech and dance but will not dance with girls in any kind of formal

setting; that is for girls to do. So, our dancers in the national dance troops are in the majority women.

We also look at the primary schools and we see that when the little girls are doing the quadrille there are no boys doing it with them. The girls have to dress us as boys so these are issues. The Lady Member for North Side is saying, not North Side, well I do not think North Side is any different from any other side. The point I am trying to make is that in the majority of instances this is the case. I guess she is saying that because I am making such a good case for what she has always tried to make a good case for, and she probably feels a little jealous because I am making that case. She thinks I do not have any sense but the point is I am trying to make the case so that at the end of the day we know that the culture and the tradition is something that we must pay attention to, and we know that the Gender Policy assist us in being able to do this.

My Ministry, which is responsible for gender affairs, changed it from women's affairs to gender affairs because we understood that it was not the issue of women we were dealing with only, but in order to deal with the issues of women we had to deal with the issues of men as well. We cannot talk about women's issues without talking about men. We cannot correct the situation without looking at the weaknesses that men have also inherited because of this hierarchal structuring of the society traditionally. So some of us have weaknesses as a result of the way in which the hierarchy has been constructed.

We are asking that this all be seen by the general population, by men out there. I know people who came to us and said: *"Why should there be a women's resource centre, why should there not be a parenting centre"*. We have said that we understand parenting is very important and an important part of parenting should be to ensure that men and women learn how to communicate with each other. A lot of times I have noticed that is something not being taught to kids; it is like a foreign language— how do kids learn how to relate to each other; how does a boy learn how to relate to a girl and how does a girl learn how to relate to a boy. Do we teach them or do we let them figure it out for themselves by watching those people who do it sometimes in a very negative way? I heard something on the radio yesterday where girls were saying that good girls like bad boys. A nice little girl, she had the voice of a Barbie doll or a little angel, it was just beautiful and she was saying that good girls like bad boys. I think this is very telling about what I am trying to say here and how the tradition continues to play a role in making choices about relationships— how some girls would prefer to have a guy that is very masculine who might even hurt them rather than have a guy who looks a little more feminine that might be able to understand and communicate with them, and even carry their books. So, we have to understand how these choices in terms of partnerships and rela-

tionships are being informed by the gender issues in our society.

To let the Member for North Side know that I have done some thinking about the issues while I have been the Minister responsible for gender affairs. I have tried my best to participate in whatever events, whether or not it be the sixteen days of activism against violence or whatever it is I have to do, I have done it as a Minister responsible and as someone who also recognise the fact that there are issues in our society that have to do with gender that we must deal with. Coming to the point again, it is not to ignore the cries of many of our young men in our society for help.

There is one situation I would like to mention: There is somebody serving time now at Northward Prison for an offence against a girlfriend and that person came to me on two occasions to say it is unfair the way the Law is. It is unfair that she can do this to me and if she does not stop doing this to me this is what I am going to do to her. If you or Government does not do something about it I will do something about it because it is unfair that she can take advantage of me in the way in which she is. First of all when I found out that the person had committed this crime against this woman I felt bad in a way because I felt that I should have known that he would have done something and I should have done something, but my question is: What was I suppose to do?

When a person enters into a relationship with someone I always tell them, they chose that, it is their choice, the Government does not say marry this one or do not marry this one or we think this. These are personal choices that people are making so I am thinking that if we could help people to be able to choose the people that they could get along with, a little better we might be able to improve the outcomes. If someone decides that he or she is going to be with a certain person then there are consequences that come as a result of relationships and, especially the negative consequences because of the lack of ability to communicate. Sometimes some men really have problems with communicating and it is not because we do not know the language, we know the language but we do not know the emotional language to be able to communicate and it is the emotional language that we need to have.

Without the ability to sit down sometimes and say I think this is what is wrong at this point, let us do something about correcting it before it goes any further; that is what some of the men in our society needs to do. So, we recognise that from the point of view of gender policy there is going to have to be policies that deals specifically with our young men in aiding them to be able to better understand their role in society and the role of women in society, and what must happen specifically when they come together to create a household and in order to be able to further some of the dreams and desires they have.

Mr. Speaker, the fact that we are not at this particular point ignoring women's issues simply be-

cause men have issues, does not mean that we are not getting ready to prepare to also get programmes ready to help make our society as a whole more susceptible to the changes, which need to happen in women and men relationships in society because they are so important in terms of determining the future outcomes of society. Without women and men being able to come together to mutually support each other in equity and equality, we cannot hope to have the kind of parenting which we so badly need in order to reinforce the positive norms and values of our society.

Mr. Speaker, the Gender Policy is something that took some time to develop but it was timely in coming because it will give us something concrete to work with when the Report is done by the Committee with regards to this particular Convention. Since the Honourable Roy Bodden, Minister of Education, Human Resource and Culture is the Chairman of the Human Rights Committee here, I will be recommending that rather than form a separate committee to deal with the Convention for the Elimination of All Forms of Discrimination Against Women that that would be one of the areas which they would be reporting back to the United Kingdom on as well. I think that would work perfectly in terms of the fact that we do have the Human Rights Committee established. We do now have the application for the Convention on the Elimination of All Forms of Discrimination Against Women being made, and we are making it at a time that we are also tabling our Gender Policy. With the House acceptance of this Policy we are on the way to moving forward to make sure that we can actively participate in this very noble attempt.

As the Honourable Members of this House are aware, the Cayman Islands being a British Overseas Territory and not a Sovereign State cannot itself ratify the Convention on the Elimination of All Forms of Discrimination Against Women. I have been advised that the Government of the United Kingdom and Northern Ireland, when it ratified the Convention on the 7 April 1986 did not include the Cayman Islands in its list of Overseas Territories in its instrument of ratification. The instrument of ratification, I am also advised that this can be extended to include any or all of its Overseas Territories. This was done after the 7 April 1986 to include the Island of Hong Kong. We therefore, on our own initiative, without any outside pressure, want to be counted among the State parties to CEDAW Convention. Again, it is important to say that without any outside pressure we want to be considered to be parties to the Convention for the Elimination of All Forms of Discrimination Against Women and I am asking that the Legislative Assembly unanimously affirmative this Motion.

Thank you.

**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 welcome this opportunity to offer some comments and observations on the Motion that is before this Honourable House.

Mr. Speaker, the right not to be discriminated against on the basis of gender is a fundamental human right. Discrimination against women is not unique in any culture and efforts to eliminate such discrimination must be described as noble.

There are those who have pretended that in this culture, jurisdiction and in this country and community, that such discrimination either did not exist or that if it did it was a benign discrimination which did not really affect women badly. I am proud to say that I come from a line of very strong women who worked out of the house in this community at a time when that was something unusual. My paternal grandmother, Ethel Connor, was a school teacher. My maternal grandmother, Lizzy Bodden, raised two children and her husband died when my mother was five.

My own mother worked as a dispenser, nurse, sometimes doctor and pharmacist for 36 years at the Government hospital, the only job she really ever had. I know, particularly from my mother's experiences the difficulties and the discrimination that women in the workplace encountered. My mother often reminds me of a situation she went through when she was pregnant with me, in which the doctor she was then working for and who would also be the one to deliver her, caused her to work until 12 that afternoon then she went into labour and produced me some 3 hours later. So, this situation in relation to maternity and the rights of women and discrimination, or perhaps they would not have said it was discrimination, but just a lack of regard for the condition in which the woman finds herself at that time. I say all of that by way of background to make it very clear what my view is on women and on the rights of women, as half of humanity to be entitled to certain rights and privileges and, in particular, not to be discriminated against.

I wish to take this opportunity to refer to and compliment the tremendous efforts of my colleague, the Member for North Side and the huge role she has played in developing gender consciousness in this country. I believe that the Honourable Minister did refer to that role when he laid the National Gender Policy document earlier this week. However, I do not believe that sufficient acknowledgement for the contributions of the Elected Member for North Side's role, in bringing gender consciousness to the stage it is in this country have been sufficiently acknowledged. I was pleased when I had a brief look this morning at a document entitled "Historical Antecedents in the Development of a Gender Consciousness in the Cayman Islands" which was prepared by Dr. Patricia Mohamed and Mrs. Marilyn Connolly, to see extensive reference, not just to the work and efforts of the Elected Member for North Side and Mrs. Berna Thompson Murphy MBE, who was then the Third Elected Member for George Town, but also to the point made as to the

significance of the efforts that were made by these two women in 1995 when they first brought a private members motion to this Honourable House for the Government to give early consideration to the establishment of an office for women's affairs. In reality that was the genesis of the development of this issue of women's affairs, rights and issues forming part of a subject within a ministry.

Mr. Speaker, I have had a look at the National Gender Policy and I have also had a look at the Convention on the Elimination of All Forms of Discrimination Against Women. I should say that in her various contributions in this Honourable House and in particular, in relation to that motion, the Elected Member for North Side called on the then Government to seek to have this Convention extended to the Cayman Islands. It was pointed out by the then Attorney General, Mr. Richard Coles that the mere fact that the United Kingdom Government had acceded to the Convention did not automatically extend its provisions to these Islands. I am going to suggest that part of the reason for that was that the United Kingdom were not satisfied that the Cayman Islands could give effect to the provisions of the Convention because we did not have the necessary institutions or legislative framework in place to give it effect to what the Convention requires.

The only problem I have with what the Minister is proposing—it is not a sufficient problem for me not the support the Motion—and that is that we still do not have in this country the necessary legislative framework and supporting institutions to give effect to the far reaching provisions of this Convention, and I am going to further say that we are unlikely to have those institutions and legislative framework in place, as required by the Convention, in time to avoid being found in breach of it. I will go through some of the provisions of the Convention in a moment but the Convention provides that all states to which it has been extended must have in place these necessary provisions, legislative framework and institutions within one year of the Convention having been extended to it.

I have had a look at the National Gender Policy and in there, these are not my conclusions, which the Minister himself has brought to this Honourable House, there are identified a number of failings, a number of areas in which legislative changes have to be made to bring the gender issue to where that needs to be. I am going to go to those but that, I believe, is a fundamental problem and I am going to refer to what happened in Hong Kong, which is also referred to in the National Gender Policy and the importance of having the country ready for the implementation of provisions of the Convention. I believe that that is the mistake the Honourable Minister is making. I know that Election is impending and that the Minister wants to get certain things done before we have to face the people on 17 November. I am going to support his motion but I think he ought to bear in mind that we are going to have some difficulty, in my view, and the next

Government is going to have some difficulty in meeting what the Convention requires within the time frame.

Mr. Speaker, I am well aware of the Children's Law which was passed in September of this year. It is a substantial piece of legislation; it makes some far reaching proposals and has far reaching effects in relation to the welfare, care, custody and rights of children. It is an important piece of legislation, one I fully support and debated, but in order for it to be effective it needs resources allocated and creation of institutions and supporting institutions and offices and people. It was passed September of last year. We are almost at the end of July and the Law still has not been brought into effect and it cannot be brought into effect until we have in place the necessary framework in which it can operate.

Mr. Speaker, it was assented to by the Governor on 4 September 2003. I want us to understand that what we are proposing now is no panacea in itself to ensuring the elimination of discrimination against women. It is an important step and says something about the country and its views and desires to eliminate discrimination against women but without the supporting legislation it is going to be a very difficult and uphill task. As the Minister has correctly said, it takes generations to transform cultural norms; he is absolutely right about that and simply the acceptance of this Convention and the passing of the necessary legislation will not eliminate discrimination against women over night, but they are important steps. I keep reinforcing that I support what the Minister is seeking to achieve, I am just pointing out that in some instances he is running ahead of himself and the danger with that is that we create unrealistic expectations.

On page 39 of the National Gender Policy under the section entitled "The International Context there is a discussion about CEDAW and National Laws, something called "The Case of Hong Kong". I will read from it; "In the late 1980's, following the events in Beijing's Tiananmen Square and in the anticipation of the 1997 transfer of Hong Kong from British to Chinese rule, human rights activism intensified in Hong Kong.

"The 1991 Bill of Rights Ordinance, based on the International Covenant on Civil and Political Rights, failed to provide significant protection for women's human rights. The Coalitions of Women's Organisations began lobbying for the ratification of CEDAW, the passage of anti-discrimination legislation, and the creation of a Women's Commission.

"The Hong Kong Government was convinced through the advocacy of the Coalition to give its Agreement in Principle that the CEDAW should be extended to Hong Kong and its agreements to seek approval for the extension from the Chinese Government. Advocacy efforts also persuaded the Hong Kong Government that it had to pass a domestic sex discrimination law to respect the obligations it would be taking on under CE-

DAW." That is an important point. "Powerful and comprehensive draft bills for this Law came to the Legislative Council, which stated explicitly that the Courts were to use the Convention when interpreting the Law. The Government then introduced its own sex discrimination bill in order to pre-empt this proposal.

"In 1995, it was the Government's bill, which ultimately passed into law although not in its original form. The Legislative Council sought to have it strengthened and the bills scope was broadened in several important ways. The prohibition against marital status discrimination was extended past employment and education. (Article 1 of CEDAW does not restrict it to these areas). The concept of 'hostile environment' was added to the sexual harassment provision (CEDAW's General Recommendation 19). As well, the Bill provided that special measure taken to ameliorate past discrimination would not be considered discriminatory." This is the important bit, Mr. Speaker.

"These changes also met with two very important criteria: (1) congruence- the legislation was congruent with the requirements of the Convention." That is the legislation which had been passed in Hong Kong coincided with the requirements of the Convention; "and (2) Preparedness - the Government was in the position to meet its commitments the moment CEDAW was extended to Hong Kong."

So, that is the concern I have. The Government of this country is not in a position, if the Convention were extended to the Cayman Islands tomorrow we would immediately be in breach of its provisions.

The National Gender Policy also talks about the local relevance of CEDAW and refers to the Constitutional Modernisation exercise which has been ongoing for almost four years and it notes: "Constitutional Modernisation is a process, not an event. That process is ongoing in the Cayman Islands where a major issue for advancement relates to the Fundamental Rights and Freedoms of the Individual (Bill of Rights). The modernisation process seeks to keep pace in this area with the international obligations to which Britain is subject such as the European Convention on Human Rights and the UN International Covenant on Civil and Political Rights.

"Although the Report of the Constitutional Modernisation Review Commissioners 2002, makes no reference to the Convention on the Elimination of All Forms of Discrimination Against Women, this omission in no way reduces the relevance of the CEDAW instrument to constitutional modernisation processes."

Mr. Speaker, I want to mention in that context that I was quite alarmed to hear the Leader of Government Business recently on the Radio Cayman Talk Show suggest that in his Government's proposed Constitution that the Bill of Rights would not feature. I

must say that I was absolutely stunned then I listened a bit more and gathered that what he was suggesting is what is termed fundamental rights and freedoms of the individual ought not to appear in the Constitution but be relegated to the status of domestic legislation. The reason why that was positive was because it would be easier for us to change, amend or delete them as the case may be, if they were a matter of domestic legislation. That is a fact! But ought we to be construing fundamental rights and freedoms in a way that they are of the same level, status and stature as domestic legislation? We are talking about the fundamental rights and freedoms of the individual including the right for women or men not to be discriminated against on the basis of their gender.

One thing for certain is even if (which I doubt) the United Kingdom would countenance such a preposterous proposal; if this Convention is extended to these Islands, we will not be able to mess with that. We have no say at all in what is in that Convention; that is something that is agreed between the United Kingdom Government and the other contracting states. We ought to recognise that and ought not to have this schizophrenic approach to fundamental rights of the individual, and to understand that we need to accord fundamental rights and freedoms of the individual a certain degree of sanctity.

I would ask the Honourable Minister responsible for this Motion to bear that in mind with the Leader of Government Business and ensure that they are on the same page when they are seeking to advance human rights.

Mr. Speaker, I promised that I would refer to the Convention itself; Article 2 of the Convention provides:

**“States Parties condemn discrimination against women in all of its forms agreed to pursue by all appropriate means and without delay, a policy of eliminating discrimination and to this end undertake-**

**(a) to embody the principle of equality of men and women in their national constitutions.”**

The Leader of Government Business says that the fundamental rights and freedoms of the individual, known colloquial as the Bill of Rights ought not to be in the Constitution. That is a fundamental requirement of the Convention. **“The principle of equality of men and women must be embodied in their national Constitutions.**

**(b) To adopt appropriate legislation and other appropriate measures including sanctions where appropriate prohibiting all discrimination against women.”**

So we have to pass a piece of legislation prohibiting discrimination on the basis of sex. We do not have that.

**(c) “To establish legal protection of the rights of women on an equal basis with men and to ensure through competent**

**national tribunals and other public institutions the effective protection of women against act of discrimination.”**

Not only do we have to create the legislative framework but we have to develop a system of tribunals or otherwise whereby women can mane complaints when they feel they are being discriminated against on the basis of gender. We have not done that.

**(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation.”**

Government itself is going to have to look at its General Orders, make sure that there are not any provisions in there which make life more difficult for women than they do for men.

**(e) “To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise.**

**(f) To take all appropriate measures including legislations to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.”**

So we have to modify or abolish not only laws and regulations but customs and practices which constitute discrimination against women. All of these things have to be done by the Cayman Islands when this Convention is extended to us.

Article 11 deals with the field of employment. **“State parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure on a basis of equality of men and women the same rights. The right to work as an inalienable right of all human beings, right to the same employment opportunities including the application of the same criteria for selection in matters of employment. . .”**

I think we have gotten somewhere there if we could ever get the Employment Law brought into effect. The comprehensive piece of legislation which was passed by this House still has not been brought into effect. Assuming this Government still has the political will to bring the Employment Law into effect, most of this aspect of the Convention we probably have the legislative framework on place.

**“The right to free choice of profession and employment; the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships. . . We do not have that on, it is sadly missing. “. . .advance vocational training and recurrent training;**

**“The right to equal remuneration. . . ,”** which is still a problem. . . **including benefits and to equal treatment in respect of work of equal value; as well as equality of treatment in the evaluation of the quality of work;**



**“The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity work as well as the right to paid leave;**

**“The right to protection of health and to in safety working conditions, including the safeguarding of the function of reproduction.**

**“To prohibit subject to the imposition of sanctions, dismissals on the grounds of pregnancy or of maternity leave and discriminations and dismissals on the grounds of marital status;**

**“To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities.”**

We have a long way to go on those fronts, Mr. Speaker. For completeness—Article 18.

**“States Parties undertake to submit to the Secretary General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect-**

- (a) within a year after entry into force for the state concern; and**
- (b) thereafter at least every four years and further whenever the Committee so requests.”**

Mr. Speaker, it is not simply a question of having the Convention extended to us, we raise our hands and say yes, we are on board, we have the Convention. There is a process by which those who administer the Convention seek to ensure that its provisions are being complied with. I am not sure of the consequence if you are found to be in breach of its provisions, but I am certain, as a United Nations Convention there must be a sanction and the sanction, I believe, would not be one that was imposed on the Cayman Islands Government directly because we are not a state, a state is the United Kingdom who would no doubt take the steps that it wants to take these days, whenever it believes that its international obligations are at risk because one of the overseas territories is not doing what it ought to do.

We need to understand that we are going to have to move with all dispatch to ensure that when this Convention is extended to the Cayman Islands that we do what we have to do to put in place the necessary legal framework and supporting institutions to comply with the Convention so that we are not found to be in breach of it; within one year!

Earlier I alluded to the pieces of legislation which had been identified by the Ministry as being in need of modification, amendment or improvement. These are not my findings but findings of the Ministry itself. They are on page 69 of the National Gender Policy under the heading of Constitutional and Legislative Framework. It commences:

**“Legal issues are very closely linked to Constitutional rights.**

**“The gender policy advocates that in the absence of constitutional rights to gender equality, gender-based rights should be enshrined in a written Bill of Rights or in a Human Rights Act. The gender policy deems constitutional and legislative affirmation of gender equality as imperative.**

**“The gender policy views as an imperative the extension of ratification of the CEDAW by the UK to the Cayman Islands. As an international bill of rights for women, the CEDAW is a tool dedicated to the elimination of all forms of discrimination against women. It encompasses all the civil, political, economic and cultural rights, which every human being ought to enjoy throughout her/his life cycle. Essentially, the CEDAW reiterates the belief in the dignity and worth of the human person, through the enjoyment of equal rights by men and women.**

**“In light of the Constitutional Modernization process undertaken by the Cayman Islands Government and with particular regard to Fundamental Rights and Freedoms of the Individual, the gender policy advocates that the CEDAW be cited in the text. In this connection, the CEDAW is seen to be most pertinent in strengthening Protection of Rights to Personal Liberty and Protection from discrimination on grounds of race etc.**

**The policy advocates that the Women's Convention, The Universal Declaration of Human Rights, The European Convention on Human Rights, the UN International Convention on Civil and Political Rights and the Rights of the Child become an integral part of the human rights culture of the Cayman Islands. Public education about amended legislation and new legal entitlements must be systematically introduced to develop and sustain a human rights culture.”**

It then proposes what is called the Summary Policy Objectives re Legislation. It lists the various pieces of legislation that the Ministry have determined that are in need of reformation. These are:

**“To reform the Maintenance/Affiliation Law.**

- To expand the jurisdiction of the Summary Court to make committal orders.**
- To ensure progressive, enforcement alternatives for violations of the law e.g. the suspension of driver's licences or notes on credit reports.**
- To ensure available Legal Aid to assist with pursuing maintenance/affiliation arrears in Grand Court.**
- To incorporate parental rights (parental responsibility to visitation and access) with consultation with the parents, child, social services, judiciary and any other relevant agency.**

To reform the Domestic Violence Law so that effective prevention and protection measures obtain for victims thereby ensuring that they are able to participate equally in the rights and freedoms afforded to all.

- To expand the law to protect not only married couples or persons living together as husband and wife and children within these families but to include the range and variety of relationships that currently or previously existed regardless of the current residential relationship between the two parties.
- To ensure affordability of remedies such as the granting of Legal Aid in Grand Court for restraining orders.
- To ensure mandatory counselling and sentencing alternatives
- Compensation orders
- 24 hours remedies involving the police and judiciary.

To implement the Children's Law and to expand the concept of parental responsibility, especially between unmarried parents.

To reform the Penal Code.

- The Penal Code under which the legal minimum age of sexual consent of boys is 14 years and of girls it is 16 years highlights the interrelationship between the Family and Legislation. The law sets a double standard that reinforces the association of sexual prowess with masculinity, modesty and caution with femininity without appreciation for the immaturity and vulnerability of both genders. The gender policy advocates for changes in the law to 16 years for both genders so as to protect both.

To reform Labour/Employment Law.

- Maternity Leave, Family Sick Leave, Paternity Leave and Equal Pay are all areas for improvement in the law.
- To expand remedies for breach of anti-harassment discrimination legislation - include civil remedies-
- To expand on anti-discrimination provisions.

To pass legislation on Sexual Harassment and Sexual Legislation. As indicated above under Labour, refer to CARICOM model legislation in these areas.

- To make sexual harassment and stalking a criminal offence with penalties.

- To ensure equality in penalties for sexual abuse against children of either sex."

Mr. Speaker, that is from the National Gender Policy and are areas identified by the Ministry, which require attention to get the whole question of gender relations and the ancillary concerns thereto resolved.

I do believe that the Ministry understands that a tremendous amount of additional work must be done on this area and so, as I said, the Opposition and I are prepared to support the Government's Motion on this most important matter. We must do all that we can to eliminate all forms of discrimination against women. We would not want the Honourable Minister, the Government or the country as a whole to come away from this debate and the passage of this Motion contented that we are all right as a country. It is doubtful, in my view, that any Government will be able to meet the requirements of the Convention in the year provided for in the Convention Document itself, but we must do all that we can to bring the Cayman Islands, its legislation, its society and culture up to speed as quickly as we possibly can.

In this day and age when human rights are more and more at the forefront of people's consciousness, it has taken more than fifty years since the Universal Convention on Human Rights was signed following the end of the last World War. Cayman as a sophisticated society as we have become, as a leader in the region almost always on the cutting edge when it comes to legislative reform and other matters, we really must do all that we can to eliminate discrimination against anybody on the basis of age, sex, gender, race, religion, creed, all of those things which the smallness of the human being insist upon still making distinctions about, and which many of us find necessary to trod out every time we feel that we have been wounded as a result of something that someone did or said—*they said that to me because I am black, they said that to me because I am a woman*'. We need to get to a point where those sorts of basis for treatment that people receive no longer have any real credence.

This sort of approach to human rights will go a long way in bringing us where we ought to be in relation to discrimination against women, and for that, I commend the Motion subject, as I said, to the concerns we have about ensuring that we can actually comply with its provisions.

I thank you, Sir.

**The Speaker:** Honourable Members I propose to take the luncheon break at this time and resume at 2.30 pm.

**Proceedings suspended at 1.01 pm**

**Proceedings resumed at 2.55 pm**

**The Speaker:** Please be seated. Proceedings are resumed. Does any other Member wish to speak?  
The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I rise to lend my support to Government Motion No. 3/04 specifically as it relates to the Resolve which states that this Assembly requests that the Government of the United Kingdom and Northern Ireland extend its ratification of the Convention to the Cayman Islands before its next Report to the Committee on the Elimination of Discrimination Against Women."

As one would see, when one takes the time to peruse the said documentation, the Convention which, in particular, women have become customary, referring to CEDAW, which stands for the Convention on the Elimination of All Forms of Discrimination Against Women, was first adopted by the United Nations General Assembly in December 18, 1979.

The spirit of the Convention takes its genesis from the goals of the United Nations, which, I believe, is to reaffirm the faith in the fundamental human rights and the dignity and worth of the human person in equal rights of men and women. In fact, the Convention establishes not only an international Bill of Rights for women but it sets out an agenda for action by the various countries concerned.

Article 1 of the Convention defines what it meant by the term discrimination and out of the abundance of caution I wish to state it because various persons over the decades have conceptualised various connotations for the said terminology. Therefore, specifically speaking, discrimination in this instance refers to any distinction, exclusion or restriction made on the basis of sex, in the political, economical, social and cultural or any other field. Under this Convention Article 3 specifically requires that Member States or States Parties take all appropriate measures, including legislation to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of various human rights and fundamental freedoms on the basis of equality with men.

The Convention also seeks to encompass in the various Article 3 situations, as it relates to women, including civil rights and the legal status of women. The legal status of women appear to receive, from what I could find, the greatest attention as the basic rights of political participation and has not been diminished since the Convention of Political Rights for Women were established in 1952. Nonetheless, Article 7 of the Convention states that women are guaranteed the right to vote, to hold public office and to exercise public functions. This equal right for women must and does include the right for a woman to represent her respective country on international levels as well as to participate in international organisations and can be found in Article 8 of the Convention.

Another significant milestone, where this Convention is illustrated in Article 9, wherein the Convention on the Nationality of Married Women was integrated and which therefore cements and, I believe, preserves the statehood of women irrespective to a woman's marital status. Special emphasis is also

given in the Convention to women having equal rights in several areas but in particular education, employment, economic and social activities and the significance is also seen in Article 15 of the Convention. This makes provision for women to assert full equality in civil and business matters and therefore demands that all instruments directed at restricting women's legal capacity shall be deemed null and void.

The Convention also devotes major attention to women's reproductive rights, in fact, we can see easily in the preamble of the Convention that the role of women in procreation should not be on a basis for discrimination.

Article 5 advocates a proper understating of maternity as a social function, demanding fully stated responsibilities for child rearing by both sexes. I am sure that the women would greatly appreciate that, those of us that have had the privilege of having children, for the assistance that is necessary in today's world from our other counterparts in rearing children. I am always thrilled as I walk up and down the community to see not only the modern day Cayman men but also many of our traditional Caymanian men taking a much more active role in the psychological and physiological development of the girls and boys. This was the way the great creator intended it to be and we will see many statistics derived from various studies throughout the past decades that those children who had the honour and privilege of being reared in a home where there is both father and mother that they often have many more opportunities. I am grateful that there are also the exceptions where women have had to struggle and raise their children by themselves without the male presence there and have also been able and blessed by God to bring their children up without them becoming deviants within our society.

Mr. Speaker, I believe that this Government understands that it does have an obligation to extend services such as social services, especially for child care facilities and programmes. However, I do look forward to the day when not only Government but indeed the private sector will graduate to a stage whereby sufficient and appropriate child care facilities can be part and parcel of the edifice just as one would plan for the provision of bathrooms, and as time progresses the provision of handicap access to buildings. The child-care facilities should also be an integral part of such development planning, and I hope that when we do arrive at the day that we can have the long awaited Government offices for our civil servants that sufficient emphasis would be put into ensuring that wherever the location end up being that there is adequate ancillary facilities, which would indeed augment our development socially.

Often times I am amazed to see the amount of time that many of our civil servants and indeed private citizens, in particular, women who have to spend going back and forth from the day care facilities when it would be so much nicer having to work longer hours that your children were much closer and you can have

that affiliation with them during the course of the business day.

I am happy to say that we are not too far off of that utopia position, as it relates to my own constituency, that of Cayman Brac and Little Cayman, in that in close proximity to the District Administration Building we have been able to establish a day care facility right next to the Library as well, and together these three most essential services within our community have blended and worked well. It is not unusual to see many of our civil servant women attending the day care during the lunch time hours helping with the facility there and helping with the social programmes, including taking them next door to the Library to read a storybook or get on the internet online to some of the children's programmes that are available there. It is much better for the development of the child on the whole and it is one example of the Government taking the holistic approach towards development of, not only the woman, but the man and his child altogether.

We also see in Article 10 of the said Convention that it is the only Human Rights Treaty to mention family planning in the education process. It also requires that family codes should be developed to guarantee women's rights to decide freely and responsibly on the number and spacing of their children, to have access to the information education and a means to enable them to exercise these rights.

Certainly with the anticipating passing of this and with the extension to the Cayman Islands jurisdiction we would have come a long way from the late 1950's when women first struggled to have a right even to vote here in the Cayman Islands, the country we have come to love.

The third thrust of the Convention aims at increasing our cognisance of the concepts of the human right as it seeks to give formal recognition to the influence of culture and tradition on restriction of women's enjoyment and their fundamental rights. We as a Government also concur with a preamble to the Convention, which stresses that a change in the traditional role of men, as well as the role of women, in our society and family is indeed necessary to really achieve full equality for men and women.

Article 10 of the Convention, mandates that it will be necessary to revise textbooks, school programmes and teaching methods with a view of eliminating stereotype concepts in the field of education. The Convention also requires and indeed it states that parties are expected to submit a national report to the Committee indicating measures that the state have adopted to give effect to the various provisions of the said Convention.

Mr. Speaker, the Government is indeed convinced that full and complete development of any country, including the Cayman Islands will require the maximum participation of women on equal terms with men in all fields, bearing in mind that our women in the Cayman Islands have enjoyed far more rights than many of our counterparts around the world. Nonethe-

less, we pause to carry out what I term as, the peeling away exercise. We will see that women in the Cayman Islands still have many barriers to cross, hurdles to jump and attitudes to change in our journey towards equality, parity in our country. It goes without saying that there are still forms and manifestations of discriminations against women in our beautiful Islands.

To provide a recent example, emanating from within my own constituency, I have become aware of a situation where two of my Brac women constituents who have been working, one in excess of eight years and one approaching five years, at one of the oldest resorts on the Island, have been recently informed by management that not only would he be seeking to bring in an expatriate man, at a much higher salary to head their particular section of the resort, but because, what he deemed as being the slow season, their time would be cut and they would now be required to work night shifts. When they attempted to appeal, what I would term a discriminatory situation, he responded by saying that if they did not like what his actions were they could do their next best. Mr. Speaker, I must say at this juncture that I am waiting with abated breath to see whether or not the Immigration Work Permit Board would endorse this type of discriminatory action in our community. I have advised the two ladies concerned, they have thus far taken the advice and I am confident that with the calibre of persons and with the integrity of persons that we have on our Work Permit Board that such an endorsement will not occur. I believe that this debate is happening at a most important time because that is only but one of the many instances that our women have to endure, even in today's modern Caymanian society.

I am sure that that particular case is not an isolated case. Having been a woman and blessed by Almighty God to perhaps penetrate many un-chartered frontiers as far as being the first woman, in many regards, I can attest as I am sure the other Lady Member for North Side can, that Cayman, although much advanced compared to places like India, Asia and China, we still have a long way to go in being able to achieve the level playing field as far as it goes with equality and parity in the women's world.

I can remember quite vividly, having been the first elected woman from my constituency, and having to be subjected to many remarks like, what is a woman doing in a man's world and she has no business competing with the men who have ran the country well all of these years. One interesting bit of statistics is, in my constituency for sure and I am sure in many others in Grand Cayman, there are more women voters than men. So, that just shows that the influence is there. Although the women who have been given the power since the late 1950's they are still today voting for men. Let me hasten to qualify that statement; I am certainly not now advocating nor have I ever advocated that a person should vote for another individual candidate purely on the basis of them being a female or on the flipside because they are a man. I believe

that any good government with the belief that democracy should be of paramount consideration and for the sustainable of good governance within this jurisdiction, the Caymanian populous should continue to look at candidates based on their characteristics and their ability to perform, rather than having a prerequisite that they should be of a particular sex.

I can also vividly remember that after having the opportunity to become the first elected woman Speaker of the House, a particular gentleman within my constituency, passed the remark, which I am sure he knew that it would come back to my ears, that the Speakership had been disgraced by the fact that a woman had been put in the Chair. That was a mere two years ago so we still have quite a bit of discrimination. It is a topic that is quite sensitive and many persons choose not to speak about it. I can certainly write many stories about the hurdles and the discriminatory remarks that I have had to endure in my journey towards making a living for myself and my immediate family.

Mr. Speaker, I take much consolation in many books that I have had the opportunity to read, but in particular, one by Nancy Regan when she referred to the analogy of a woman and said " *A woman is like a tea bag, you never really know her strength until you place her in hot water*". I believe that is a most true concept and women in Cayman, as in many other countries have, in many circumstances, been placed in hot water and we have the option of folding up crying and becoming the emotional creature that we have been stereotyped to be. However, once a woman realises what the goal is, that the ultimate goal is not to surpass the man, but indeed to respect the man for what he is and in turn be respectful for her own self and her counterparts, one can rise to the occasion and meet whatever challenge there is and at the end of the day unite to form a formidable partnership that would not easily be broken.

Mr. Speaker, 'the good book' tells us that some persons plant the seeds, some water and most times many will come and reap but in the struggle for equal rights for women I believe the fundamental objective goal should not be one whereby the process or the methodology that is used to achieve the outcome should be one that we give much consideration. I believe as women, regardless of the person in the drivers' seat, we should all come together and give support, be it male or female, if the end result is one that was our objective in the first place.

I wish also to join my colleague, the Second Elected Member for George Town, at this juncture, to acknowledge and congratulate the efforts by the Lady Member for the district of North Side and the then Lady Member from the district of George Town who pioneered, from a legislative perspective, the Motion in this Honourable House to bring the issues relating to women to the forefront and indeed, the Motion received majority support in the House, which showed that the men counterpart was not an adversarial coun-

terpart, certainly not when it come to the vote, I might add, and it did see safe passage.

I wish also to acknowledge the contribution of the Honourable McKeeva Bush who was the first Minister who had the responsibility from a Constitutional perspective to be in charge of women's affairs. I also wish to acknowledge thanks to Almighty God for allowing me the opportunity for three years to be the Minister responsible for women to see the establishment of a women's office in George Town, to put in place other policies. I also wish to acknowledge the contribution by my friend and Government colleague, the now Minister responsible for women, gender affairs for his continued commitment in seeing this process through.

Several years back when we had the opportunity to attend the first ever conference in the British Virgin Islands dealing specifically with CEDAW, it was the beginning of the conceptualisation that Cayman had an opportunity to have this Convention extended to our jurisdiction. We did indeed make efforts back then to have it extended but the legal opinion felt at that particular time was that because Cayman did not have enshrined Human Rights by law or by constitution, it was their opinion that to bring in the CEDAW Convention would in fact result in a most idiotic conclusion in that they felt the women would surpass the rights of the men, which certainly would not be the intention, but that was the legal opinion given at that time, hence the reason I could not get safe passage of the paper to do what my friend and colleague is doing here today.

I am happy to see that after several years we have finally reached this juncture. I wish the Honourable Minister, now responsible, the best of luck as he forges forward to expedite the process to ensure that the Convention is extended to the Cayman Islands jurisdiction. I know that it will take additional funding and additional resources and certainly, commitment. I believe the latter perhaps is the most fundamental one because where there is a will there is a way, and I know from having discussions and working along with the Honourable Minister that indeed, not only will there now be a way, but there is also the necessary requisite will to see this process to conclusion.

Mr. Speaker, I have always been a strong advocate that performance rides on commitment. I believe that the Government is indeed committed to see this process through and therefore I can anticipate that there would be no other conclusion but a successful performance. I am happy that this is one of the few matters we can have collective agreement on because we all take full cognisance that such an extension within all of the ancillary finances and resources put in place, will only result in a positive improvement of all of the people in the Cayman Islands, Caymanians and residents alike.

I was also privilege to have been at the conference which was conducted in the British Virgin Islands and they, like Cayman, seems to have similar problems with the discrimination. It was quite humor-

ous when the then Honourable Chief Minister, Ralph O'Neil who opened the Conference got up to say that as a Rotarian he was one who fought vigorously to ensure that women was not admitted within the club there in the Virgin Islands. I can almost now hear the disgruntlement from the women who were at the Convention, over one hundred of them, with the tone he had chosen to set there at that conference.

I am happy to say that the Rotarians here within the Cayman Islands jurisdiction have had the good vision and sight, including, I am sure, much of your own vision and encouragement, to have women within your club. It was a delightful opportunity and privilege a few weeks ago when we both had the opportunity on the Brac to be a participant and observer at the historic occasion when we had the first ever woman being installed as the Rotary President for Cayman Brac. So, we can see that there have been some positive strides in the fight towards a level playing ground for equality and parity, as far as it relates to women in the Caymanian jurisdiction and we are indeed grateful for each positive step we make forward.

I believe that it is just as good as any time to say, without any fear of contradiction, that just as it is necessary to have the extension of the CEDAW Convention to our jurisdiction, it is also necessary for us, as women and human beings, to commit and be determined to work together in a united fashion. Regardless of whatever conventions, directives, regulations, treaties or legislation we have, at the end of the day it will be us as human beings who will determine whether or not any such instruments will result in success.

I believe that a woman will only become fully successful when she takes the time to educate herself; when she operates with a manner of decorum that can only result in positive stimuli; when she acts with the utmost decency with honesty, integrity and with respect for her neighbour, as she would have for herself, that we can truly come and rise to the occasion and expect and deserve to have equality and parity within this world as we sojourn.

I also believe that for women sometimes we are perhaps our worst enemies. I can speak from within the areas that I have worked in the community and in the church. Often times we get more support from our male counterparts than we do from our female counterparts, and this do not happen all of the time, but I am sure if you speak to the Lady Member and other Members of Parliament, churches and clubs they have been involved in, most of the time our biggest adversaries are other women themselves and if we are to truly be successful we must overcome that sense of insecurity or jealousy, or whatever inferior sense that may rise to a conspicuous element. We must look at the wider picture and see that this is a fight we must unite to be in and at the end of the day we are fighting for our children and grandchildren, in particular the girl child, to have a better environment as we pass on from this scene in Cayman.

The desire and the struggle for the attainment of equal rights for women and men should never become a man bashing exercise. Each sex have their respective roles in our community and in conclusion, if you would permit me, I am sure you will not be surprised when I ask to refer to God's word, in particular, as we see in 1 Peter 3:5 and 6 where it tells us that wives should be subject to their husbands and husbands should honour their wives. One may quickly say how can you be asking for equal rights on one hand and saying that the wife or woman should be subject.

It is easy to be subject in a situation when there is honour, which is reciprocal. I am not advocating that the woman should be subjected to domestic violence, neither am I advocating that a woman should be subject to any form of abuse but what I am advocating—and as ideal as it may sound—is for arrangements for relationships whereby there is a mutual understanding that there can be a relationship and partnership if love is at the foundation of it. We see in particular as we look at 1 Peter 3:6 to 16 where it says: **“Even as Sarah obeyed Abraham, calling him lord: whose daughters ye are, as long as ye do well, and are not afraid with any amazement.**

**“Likewise, ye husbands, dwell with them according to knowledge, giving honour unto the wife, as unto the weaker vessel as being heirs together of the grace of live that your prayers be not hindered.**

**“Finally, be ye all of one mind, having compassion one of another, love as brethren, be pitiful, be courteous:**

**“Not rendering evil for evil or railing for railing but contrariwise blessing; knowing that ye therefore called, that ye should inherit a blessing.**

**“For he that will love life, and see good days, let him refrain his tongue from evil, and his lips that they speak no guile:**

**“Let him eschew evil, and do good; let him seek peace and ensue it.**

**“For the eyes of the Lord are over the righteous, and his ears are open unto their prayers: but the face of the Lord is against them that do evil.**

**“And who is he that will harm you, if ye be followers of that which is good?**

**“But if ye suffer for righteousness' sake, happy are ye: and be not afraid of their terror, neither be troubled; But sanctify the Lord God in your hearts: and be ready always to give an answer to every man that asketh you a reason of the hope that is in you with meekness and fear:**

**“Having a good conscience; that, whereas they speak evil of you, as of evildoers, they may be ashamed that falsely accuse your good conversation in Christ.”**

Mr. Speaker, with those words I encourage all of us to support the Motion but even beyond that, let us take the greater call to live as best as we can with one another regardless of the sex.

May it please 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?

The Honourable Minister for Education.

**Hon. Roy Bodden:** Mr. Speaker, I rise to give my support to the call for support of the Convention for the Elimination of all Forms of Discrimination Against Women.

As I was reflecting on the Motion and listening to some of the debates I am reminded that anthropology tells us that the struggle for equality for women had its genesis way back from the time ancient cave-man emerged with a club on his shoulder from a cave with only grunts as his method of communication.

I was also thinking that it is somewhat paradoxical in a society and with a history of matriarchy as the Cayman Islands and the Caribbean where emanating out of slavery women assumed certain responsibilities and certainly, in the Cayman Islands during the time our men were at sea, women ran the show and yet here we are today ensuring by Convention that women are accorded equality of status. This is a universal phenomenon. Even in developed countries there has to be conscious efforts to ensure that the rights, responsibilities and respect of women are firmly entrenched and that we are constantly reminded that women must be accepted as equal partners. It is my understanding that even among developed countries there are few countries where women are fairly represented in the respectful roles to which many of us expect them to participate and to be accorded.

Some years ago I had the privilege of being invited to be a participant at a conference at Wilton Park Sussex. The Conference was entitled *Women Public Life and Democracy* and I learnt then that there is only one country in the developed world, Finland! Finland leads the world in the representation of women in comparison to the roles they play vis à vis men. According to the formula that I learnt then in our Parliament of fifteen elected Members there should be five women, at least, for proper representation based on the universal established ratio. Even in the United Kingdom, France, and West Germany all of these countries fall behind in respect of the representation of females, but not only in politics and parliament also in other vocations and professions. My brief experience as Minister with responsibility for human resources or labour as we tend to call it, has led me to realise that there is an alarming amount of discrimination in our society against women in the world of employment.

Some people are unashamed of their expressions of prejudice and some of the discrimination is so blatant that these people do not realise that what they are doing is a contravention of international obligations and responsibilities. So, I am happy that we are bringing this call for the ratification of this Convention at this time, because it is a necessary reminder that we in the Cayman Islands have much work to do and it is also fitting that the call should come from an august body,

as this Parliament, because we should set the examples here.

I am also happy to realise as I listened to the contribution of Members that this is a continuous effort. It is an effort which was started by others and I recall the Lady Member from North Side and a Lady Member who is no longer here, Mrs. Berna Murphy-Cummings, spearheaded the effort to get the Office of Women's Affairs set up in the Cayman Islands. This bodes well and now we have the current Minister taking it a step further, ratchet it up; that is good because it tells us that the best efforts usually arise out of this kind of co-operation. However, I want to say that we can begin and we must begin by examining our policies, and perhaps even in the Government.

I was reminded by a question poised to me earlier by the Honourable Attorney General about some policies. Certainly, when I came to the Ministry of Education I can remember years ago when I sat as a member of the Education Council in a particular meeting where a young lady was up for a scholarship award and some people wanted to disqualify her because she had a child out of wedlock. I said that cannot be. How can you pass a sentence on someone for something like that, which in many areas is not even considered a crime? We have to examine our dispositions towards these kinds of things. In some instances, in the education establishment there was objection to teachers who had children out of wedlock and coming back to the classroom. On one occasion I had to pose the question, if someone does that, that should not be the only deciding point as to whether they should continue into teaching or not. Were they good teachers? If they were good teachers and we need teachers, I think that they should continue.

I am happy to say that the policy with regards to teenagers getting pregnant is a little more enlightened. It is not that anyone is encouraging this kind of behaviour but we have to be pragmatic, and above all, we have to be absolutely sure that we are not blatantly discriminatory. I am happy to see that at long last we are coming face to face with this phenomenon and trying to do something about it. This is a society where women have held up their share of responsibility, as far as the development of our society goes. I want to take it a step further and say that we should use this occasion to enlighten ourselves as to our international obligations and responsibilities by acknowledging and being party to these types of Conventions. Often when these things come up and are discussed in some circles some people proffer the position and the argument that we do not have to subscribe to that. That is for the United Kingdom; that is for the United States and for the developed countries; we have our own system in the Cayman Islands and we have to abide by it. Nothing can be further from the truth. These are international Conventions arrived at by all of the countries who are members of the United Nations, which say this shall be the standards subscribed to by countries and nations of the world.

So, we should do that and I think that all those who had any part to play in coming to this Assembly from those who were instrumental in getting the most rudimentary beginnings when the Motion was brought here for the establishment of an office of women's affairs, right up to this point, are to be commended. As an educator and a Minister of Government, and as an enlightened citizen above all, I lend it my support and I am happy that there seems to be a level of unanimity among the Honourable Members of this House on this important issue.

Many people will not understand the significance of this but it is important and I wish the ratification of this can lead to a more enlightened society, a society in which women are encouraged to come forward and participate in the development of our yet fledgling democracy and contribute to the fullest to not only the economic and social development of our society but also to the political development.

As the old adage goes, '*brevity is the soul of wit*'; I want to lend my support and I conclude by saying that all who had any responsibility or part in this Motion coming to the House should feel proud and I commend them as I commend the Motion to the support of all other Members.

Thank you.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, I am mindful of the time and I will not be long, but I rise to add my support to this request that the Government of the United Kingdom and Northern Ireland extend its ratification of the Convention to the Cayman Islands for its next report on the Committee on the Elimination of Discrimination Against Women.

Mr. Speaker, we have come a long way and while we have come a long way there are many things yet to be done. When our men went to sea, (fathers, grandfathers, uncles and brothers) it was the women of these Islands who held the country together. They were the Sunday school teachers, school teachers and on a whole they played a big role in the civil governance of this country.

The United Democratic Party is fully behind this request and thus the Cabinet is in full support. To day we have women playing a tremendous role, we are not backwards in that because we have many women in leading roles in the commerce of the Islands. We have women playing important roles as justices of peace and women teachers in education and I can credit our Government with being the first to take a woman to assist in negotiating internationally as our Cabinet did with the Minister of Planning. I can say that there have been more young ladies given scholarships by this Government than any other in recent times. So, we have much to do and we have to be careful and work at the areas that perhaps are new and new ideas, and see that what is extended is something that we in

the Islands can work with that can enhance the position of women in these Islands.

Mr. Speaker, both parties have women candidates and that is commendable. We know that not all of them will be elected—and there are women independent candidates also, but it is commendable that women continue, from the early days of Ms. Evie to take a political life of these Islands and do stand a good chance to be elected.

As I said, the United Democratic Party and our Cabinet is fully behind the Minister and his work, and I want to congratulate him in bringing this forward. It is no election gimmick; it takes time to get these things done so I congratulate the Ministry for bringing this item as it did.

**The Speaker:** Honourable Members as stated this morning we propose to suspend the House at 3.45 pm, which is just about the time, to enable us to hold the annual general meeting of the Commonwealth Parliamentary Association at 4.00 pm.

It is also proposed that we will resume at 6 pm so that we may continue the proceedings of this House until 8 pm this evening. So I will suspend at this time.

**Proceedings suspended at 3.44 pm**

**Proceedings resumed at 6.04 pm**

**The Speaker:** The continuation of the debate on Government Motion No. 03/04; the Convention of Elimination of all Forms of Discrimination Against Women. Does any other Member wish to speak?

The Elected Member for North Side.

**Ms. Edna M. Moyle:** Thank you Mr. Speaker.

I will start my short contribution this evening, as I started my debate on Government Motion No. 01/95, which has brought about several matters affecting women in these Islands in the past years. It is Norman Hardy's Women's Creed, and I live by this: "We affirm the story of women as the story of humankind. Food gatherers and farmers; child bearers and teachers; pioneers and policy makers; needle workers and textile makers; home makers and factory workers; parents, scientists, doctors, housekeepers and economists, givers of life and creators of art and thought; unpaid hidden workers at home and paid members of the workforce outside."

Contrary to what some Members may think, this evening that I will get up here in a diatribe because the Convention known as CEDAW was not brought in the short eleven months when I was a Minister. This Convention goes way back and I stand here this evening to say history is being created today. I am proud to have been a part of this history. CEDAW is a Convention on the Elimination of all Discrimination Against Women.

For those who remembered my debate on Private Members Motion No. 01/95 seconded by the Third



Elected Member for George Town, Mrs. Berna Thompson, mention of this particular Convention was made at that time. Mention was also made of the Convention on the Elimination of Violence Against Women, the United Kingdom had extended to us and I think it was under the now Leader of Government Business when the then Governor, Governor Gore, brought a proclamation extending that Convention to the Cayman Islands. My concern for CEDAW goes way back through a question to the Honourable Minister for Planning who holds responsibility for Women's Affairs. She did say it in her debate when I posed the question: What was the Government doing about the extension of this particular Convention? Her answer to me at that time is exactly as she relayed it today. The then Attorney General's reply was that women would probably end up with more rights than men.

Mr. Speaker, I have said from Private Members Motion No. 01/95 we want no more benefits than men; we just want equal rights and we want those equal rights achieved through a partnership and if one would care to go back to my debate those words are there. CEDAW coming to this Parliament today reminds me of the words of Ms. Polard when I brought the Motion and the then Minister, the now Leader of Government Business, brought Ms. Polard to these Islands to conduct a survey on issues affecting women. I recall her words very clearly at the function that was held for her: "The women of the Cayman Islands should be justly proud that a motion has been brought for the setting up of a women's affairs office in order to bring issues affecting women to the forefront." I felt proud then and I feel proud today because in those eleven months that I spent in that Ministry with responsibility for women affairs I had the opportunity to sit with a gentleman from London to talk about this Convention. I will not go through the Articles as my colleague, the Second Elected Member for George Town, did an excellent job on the things that must be put in place. As a matter of fact, I did, at that time, request the Legislative Drafting Department to research the necessary legislation that we would have to put in place should we get this Convention extended to the Cayman Islands.

I build up my praises in Heaven because what I do as a politician for the people of these Islands, particularly women, once the women see the results of what I bring to this Parliament I need no praise for that; it is my job. I would like to thank the Honourable Minister for Planning and the Minister for Education who has recognised my commitment and my contribution to women issues in these Islands. The Cayman Islands, as the Minister of Planning said before, we are a little ahead to a lot of countries, but we still have a long way to go to bring women equal to their counterpart, the men.

The Cayman Islands Education System offers girls equal opportunity. I know that girls are taking up every opportunity to further their education and I am justly proud but I am concerned, although I deal with

issues affecting women and girls, I am seriously concerned and I have said it in this Parliament before, we must find out why our young boys who are graduating from high school are not taking up the opportunities to further their education. Some of them are and I say to them congratulations, but I feel that many more can go and take up further education. It is a matter that any government that is in power must look into. We cannot afford to lose our young men because then our young women will be all alone without an equal partner.

On the issue of health care in these Islands, I was very happy when I found out that the Women's Health Care Clinic was set up at the George Town Hospital. Our women have free prenatal and postnatal services at the Hospital, so these Islands are way ahead of many other countries. Had the Motion to set up the Women Affairs Office had not been brought about we would not have put in place these facilities for women.

When I hear the Honourable Minister say that he got this Convention and I could not, Mr. Speaker, these are the little things that bring that breakdown between the male and female in these Islands. I say, do not consider me a politician when I am dealing with the issues affecting the women of these Islands, deal with me as another woman. When we as politicians, in this Parliament, can appreciate the contributions of the female politicians in here we would have broken down a barrier between women and men in the Cayman Islands. To stand and make such remarks, I do not think there is a call for this. The important thing is we are here debating the CEDAW with a view to having it extended that the women in these Islands will benefit from this Convention. Let us not make these remarks to one another.

This CEDAW Convention has gone through four Ministers of Women Affairs; the now Leader of Government Business; the Honourable Minister responsible for Planning; myself, for less than one year that I was there, and now the present Minister. Had there not been a beginning towards extending this Convention to the Cayman Islands back in 1995, we would not be here today in 2004 accepting a motion to request the United Kingdom Government to extend this Convention to the Cayman Islands.

Mr. Speaker, I go back, when I introduced Private Members Motion No.01/95 to set up a women's affairs office; if one cares to go back to the Hansard you can. A report back in 1995—the United Kingdom's Law on Labour gave women the right to a minimum of fourteen weeks maternity leave with pay, with a maximum, under certain conditions, of forty weeks. Yet we are doing for women, we claim, things that no other Minister has done. I want to stop here and congratulate the Honourable Minister for carrying on to where he has gotten to bringing this Convention to the Floor of this House. However, you know, Mr. Speaker, the new Employment Law of these Islands has just recently increased maternity leave to four weeks on pay and four weeks on half pay and, as of today, as far as I am

aware, the Government has not gazetted that Employment Law to bring it into operation where these women would get the benefit of longer time for maternity leave on pay.

We talk about a crisis centre; the Honourable Minister said that he was able to put in place a crisis centre; great! We go back to Motion No. 01/95 and in that debate it was spoken of a place for domestic abuse. A motion was brought to this House by Miss Heather Bodden, who was a Member at the time, for the Government to build a crisis centre or a place of safety for abused women and children, which was seconded by me. The now Honourable Minister responsible for Planning, during her time, when she was responsible for women affairs, had plans drawn up, which I was looking at to continue and to purchase a place. So, let us not stand here and say we have been able to achieve this, let us be honest and give credit to the other Ministers who have served in these same positions. That is all I am saying, Mr. Speaker. Prior to Motion No. 01/95 statistics were not even kept of domestic violence, there were no separate statistics kept on abuse, assault or anything to do with women. Much has been achieved on issues affecting the women of these Islands, but as I said before, we have a long way to go.

We now have our women in professions such as legal, accounting and these are professions that were previously dominated by men. We have doctors and we even have some that have gone into engineering. We have gone a long way. In the political field there is much to be done. The majority of voters in these Islands, as has been said by a previous speaker, the Honourable Minister of Planning, the majority are women, yet some nineteen women ran in the 2000 Election and only two of us were successful. So, we have a long way to go in educating our women that they can take their rightful place in the political arena in these Islands. Many of them have reached top positions in the public service; many of them have reached the middle level in the private sector but I do not think today we have a female bank manager. I am being told from across the Floor that we do have one. I am talking about a Class A bank.

There is much to be done in other areas. We may put in place CEDAW, and I am sure that it is going to be passed unanimously but there is still going to be a tremendous amount of work done in these Islands to educate our women that you can become equal to your partner and perform at a level as high as any male.

If all parents could afford to send their children to boarding schools it would be an excellent experience. I know there will be some that will say, *'you were lucky, you had a silver spoon in your mouth'*. I have heard that from parliamentarians here before. I was lucky in that I had a father who was committed to educating his children, even if he had to leave these Islands to seek employment. At the young age of ten he packed me up, put me on a flight by myself and sent me to a Cayman Brac lady, Mrs. Hunter, in Jamaica

whom I had never met in my life before, to be put on a train the next morning in Kingston to go to Spaldings to attend boarding school. When I said "I cannot do this by myself" his answer was, "God sent you into this world alone; you are not a twin." It is an experience that has carried me to where I am today. I think we as mothers have got to be involved with our daughters to let them understand there is nothing that if you want to achieve it, you cannot. We cannot let them, any longer, hide behind this thing of 'I am a woman and I am not suppose to do this'; those days are gone.

Mr. Speaker, I say to the Government, we are today accepting CEDAW and asking the United Kingdom to have this Convention extended to these Islands. It was back when the Opposition brought the Motion concerning the grant of Caymanian status by Cabinet, and in that debate I said what is going to happen to the children of these mothers. Someone said that they would not be able to come. I said at that time human rights does not allow you to separate a child from a parent. Not being a lawyer, I guess someone will explain this if I am incorrect—Article 9 Sub Article (2): **"States Parties shall grant women equal rights with men with respect to the nationality of their children."** My question is now that we have granted these women from other countries Caymanian status, prior to being granted that status they were not allowed to bring their children and that was understood, now we have given them Caymanian status, will this now allow these mothers to bring their children?

We must look carefully at the Articles of CEDAW and we must put in place the necessary legislation and the necessary resources because as my colleague, the Second Elected Member for George Town said, I think, it was one year that we have to comply.

Mr. Speaker, every time I speak the Honourable Minister for Community Affairs seems to get upset. I am not speaking to upset anyone. I am saying it the way I see it. When he gets up to reply he has every opportunity to prove to me that I am incorrect.

There is an issue in these Islands that concerns me greatly and it is on the rise—the defilement of young girls. Every time we read the newspaper we read about the defilement of a young girl child. We hear stories of rape of young girl children and we hear stories of incest. We need no convention to put in place necessary legislation, education or whatever it takes to eradicate this from our society. This is a matter that has to be dealt with urgently. I personally would support any legislation coming to this House to deal with persons who defile young children, whether it be a young girl or boy, that these persons be put on a list that this country knows who they are and whether they are living next door to me who may have my young granddaughter living with me. We can no longer hide the names of these persons. It is now reaching to the stage that it is becoming very serious.

Mr. Speaker, we watch television often about sex offenders of the United States. I ask a question: Are these sex offenders our own Caymanian men or

are they persons coming to these shores? Could they be sex offenders where they are coming from and we have no knowledge? It is a serious matter and it must be dealt with now.

The Penal Code amendments that have just come here as law, I have not had the time to read that Law to see if included in that were the recommendations that were actually made by the Select Committee who went through that Law because there were some serious terms in that Law for these types of crimes. If we do not have the proper sentencing we must put it in place.

I will briefly make one comment on maintenance of children. I think there is a motion before this House and I do not want to get into a matter that will be coming before the House. This is another matter that must be dealt with equally. We constantly hear of deadbeat dads, I am not saying there are not some deadbeat dads but I speak the truth in saying there are some deadbeat mothers. I have heard fathers who are paying maintenance for their children and are not allowed to see that child, this is not right and these matters we have got to deal with. Some of these men refuse to pay the maintenance that the Court orders them to because they have no access to the child; that is not fair and in this day and age when we are promoting the family unit I think we must address this issue.

I support the Motion before us and I look forward to the reply from the United Kingdom Government that this Convention has been extended to the Cayman Islands, and I am sure that many women will be happy and look forward to the extension of this Convention.

Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.

Not even the subzero temperature could prevent me from contributing to such a motion as important and on the Floor of this House. The enthusiasms that has greeted this Motion is, in my view, a confirmation of the fact that all forms of discrimination, wherever it exists, should be in the words of the honourable Robert Nesta Marley, should be totally discredited and abandoned.

Needless to say, I rise to lend my support to the Motion and to attempt to put a number of things in perspective so that we can clearly understand what we are getting into and what to expect at the end of the day.

Let me point out that the extension of the Convention to the Cayman Islands—the passage of this Resolution is the first step; the exercise is a work in progress and there are several stages to this exercise. At the moment what we are really doing is passing a Resolution, which will say to the United Kingdom that the Cayman Islands are asking for the CEDAW

Convention to be extended to these Islands. Thereafter there are a number of legal issues and things that needs to be done in order to give efficacy to the Convention itself. The UK ratified the Convention on 7 April 1986 and at the time when it did so, the UK did not have in place a written Bill of Rights. The UK Human Rights Act came into being in 1998. So, the point I am making when the United Kingdom ratified the Convention it was recognised that there were certain institutions that were not in place and there was some work to be done.

### Point of Elucidation

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

**The Speaker:** Second Elected Member for George Town, are you rising on a point of order?

**Mr Alden M McLaughlin, Jr:** Elucidation Sir. If the Honourable Second Official Member will allow me—it is not elucidation on my part but I am asking for elucidation on his part.

**The Speaker:** Honourable Second Official Member will you give way?

Second Elected Member for George Town please continue.

**Mr Alden M McLaughlin, Jr:** Thank you, Mr. Speaker, and my thanks to the Honourable Second Official Member for having given way. I think it is an important point I am asking him to clear up.

In the Motion itself the last recital says: “**AND WHEREAS the Government of the Cayman Islands, on its own initiative, has requested that the United Kingdom extend the Convention to the Cayman Islands.**”

When the Honourable Member was speaking a short while ago I gained the impression that he was proceeding on the premise that that exercise had not been done and would not occur until the passage of this Resolution. It is a matter of some importance to Members on this side and would be grateful if he would clarify that for us.

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Mr. Speaker, I am not sure if I am saying anything different from what is in the Motion itself. The point I was making is that it is an ongoing exercise. It is not simply a matter of asking the United Kingdom to extend the Convention to the Cayman Islands and it is extended, and it simply means that we are expected to be in compliance with everything immediately.

This is illustrated in the fact that the first report is required twelve months after the extension comes into effect. The first report will froze up certain institu-

tional and legislative weaknesses in a particular country. Thereafter a report is due four years later and it is at that stage that an assessment will be again made to show the progress and whether there are still outstanding weakness substantial or significant non-compliance with the Articles of the Convention.

I made the point to illustrate that we are talking about equality of men and women; that is what the Convention is about. It has always been accepted that one of the surest ways of ensuring equality is to have a Bill of Rights. In some constitutions it is enshrined. The point I am making is that in the UK in 1986 there were no written Bill of Rights at the time. If you look at some of the other legislations that have been passed in the United Kingdom to give effect to the Convention, they were all post 1986; the Sex Discrimination Act; the Protection Against Harassment Act. All of these things were passed, post 1986. So, it is really an ongoing exercise and you assessed your position as you go along and you put in place institutions and legislation to strengthen the process so as to give effect.

May I point out that in the Cayman Islands we do not have a Bill of Rights and in my research I have not been able to find legislation which discriminates against women. I have looked at section 80 of the Labour Law and it says, **“No person (whether an employer or an employee) shall discriminate with respect to any person’s hire, promotion, dismissal, tenure, wages, hours, or other conditions of employment, by reason of race, colour, creed, sex, pregnancy, or any reasons connected with pregnancy, age, mental or physical disability. . .”** This is the existing Labour Law. So, there is a provision which forbids discrimination but it goes back before that. Someone had the foresight in 1964; I do not know who it was. I do not know whether it was a reaction to anything that was happening then or if it was a proactive approach at the time but a piece of legislation was enacted by this Legislative Assembly and it is called the Sex Disqualification (Removal) Law. It was originally enacted as Chapter 157 on 1 January 1964. Section 3 is very short and with your permission I will read it. It says. **“This Law may be cited as the Sex Disqualification (Removal) Law (1998 Revision).**

**“A person shall not be disqualified by sex or marriage from the exercise of any public function, from being appointed to or holding any civil or judicial office or post, from entering or assuming or carrying on any civil profession or vocation or for admission to any incorporated society (whether incorporated by Royal Charter or otherwise), and a person shall not be exempted by sex or marriage from the liability to serve as a juror or to pay any tax.”** Someone had the foresight at the time to put this piece of legislation in place.

In recognition of that I can say that we have come a long way. One of our Grand Court Judges is a lady, three magistrates are all women, we have women in the medical profession, they are in abun-

dance in the legal profession and they are elsewhere and it argues well for our country. I think it was the Chinese who said *‘the journey of a million miles begins with the first step’*. I think we have passed the first step and we are well on our way to achieving equality. As a matter of fact, for some of us I would prefer if we were standing here debating a reaffirmation of equality of gender.

The Convention, as we understand it, contains broad definition and you have heard several speakers refer to the definition, which encompasses any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of nullifying the recognition, enjoyment or exercise by women irrespective of their marital status on a basis of equality of men and women of human rights and fundamental freedoms.

The obligations placed on State Parties by the Conventions are also extensive. Indeed it includes the incorporation of the principle of equality of men and women in their legal systems and abolishing all discriminatory laws. It is a binding treaty and it is necessary to ensure that the Laws of the Cayman Islands provide full protection and the rights guaranteed under the Convention itself.

The Convention of significance contemplates that additional State Parties are expected to take what they call other types of action beyond establishing a neutral legal playing field. State Parties are expected to establish tribunals and are the public institution to ensure the effective protection of women against discrimination, and to ensure all acts of discrimination against women by persons, organisations or enterprises, which both entail positive advances in the promotion of equality. At a glance these requirements might seem somewhat burdensome however, I might urge Honourable Members to bear in mind that they should be viewed in the context of the mechanisms contained in the Convention itself, which is necessary for its supervision.

The approach advocated is to encourage, by way of gentle persuasion, the promotion of the rights and principles embodied in the Convention through the submission of national reports. You have heard other speakers mention, in particular, the Honourable Minister, that these reports are to be made at least every four years and should include any relevant information on measures that the state party has taken to comply with the Treaty itself. Accordingly, the Convention extends, in my view, the carrot as opposed to the stick in requiring compliance. In my view, the invasiveness of the obligation is tempered by the less oppressive sanction.

Honourable Members might wish to bear in mind that the ratification of the Convention does not necessarily entail its incorporation into domestic law and without it being embodied in domestic law it is not necessarily enforceable in our Court, so the ratification and the consequential extension might not provide the immediate panacea to our problem. The more accepted method is a formal compliance procedure is

what I have referred to earlier on as the reporting obligation; that is how compliance is monitored. May I also observe that in addition to the reporting obligation, the statue of the Cayman Islands, as a UK overseas territory, can be seen as an informal level of monetary as well.

As far as the existing laws of the Cayman Islands are concerned, I am not aware of any which are currently enforced that discriminate against women. I am aware that the Convention speaks of practices and customs. We have already heard in this House speakers mentioning that they are in fact practices that are discriminatory and I would not, in any way, attempt to refute that. What we need to do is to put in place and encourage the best practices to get those who are involved to desist from such practices.

The fact that I am not aware of any existing legislation that discriminates against women means that the Cayman Islands would have met at least the first obligation, as contemplated by the Convention. I am aware that this is not the sole focus of the Convention, the absence of discriminatory legislation is not the sole focus of the Convention there are other things that need to be done.

They need to ensure the non-existence of discriminatory legislation is really a starting point and I would dare to say it represents the level at which the UK is prepared to submit itself and its overseas territories to international scrutiny, in this regard.

I started by saying that it is a work in progress, so to stand and proclaim that there are no legislation that I am aware of that discriminates against women is not the end process. Those who have spoken before me recognises the fact that there is the need to build an existing institution to put in place, where necessary, additional legislation/framework to give effect to the Convention itself.

Let me pause at this stage to make reference to a point made by the Second Elected Member for George Town when he spoke. He read from the Gender Policy Document that was presented to this House and he made reference to page 39 saying that we should draw on the experience of Hong Kong in this regard. He goes on to say as well, that the moment the Convention is extended to the Cayman Islands we would be in breach or words to that effect. However, let me point out that on a close examination of the Gender Policy Document, page 39, the caption is "CEDAW and National Laws: The Case of Hong Kong". **"In the late 1980's, following the events in Beijing's Tiananmen Square and in the anticipation of the 1997 transfer of Hong Kong from British to Chinese rule, human rights activism intensified in Hong Kong."** Now the operative words here are "in anticipation of transfer of Hong Kong from British to Chinese rule" we know that China was a communist country. Hong Kong was under British rule and has all the trappings of western democracy. The fact that it was going to be transferred back to China where it was a communist regime means that civil liberties

would not be available to the people of Hong Kong. It was in anticipation of this eventuality why activism started. Whilst it is important to cite the case of Hong Kong, it must be made clear that it is quite distinguishable from the position that obtains in the Cayman Islands. There is no parallel as such.

Mr. Speaker, in some other countries, relative to their population there is under-representation of women in politics; there is the issue of discrimination of women in the workplace and indeed closer home, the issue of violence against women and the absence of institutions expressly tasked with the responsibility of promoting equality. These are some of the issues that are forever being highlighted in these reports and the workings of the Convention itself.

The Cayman Islands has in place a Human Rights Committee; there is a Complaints Commissioner; there are non governmental organisations and I dare say there are legislators who are extremely vigilant in protecting and promoting the rights of women. Therefore, the extension of the Convention to the Cayman Islands is appropriate. We have the basic framework, legislative institutions, relevant concerns, vigilance and foresight to ensue its compliance and it is in that spirit that the Motion seeks to confirm to the United Kingdom the intention of the Cayman Islands to have the Convention extended to us. We are cognisant of the fact that it is a work in progress and that it will be monitored by virtue of regular reporting, therefore in due course, like the other countries it will be in full effect and there will be full compliance.

I hasten to add that when it was ratified in 1986 the only two overseas territories that it was extended to at the time were the Turks and Caicos Islands and the British Virgin Islands. I doubt very much that they had in place all the legal and institutional framework to give effect to it. So far we have not seen any kind of criticisms as to the efficacy or the workings of the Convention in these two overseas territories. So, we are confident that with the passage of time and with the level of enthusiasms and foresight, the spirit and intendment of the Convention will be jealously guarded in these Islands.

I commend the passage of the Resolution to this Honourable House.

**The Speaker:** Does any other Member wish to speak? 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 brief words in regards to this Government Motion that is before us. I do understand that much work has gone in to paving the way that has led us to the point we are at. I think both the Lady Minister responsible for Planning and the Lady Member from North Side, have both acknowledged their involvement, commitment and work that went on in years gone by that highlighted the great need to institutionalise the issue of women's rights and how

women are treated and dealt with by way of formal government policy that would change where necessary behaviours in civil society as it relates to women.

I suppose I am fortunate that I have come from a new generation of Caymanians who, I think, in general terms, see and value women slightly differently than they were in the past. I am lucky that I had a great influence in my life, in terms of a mother who always talked about judging people on their character as to who they are, what their principles were and how they lived life irrespective of what they looked like, whether man, woman or where they came from.

I must agree with a very relevant point that was raised by the Member from North Side, as it relates to academic achievement and the ratio of females versus male academic achievers within our school system. One would have to be blind if one attended any graduation and did not take note as to the number of females versus males when best reports or any other academic achievement awards are being presented at those ceremonies. Mr. Speaker, I was not able to attend the John Gray High School graduation this year however, at the George Hicks graduation of the fourteen or sixteen young persons who were given awards for being academic achievers, best report recipients, only two were male. At the West Bay Primary graduation when you look at the top students again of the nine recipients for the top three in each class, I think again, of those nine that two or three were male. Certainly, this is not a today trend. When I graduated from high school in 1988 and attended sixth form the majority of our sixth form class by far were female. So, we are talking about an issue that has been in existence for decades. There is no easy solution; in fact, let us not even talk about the solution, there is no easy answer as to why this is taking place. You see it in the number of persons who get scholarships as well, and who are receiving a college education. I do not want to sidetrack a very important debate that we are having, to bring up a male issue, or seem to be complaining about a male issue, but the Lady Member brought the point up and I think it is a very important point.

What is also important is what happens to females after they get their education and get into the work force. Are they marginalised? Are there certain glass ceilings that are put in place beyond which they cannot go? Are employers creative in their dealings with the needs and wishes of women? As a classic example, as much as a man may want to he cannot have a child himself. Technology is changing and I know that we are in the information technology age but I do not think they are going to change that one. I am not going to say definitely because we do not know what the future holds but I would wager a bet that that one is not going to be changed. Therefore, you are going to have women who are qualified in whatever spare of life, whether it is a college degree or if they are working as a waitress or someone in a hotel room; they will bear children and they will have that awesome responsibility. How is it that that is accommo-

dated by the private sector? Some companies will be creative and some will see it as a non issue; some will say that is the way life is.

The Honourable Second Official Member made mention of a section of the Labour Law which specifically states that persons are not supposed to be prejudiced against because they are pregnant. I think all of us know and I have had experience with young ladies in my constituency who have been laid off from their jobs after becoming pregnant, and have been disenfranchised in terms of seeking employment. The biggest curse, as I have seen it, is to be a female pregnant and try to get a job. So, that is an issue that needs to be looked into, no doubt about it. A lot of employers do not look at things in terms of long term, they look at the hear and now, saying to themselves that this particular individual has not been in my employed for a substantial period of time so why should I employ her now at the most costly time of her working life, which is when she is going to get maternity leave from me?

I think there are good examples out there, I know of an employer of a professional service firm who is actively putting together a programme for young professional working mothers who have decided for whatever reason, and it is usually because they place family more important than monetary reward and are taking more time off to be with their children. This professional service firm is coming up with programmes within their firm so as to how to employ those young professional working mothers at peak busy times and allow them to not have to be employed at that firm when the non-busy season is on. Those are the types of efforts that are commendable because a lot of people come from backgrounds where even though they have a husband who is working they still do not have that ability to instantaneously adjust their lives once a family is started and children come into the picture. These are initiatives that need to be encouraged and fostered. In fact, I would say that they need to be actively sought out and wherever you can give favourable consideration on the part of government to do so we have to be creative. Companies that do those sorts of things could be given certain breaks, whether it be trade and business license breaks or what, but incentives put in place because those are things that help build the community and those are things that also allow employers to better manage themselves and their resources. So, they need to be encouraged.

Mr. Speaker, I have been influenced in my life to have a particular position when it comes to crime and punishment and I do not think that anyone in this House has doubts of where I stand on those sorts of issues. When the Lady Member mentioned the issue of certain crimes against females I was heartened because just three short years ago, in fact the Bill was passed on 4 July 2001, certain amendments came into the Penal Code that were as a result of a Private Members Motion that the Third Elected Member for

West Bay and myself brought to this House in the March sitting of that year, which deals specifically with issues she mentioned in terms of incest and enhancing the ability of judges to increase penalties for those sorts of crimes. It did not speak to the other specific issue that she raised in regards to identifying certain individuals but it has dealt with defilement and incest. That strengthening has happened and if you look at the Bill it is the Penal Code Amendment Law 2001 that covers those instances and types of crimes she spoke about.

I am proud that I can say I was here as a legislator at this particular time to have assisted in the passage of this important piece of legislation. I think one of the things that have happened in terms of the development in Cayman is that we have been very much americanised in terms of business practices. Because this push took real root in the 1960's in the United States I think you will find that Cayman has progressed a lot. I would venture to say a lot more than our neighbours in the Caribbean on this front.

I can remember back in the 1990 and, Mr. Speaker, you would quickly identify this story—In the United Kingdom one of the major accounting firms were sued by a senior manager who had been passed over time and time again for admission to the partnership and she won and was awarded a substantial amount to damages. The Courts went back and went into the accounting firm's records and calculated what her share should have been had she become a partner from the time she was unfairly passed over. We fast forwarded that in 1990 and there were no female Caymanians as partner in any of the major accounting firms. Today we have one firm with a Caymanian female as a partner. We had another firm who had a female partner that was from the Bahamas and she is no longer here and we do have managers and senior managers in some of those firms. It is the same thing in Law. We see major law firms with female partners. It is the same thing with the architecture firms. I can remember a big firm announcing about a year or two ago announcing their management reshuffle and a young lady who had graduated from high school with me, a very young lady being appointed to head up one of the major sections in that firm.

A lot of strides have been made and I think we are on the right track. As the Honourable Minister has pointed out, in his presentation of this Motion, there is much work to be done. However, I think this is an important and significant day.

Mr. Speaker, I think as we continue to build the systems and the infrastructure that is needed to move the process forward there is going to be continued call on the Government to act and do things.

I would like to end with this—as much as possible I think we need to work with the private sector and try to provide as many incentives as we can to not only give women a fair opportunity, but also the possibility to contribute at differing levels based on their choice as to how they want to live their lives. I can tell

you this country is going to lose a substantial amount of knowledge and skill, as a lot of young ladies who are becoming educated, continue to have families and more and more of them are not given a possibility to take part in the economic life of the country simply because people are not being creative enough to incorporate the particular lifestyle that they want to now lead, in terms of not wanting to put in forty hours a week or forty hours plus overtime in a lot of professions and be able to still have the type of family life they so desire.

Mr. Speaker, I congratulate the Leader of Government Business for the work he did in this area when he was Minister. I congratulate the Minister for Planning for the work she did, the Member for North Side for the work she did as a Back Bench Member and as a Minister, and most importantly now, the Minister with responsibility for this subject for the emphasis he has placed and the amount of opportunity he has sought to give women in his Ministry to head very important sections. I think if you look at his Ministry and look at the heads of departments and heads of particular agencies, you will see that he has surrounded himself with a very strong team that has a lot of females doing very important work for the country. I am confident that the whole process will be moved forward. Over his term as Minister a lot of those opportunities were given and females were given the opportunity to rise to the occasion and take up these very substantial and important posts.

With that said I lend my support to the Motion and I 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 lend my support to this very important Government Motion before the Honourable House on getting extended to the Cayman Islands the Convention for the Elimination of all Forms of Discrimination Against Women.

I must say that the Cayman Islands have come a long way in my short lifetime and continues to flourish in the area of equality when it comes to women. I know all of us are aware that there was a time when the Cayman Islands were almost entirely, on the civil front, ran by women. I know I was raised by my mother almost entirely because my father had to go to sea to send money home for her to be able to raise me and all of my peers were in the same position. However, I do not believe that in those days there was any equality because the men in this country still were the head and clearly defined as the head.

We know how our country in those days were and it is beginning to change but in those days the men would buy or inherit a lot of land and on that plot of land his children would build around the main house but he was still in charge even though he had his chil-

dren with their individual family on that property. So, the men were still very much in charge.

In recent times it is changing and I am glad for that. Women are recognising more and more every day that they have and should have an equal step alongside the men. I do not believe any woman wants to step out of step with the man and be in front of his steps but they certainly want and deserve to walk alongside their men.

Recently I was at a gathering at which I spoke, and I commented that I had to be careful of what I said because all the women in my life were there; the women who raised me, including my teachers from cub scouts, boy scouts, and all of my other life teachers. It was the women that raised us all. Fathers provided the necessities like financials for the women to be able to take care of the children.

We have come a long way but there is much to be done for gender equality in this country.

In my former profession I was a seaman and one of the amazing things that I witnessed and experienced was to see women as—I have to be careful how I say this because I cannot use the word seamen—but Swedish women have sailed for many years on their ships. I have not worked alongside women on the Swedish ships but I have been on board my ship alongside Swedish ships with women on board as captain, engineers, deck hands and mates [*background laughter*]— Mr. Speaker, it was not ‘sweetish’; it was Swedish and the same with the Norwegians as well. As a young man that was a new experience for me to see the kind of gender equality that was being practised in those countries.

I changed my profession and became an electrical engineer and started working at CUC. At the time I started working at CUC I was not very proficient in hard electricity, that is, high voltage electricity, so I had to get a lot of training and I remember particularly going to do bare hand training on 230,000 volts where you work without insulation on your hands, no gloves or anything. It was a new technology that had just come out and there were women as participants amongst that training group. My experiences with women being in the same field started very early in life.

Today we see women in all professions. It is like the Lady Member for North Side said, electrical engineering, all engineering professions and other professions, which were traditionally considered men dominated, the women are now coming forward and recognising their abilities and their need to be involved in these professions.

Government in this country has been the leader in gender equality when it comes to the workplace. We see at least two permanent secretaries out of five; we see the Director of Tourism, the Accountant General and many more women in the government services that are holding positions which were traditionally held by men and we have to applaud that. However, in the private sector we have not seen them

come of age as quickly as the government/public sector.

We hear cries from the women that they are not allowed to go out to collect their children; we hear cries from women that they are discriminated against whenever they are pregnant. There is still gender discrimination within the Government sector but not as much as, I believe, is in the private sector. A few days ago a young lady came here to me seeking assistance to get a job and when I ask her where she applied to and if she had registered with the employment agency, her reply was that she had but they told her to come back when her baby was six months old. I would like to know who is going to feed that lady and the child within those six months. That is the type of discrimination that is so subtle that the rest of the country is not seeing it. It is visited upon individual women, but it is discrimination. It is absolutely discrimination! The United Nation Convention against discrimination of women will protect them against that and they will have ways and means to address it.

Mr. Speaker, it is as said before, women are surpassing men in this country; educationally they are. Thank God we have come of age where women are getting opportunities. The same women that raised us could not get those opportunities because they had to stay home and raise us. In those days there was not much here. In 1959 adult suffrage for women came into being in this country.

One of the concerns that I have is that women are not supporting their own. As much as women have now become liberated statistically the population is made up more of women than men. Nevertheless we go to the Elections, which are a prime example and we see women offering themselves to contribute to this country through the political process and they are not elected. Theoretically there should be more women in here than there are men. So, my appeal to women is to support their own. Once it is justified, to support their own.

I recall in the last Election the women theme song was ‘*women are going to rule this country*’. I think that was made popular by a Calypso artist from the Eastern Caribbean. Until women start to recognise that they can support their own, it does not make any sense—the Convention’s extension to the Cayman Islands is not going to assist that, it has to come from within.

I too witnessed a situation in Africa during the plenary of the CPA, and my understanding from other participants was that it happens all the time, in that the African delegates who were women stood up strong for women’s rights in Africa. They came out and when I spoke to some of those women I understood the reason why they were coming out so strongly in the defence of their own. We are fortunate in this country that we recognise the values that women play; the importance of women in all aspects of life in this country. In Africa it is not so.



At that plenary, with the exception of a few female delegates, they all spoke on equality for women and their appeal was to the CPA to assist with gender equality. So, I am glad that I am in a country where we treat women with a little more respect. I view women as another human being, another individual who is as capable or more so in many things that I am and I hope other men in this country do the same. Unfortunately it is an exercise we need to undertake to teach men of the respect they must have for women.

I recently read an article in the paper where even China is now trying to get away from the old tradition of boy babies being more important than girl babies, and are trying to bring some gender equality to their way of life inline with the rest of the world.

I believe that the extension of this Convention to the Cayman Islands is a step in the right direction. I recognise that the process is a continuing process and eventually, in the not too distant future, we will be able to legislate laws to support equality.

I too would like to congratulate all those, particularly the Ministers, who have played a part over the last ten years in the promotion of women; the Leader of Government Business, the Minister of Planning, the current Minister for Gender Affairs and Mrs. Moyle, the Elected Member for North Side and all those in the Ministry. There are many women in the Ministry, particularly the Ministry, which is responsible for gender affairs, present and past who have worked diligently to ensure that this day would come to pass.

Mr. Speaker, I congratulate them and thank them because not only is it for women, but my mother will be proud to know that even at her ripe age of 81 that at long last there is some gender equality in this country, which makes her equal with any man regardless of how she felt prior to that day, which I trust will soon be here.

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 not would the Honourable Minister responsible for Community Services wish to exercise his right of reply?

Honourable Members I realise that it will perhaps go beyond the hour we had announced but I think it is fair and reasonable that we allow the Honourable Minister to wind up his Motion.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, I am very happy that so many Members of the Legislative Assembly found the desire and the words to speak on this Motion. Those who have not spoken, we understand that they are trying to spare this Honourable House some time but they also agree with much of what has been said on this Motion.

It again puzzles me though why the Opposition in responding to this Motion to extend the Convention on the Elimination of all Forms of Discrimination Against Women; why they feel that they must create

this kind of anxiety in people by making people believe that this extension will cause the Cayman Islands not to be prepared and therefore, cause us to sin even more than we are sinning by not having this Convention extended to us in the first place.

I was therefore very happy to hear the capable Honourable Attorney General's reply to some of the accusations that was being made by the Opposition, in saying that the Government is coming to extend this Convention but the Government have made no proper preparations for it to work properly, and therefore, the Government is taking the people again into another crisis.

I have heard often about them shooting the messenger but I have not heard about shooting the messenger and saving the message. Because what I believe the Opposition was trying to do was to shoot the messenger and somehow save the message and say they are responsible for the fact that the message is here today.

I am not a woman and therefore I do not really represent that group. I cannot stand here and say that my understanding of gender issues or women issues is sufficient for me to be the sincere representative of women in this country. I am only doing my constitutional job by trying the best that I can to represent what some women in this Legislative Assembly, sometime back in 1995, found was necessary to bring to the consciousness of the general public the desire or the need for people in this country to be more aware of gender biases in our society, therefore assisting us by being more vigilant with regards to the issue of discrimination based upon sex.

The fact is that I do not intend or have intended to discredit the contributions which were made by previous Ministers and Members of the Legislative Assembly, most of who were women that tried to help these issues to progress. The situation is that actions speak louder than voice. I see myself as a Minister of action and regardless of what any prior Ministers or representatives might have done I was crediting myself with the fact that at least we have seen during my tenure the manifestation of many of the ideas and ideals that were discussed and that were already placed on paper.

I am happy that I know my shortcomings and that I cannot speak subjectively from the position of being a woman; that I therefore do not know the seriousness of discrimination; I do not know from a personal point or from urgency behind trying to get solutions to these issues. However, I think as a child of a mother and as the husband of a woman that I have some experiences that tell me that I should do my part in trying to realise what we are now trying to realise which is to establish the beginning of stages of development that will improve human relationships in the Cayman Islands.

The fact that we have the Opposition suggesting that we have ill thought out our actions, that our actions were like our actions with immigration issues;

were all done wrongly. In fact we get the same typical Opposition argument: *'We agree with what you are doing we just do not agree with how you are doing it'*. That is what we hear all the time; they agree with what we are doing, they just do not agree with how we are doing it. Therefore, when the Second Elected Member was making his contribution he was trying to convince the general public that he is on the side of women's rights, he is against the discrimination of women and he feels that this Convention should be extended to the Cayman Islands, but he would be giving too much credit to the Government and he would be giving too much credit to the present Minister if he said that somehow when it is extended it would be a new beginning and things would be progressively better for all involved, including the administrators of these particular policies and strategies.

We understood that very well when he talked about legislation and the lack of legislative framework and we understand we are not a country that lives without laws. We have the foundation and laws and natural justice and all the other justice that we all feel we benefit from in a democratic society like the Cayman Islands. The Honourable Attorney General has pointed out that his research shows that there are no laws in the Cayman Islands that are of the nature that the Convention really is against. One of the Members of the Opposition also spoke about Africa and the way in which women are ordered in Africa and other countries of the world, to show that there is extreme discrimination against women in the world to the point where Conventions like this was conceived necessary and many countries ratified this Convention.

We have been able to distinguish the difference between us and those other countries that severely discriminate against women. The fact that we recognise that although we might have been progressive we can also read of legislation dating back to 1964, which is against discrimination against women or which prohibits the discrimination based upon sex; the fact that we can see ourselves as progressive does not necessarily mean that culturally and socially they are still not issues of discrimination against women that tends to be more subtle.

These are the issues that our gender policy seriously intends to address. That is the reason why we signify that the development of the gender policy and having the gender policy here, at this particular time, creates for us the administrative mechanism to begin to deal with some of the more subtle forms of discrimination against women in this country. Because of the cultural bias, of the language which we have learned and because we are paternalistic in a sense towards women, when we, as men, get up to speak, we are in fact, a product of that discrimination and we are also expressing the fact of discrimination. So, I am not here to make apologies for the fact that I am a part of a male culture that has discriminated against women and have seen women not always to be equal. After making that confession we are here to begin to

establish stages of a development process that will begin to attack the basis of that physiological, social, cultural and political form of discrimination.

The fact that the Member from North Side and I do not seem to get along has nothing to do with my feelings about my job as the Minister responsible for Gender Affairs. Sometimes I feel that the heated exchange between that Member and I has nothing to do with the fact that she is a woman and I am a man but it has more to do with the fact that I was the one who assumed her job! Therefore, I can say or do very little in this Honourable House that that Lady Member would agree with. That does not necessarily mean that I view that in any other terms than it should be viewed. She is my political opponent and it is her job to make me look bad even when I try my best to make the country see in fact that I am performing. That was the reason why I had to do an hour talk on the accomplishments of my Ministry where I could show her that if she had been involved with her district that she would have understood what my Ministry was doing in her district, in order to improve the lives of young people, seamen and other persons in her district.

I am quite content with the debate and understanding now, that what we are doing in extending this Convention to the Cayman Islands is giving ourselves a conscious awakening. We are putting ourselves on a watch, to watch for incidences of gender bias, discrimination, and of incidences where we feel that we need to bring to the attention of all the people in the private and the public sector as what they could do to assist in the improvements of these conditions.

Mr. Speaker, all we have to do is go through the Gender Policy to know that resources will be needed; additional administrative personnel will be needed. The Gender Policy is the big challenge we have here today. The Convention reaffirms that we will do our best to make sure that all forms of discrimination against women are eliminated in the Cayman Islands. We will continue to research to make sure that our laws are in compliance with this Convention. We will also move towards the reporting session, as the Honourable Attorney General has said, the first report is requested twelve months after the Convention comes into effect. After signing the next report will be four years after that.

Many of us in this Honourable House are familiar with human rights conventions and the process of reporting is really the obligation. We are an associate member of the fraternity and when you become a member of a fraternity that is against discrimination against women in any form. Once you become a member you pledge that this is what you will strive to achieve; the elimination of all forms of discrimination against women. It does not mean that you are pledging that there is no discrimination against women. You are beginning a stage, a process and a journey rather than what the Members of the Opposition tried to prove, saying that we are going to have chaos and we are going to have the human rights coming down to

say, 'what about the children of those women who were granted status, why are you not allowing them to enter into your country?' These are the ways they begin to reintroduce arguments in debates to try to convince the people somehow that the Government is not working on a sound footing.

When they think that it is violation of the children and the parents human rights, the children are not allowed into the country or that they cannot go to school, but yet these human rights that these people now have is a result of the Government's action to give them rights in this country in the first place, which was criticised by the Opposition. If the Government did not give the people human rights there would be no complaints about the violation of human rights. It is great to be a Member of the Opposition because you can criticise anything in this world because there has been nothing that has been perfect and everything is open to criticism and ridicule, and we see that the Opposition is so very good at criticising and ridiculing, especially me for what I try to do in the areas of assisting the development of this country in the social, spiritual and economic sense.

Mr. Speaker, we believe that Mrs. Berna Thompson-Cummings contribution in 1995 should be amplified in this Legislative Assembly at this time. We know and listen to the debates from the outside at that particular time, at least I did, as I was not a Member of this Legislative Assembly, and I know that she participated and contributed in terms of getting that particular consciousness going; what would you expect from a lady like Mrs. Berna Thompson-Cummings.

Before I conclude I must say that I had some experiences here today. Because in fact the Private Member's Motion of 1995 was a signal, not that we were just changing in our attitudes towards women issues, but in 1995 we were also making the preparation to change with regard so many issues in this country because in 2000 we were actually able to remove the then Leader of Government Business and past Minister of Education, Mr. Truman Bodden. I am saying that to say that actions speak louder than voice. I think since he has been gone out of this House we have been able to achieve so much and even though the Opposition might seem sometime to be people who are trying to stir up the people and make the people feel that the United Democratic Party Government is taking the country into crisis, I think that Mr. Truman Bodden is even better at doing that. If I had to choose between the Members of the Opposition and Mr. Truman Bodden, I do not know what the United Democratic Party Government would prefer, but I would prefer the Members of the Opposition to him.

With that, Mr. Speaker, I would like to say while closing, that I think we as a Legislative Assembly can all positively affirm that we do believe that all forms of discrimination against women should be eliminated here and elsewhere, and we congratulate the Opposition at least for wanting to save the mes-

sage even though they are willing to kill the messenger.

**The Speaker:** The question is BE IT THEREFORE RESOLVED THAT this Assembly requests that the Government of the United Kingdom and Northern Ireland, extend its ratification of the Convention to the Cayman Islands before its next Report to the Committee on the Elimination of Discrimination Against Women. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed, Government Motion No. 03/04 passed.**

## ADJOURNMENT

**The Speaker:** Honourable Leader of Government Business please move the motion.

**Hon. W. McKeeva Bush:** Mr. Speaker, it has been a long day and a very interesting debate. I want to agree with everything that the Minister of Community Affairs has said but with one caveat and that is, I want nothing to do with both of them, so I hope that he as the Minister of Community Affairs understands where the United Democratic Party is coming from.

Having said that I move the adjournment of this Honourable House until tomorrow morning 10 am

**The Speaker:** The question is that this House do now adjourn until tomorrow Friday, 23 July 2004 at 10 am. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed, at 8.14 pm the House stood adjourned until Friday, 23 July 2004 at 10 am.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**23 JULY 2004**  
**10.48 AM**  
*Eleventh Sitting*

[Hon. Cline A. Glidden, Jr., Deputy Speaker, in the Chair]

**The Deputy Speaker:** I will invite the Honourable Minister of Community Services, Youth, Sports, and Gender Affairs to lead us in prayers.

**PRAYERS**

**Dr. the Hon. Frank S. McField:** *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 Cabinet 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 11.47 am**

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

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

**Apologies**

**The Deputy Speaker:** I have received apologies for absence from the Honourable Speaker; and apologies for late arrival from the Minister of Planning.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS  
OF THE CABINET**

**Questions Nos. 4 and 5**  
*(Withdrawn)*

**No. 4: Mrs. Edna M. Moyle** asked the Honourable Minister for Community Services, Youth, Sports, and Gender Affairs to give the proposed date for the completion of The Young Offenders' Facility at Northward Prison, and if The Young Offenders' Facility is not yet completed, where are juveniles and young offenders being held.

Seeing that these questions appeared on the Business Papers since February and I have read in the newspaper that this facility at Northward has been opened and juveniles are now being housed there. So, I seek permission of this Honourable House to withdraw these two questions.

**The Deputy Speaker:** The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you. Mr. Speaker, I beg to second that.

**The Deputy Speaker:** The question is that this Honourable House does withdraw Questions No. 4 and 5.

All those in favour please say Aye. Those against?

**Ayes.**

**The Deputy Speaker:** The Ayes have it. Questions 4 and 5 are thereby withdrawn.

**Question No. 6**  
*(Withdrawn)*

**The Deputy Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.** asked the Honourable Minister for Community Services, Youth, Sports, and Gender Affairs to state what the cost of the Affordable Homes is. However, this has been answered in a statement by the Honourable Minister, delivered to

this House some weeks ago. So, I beg leave also to withdraw that question.

**Mr. V. Arden McLean:** Mr. Speaker, I beg to second that.

**The Deputy Speaker:** The question is that Question No. 6 be withdrawn.

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

**Ayes.**

**The Deputy Speaker:** The Ayes have it. Question 6 is thereby withdrawn.

## STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

**The Deputy Speaker:** I have received no notice of any statements.

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Orders 45 46 (1), (2), (4) and 47

**The Deputy Speaker:** I call on the Honourable Leader of Government Business for the suspension of Standing Orders 45, 46(1), (2) and (4) and 47.

**Hon. W. McKeeva Bush:** Mr. Speaker, I move for the suspension of Standing Orders 45, 46(1), (2) and (4) and 47.

**The Deputy Speaker:** The question is that Standing Orders 45, 46(1), (2) and (4) and 47 be suspended.

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

**Ayes.**

**The Deputy Speaker:** The Ayes have it. Standing Orders 45, 46(1), (2) and (4) and 47 are suspended.

**Agreed: Standing Orders 45, 46 (1), (2) (4) and 47 suspended.**

## FIRST READING

### The Community College (Amendment) Bill 2004

**The Deputy Speaker:** The Bill has been deemed to have been read a first time and is set down for the Second Reading.

## SECOND READING

### The Elections (Amendment) Bill, 2004

**The Deputy Speaker:** I call on the Honourable Leader of The Opposition for the continuation of his debate.

Honourable Leader of The Opposition, I just want to remind you that you have one hour and thirty nine minutes remaining.

**Hon. D. Kurt Tibbetts:** Thank you very much, Mr. Speaker.

Mr. Speaker when I finished off on Monday evening, I was closing off on the point where in the main Law, section 21, the amendment in Clause 9 of the new Bill, seeking to change the time from twelve months to six weeks in regards to an elector who changes his or her name or address of residence having to give notice in writing in Form 13 to the registering officer for the electoral district in respect of which he is registered as an elector and shall, where the change of residence is from one electoral district to another, at the same time send a copy of such notice to the registering officer for the electoral district within which the new place of residence is situated.

Mr. Speaker, to finish off that point, I do not know where the time of six weeks has come from, and in looking at the committee stage amendments that have been put forward so far, I do not see any committee stage amendments to that timing; but I want to suggest that the time, while I accept, twelve months is a bit long. I would think that the time for this to occur should be at least three months and not six weeks. So, I am making that suggestion with the hope that those who are taking notes might wish to add that as an amendment.

You see, the new amendment, when you place that into the principal Law, the Law itself says "you shall", so you do not have a choice in the matter. However, it does not draw any penalties. So, there is a bit of impotence as it is and it is really left to the will and direction of the individual, while the Law itself says "you shall do so". I would think that in many instances it is not at all times that people are building a new house and moving from George Town to Savannah or some other location. People do rent and from time to time they move for various reasons. So, the truth is there are individuals who, in between an election, may move three or four or five or six times. So, I do believe it should be a period of more than six weeks, and I am suggesting three months for that period.

Mr. Speaker, I was thinking about it after we closed off on Monday evening, and I was remembering what the Minister for Community Services spoke on and some of his line of debate. While it is fresh in my mind this morning, I need to make a comment or two on his line of debate because one of the comments he made was referring to the fact that he was

not a First Elected Member in here. Obviously, he is speaking about multi-member constituencies, and he was not one of them who spent the most money in the last election. I am not so sure where he was going because he stopped short of making any direct comments, but I have two comments to make about that. One, I so happen to be one of those Members in here who is presently a First Elected Member, and if he was pointing his comments at me personally that is a different matter. However, if he was making a general comment, then all I should tell him is that he needs to look across and behind him and he will understand that on this side there is only one First Elected Member and on the Government side there are three in the multi-member constituencies.

So, if by innuendo he was making any negative comments, I surely know that he would not wish to make them against his colleagues so he had best be careful. However, if he was speaking to me personally and singling me out, the other comment that I have to make about that, Mr. Speaker, is that the 2,753 people registered in the District of George Town that voted for me last time, I am absolutely certain do not take kindly to any insinuation that they voted for me because I spent a whole pile of money. I certainly do not believe that he would want them to think that he thinks they do not have good sense. Therefore, when he is making his rash comments, he had best think twice about how he makes them. I know that the people know me just as well as they know him, and he keeps talking about who is going to get whopped. November 17th is coming, and the good people in the district of George Town and indeed in the Cayman Islands will decide, and whoever they decide, they will get the government they deserve. I certainly am not one of them who are going to pre-empt that situation by trying to tell them how they should think, because I know they have good sense. I wish he would make sure that he understands that himself.

Mr. Speaker, there is another question before I finally move off of the amendment to Section 21. If we leave this at six weeks, and when this Law is passed and comes into effect that six-week period exists. How is it going to affect those individuals who have been registered in a district but have moved into another district for less than a year? They are going by the Law as it exists, so during the registration period, because the time is less than a year unless they had a keen desire to do so, they did not think that they needed to change their address. There is still the period of objections facing us and if this Law remains at six weeks, I wonder how that is going to affect those individuals. Those are matters that need to be thought out very carefully, Mr. Speaker, because we would not want for any reason to disenfranchise anyone's ability to cast his or her vote.

I am pleased to see that section 42 in the Amending Bill, which seeks to remove an Agent's right to keep a written record of persons who present

themselves as electors have been moved as a Committee Stage Amendment to remove that Clause from the Bill. Those of us who have been directly involved in the process over the time understand very clearly that even if the thought is extended, if you keep a record in the various polling stations of the individuals who come to vote and you have a voters' list in front of you and you keep ticking it off, at the end of the day you know who did not attend. Everyone has a free choice and the argument cannot be put forward that if you are allowed to keep that record you will know who did not come out to vote, so, therefore, if there is something you might hold against them or an individual holding office, I hear that argument but I would like to believe that we are not as petty as that. If someone did not come out to vote, regardless – first of all you really do not know when they go inside who they are going to vote for so one cannot make assumptions as to why the person did not come out. Truth of the matter is that the only sensible thing to do would be on the occasion that may arise for you to have the opportunity to speak to that person that you simply try to find it out because it may be something you were lacking with why they would not come out to vote. So, I am glad that the committee stage amendment has been made with that.

Mr. Speaker, the very troublesome area of election expenses, Part IV of the Amending Bill, which seeks to replace the old Part IV in the principal Law. As everyone who has spoken has said, I think we all agree that there are certain Sections in Part IV, which at present are unrealistic.

I want to start off, Mr. Speaker, with your permission, Sir, examining an article on the front page of the *Caymanian Compass* dated today, which is headlined "Elections Law Debated". The very first paragraph reads: **"under proposed changes to the Elections Law a candidate would be allowed to spend up to \$35,000 for election expenses up from the present limit of \$10,000. The new spending limit is one of the numerous changes in an amendment bill brought to the House on Wednesday, just 119 days before the 2004 General Elections."**

Mr. Speaker, if one were simply to read that on its own, one would get the impression that there is a finite limit of \$35,000 for an individual to spend as compared to the \$10,000 limit which exists now. Here is where I go into my contribution to this section, Mr. Speaker: What is being proposed is from the date of nomination of candidates, from that day when the Country know these are the candidates for the various electoral districts, which I think, happens to be October 6, 2004 for this election, between then and polling day, for individuals who are independent candidates that is, not part of any group coming together, there is a \$35,000 limit. For individuals who form part of a group or a party, the individual limit is \$30,000. That amount is what individuals can spend from nomination day up to, but not including November 17.

What is being proposed that it does not address and which the article in the newspaper might confuse people with, is that prior to nomination day, it absolutely matters not how much either an individual or a group spends. As the point has been made before, when one thinks of the vast majority of activities and paraphernalia that will be dealt with by candidates – T-shirts, television time, space in the printed media, radio time, bumper stickers, signs, billboards, and the list goes on and on – those items would perhaps make up, if I am to wager a percentage, easily between 85 and 90 percent of the cost of running an election campaign.

The way it is being proposed now, once one has the ability prior to nomination day, then one can easily spend and pre-book and pre-purchase all of these items, all of this time, all of this space. So, the \$35,000 that is being proposed for individual candidates and \$30,000 for those what are in a group really has no reflection on true campaign expenses. Therefore, if we pass these amendments as they are, what we are doing is simply saying that you can spend all you wish up to nomination day, but from nomination day to Election Day, you have \$35,000 to spend.

While others who may have spoken before will speak to who has more money than others and all of that, the important aspect of this point is this, in my view: Far be it from me to agree with the Minister for Community Services where he speaks his solo point that if it were left to him, he would have no limits for expenditure during an election campaign because whoever has the resources, you spend whatever resources you have and the people will decide. My view with that, Sir, is that – let us step back for one second and look at other jurisdictions.—The vast majority of jurisdictions in some form or fashion in various ways set campaign expenditure limits. There are many reasons for that. Depending on the jurisdiction, there will be reasons that are more relevant to that jurisdiction than to another jurisdiction.

One of the quick comparisons that all of us will look to is a place like the United States. There are limits that are set and there are various reasons. One of the biggest reasons in that jurisdiction, Mr. Speaker, is the many special interest groups and they have lobbyists all the time. You have various large, either institutions or bodies whom the candidates seek to gain support from publicly, not hidden. Some of those bodies and institutions' pockets are very, very deep and if you did not set limits, it would simply be a matter of who could spend the most money. Obviously, those bodies or institutions are not going to spend that kind of money to get a party or a group or an individual elected if they did not know that that individual was sympathetic to whatever their objectives were, either in business or whatever else. It does not have to be business though. You have bodies like the National Rifle Association (NRA) and other bodies that have their own particular agenda and interest,

whether it is good or bad is another matter, which I am not concerned with at present.

So, with all of those ingredients, when it comes to electioneering and the monies that are spent to elect people there is an obvious need to restrict the level of spending. Let me immediately say that while that is a principal that I firmly believe in, I also believe that one has to be realistic with the times. So, I accept the \$10,000 limit is absolutely not realistic. Everyone has had problems with it prior to this.

Where we have a huge problem, Mr. Speaker, and personally, I believe it is for this reason why it has come forward this way. While there may be difficulty in physically monitoring the situation and being sure that everyone who is involved in the process is adhering to what the legislation calls for, because it is difficult to monitor it, one simply cannot throw their hands up in the air and make it very easy by simply saying that you can do what you wish before nomination day but as of nomination day you have to produce a record after the election, which accounts for all of your expenditure and it must not exceed \$35,000. That, in my view, is very simple, very easy for the authorities to monitor and once the returns are in, quite easy to go through, justify, and vet and make sure it is right. However, before that, I really think there is a problem, and as a country I do not believe that because of these difficulties we should be inviting the possibility of such situations, as I have given examples of to be occurring.

In every debate we have here we speak about this Global Village. The Cayman Islands are not segregated from the rest of the World and the activities that go on in the rest of the World. I am here to say that I believe if we are to simply allow this amendment to go through in that vein, then it is going to—whether by perception or by reality or some of both—create a circumstance where any type of special interest situation can be lured to incur expenditure on behalf of certain candidates and huge amounts of expenditure once they are satisfied that if they get this group in or this individual in that the individual or group is going to press for their cause, whatever that is. One might say that is how the world works, yeah, but because that is how the world works does not mean that this is how we want Cayman to work, and we all say that in our own way on different occasions, Mr. Speaker.

Let me just step back and try to be a good boy and not speak to any situation that exists among us and the competition that is there and the rivalry and sometimes the acrimony. I am just being realistic and I am saying that it does not matter to whose advantage one might seem that it might lean to on any given occasion or at any particular time, but just looking at it, purely stepping out of the box and looking at it in that fashion, I have a great difficulty with our legislation allowing for such a possibility. Simple as that! I think that is were we have to be careful when we have our deliberations in that manner. It does not

matter how much we argue among ourselves or positions the Opposition or the Government takes and everybody doing their job because it is the Opposition's job to do such and such and it is the Government's job is to bring forth policy and to implement and whatever. This is a situation that will affect everyone and we cannot look at today for that situation, because we create this legislation two or three terms hence when all of us here now are not in here. We are the ones who will have created that legislation and I am not going to be a part of it and that is where I have the difficulty. When we leave here the legislation is still here and I have great difficulty with that. I am not even going to encourage that and I am not even going to be part of allowing the possibility of that happening! Not in my country!

The other Members of the Opposition who have spoken have been putting forth the arguments and I say this very seriously, we can argue amongst ourselves, counterpunch for counterpunch in here with logic, which is the way debate is supposed to be and that is fine, but we need to step back and understand the implications if we do this. It makes our life easier right now but I am saying today that we are inviting plenty trouble if we leave this proposed amendment in this form. There has to be a finite period of time in which one is allowed to spend whatever the limit is. I am going to go a little further. Do you see this \$35,000 limit? I for one am not going to argue if that limit is raised because I am realistic and I too have been involved in this process for four Elections and I must know something about it. I have also been involved in it in the largest district of all. So, I am saying that I understand that without any of the funny business, just the normal course of events to be able to get your message to be able to meet as many individuals either face to face or by some media to try to convince them that you are the right person or group to vote for, that it costs money. I would much rather us go back to the drawing board and raise that limit, but have a specific time period and under specific conditions than to simply leave the limit at \$35,000 from nomination day to election day and the build up period from the day after the elections straight to the next nomination day, which is four years less six weeks you can do what you want.

I say to everyone in this Chamber we need to think about that. No one needs to tell me that nobody is thinking about it so they do not know why I brought it up to put it into everyone's head. That has been there forever. I am not afraid to stand in this Chamber, I have been exposed to it, I have had my offers and refused them because people know what I will and will not do, and that is why I am standing here today saying it. I do not want any part of it! This does not have anything to do with anybody at all.

Mr. Speaker, if I have to implore on the Government to rethink that position, I am going to do that but I can say on behalf of the Opposition that if there is no reconsideration for this section, all of the other

sections we can use logic and everybody will have their own ideas, no venom and no animosity but the Opposition is not going to participate in this and they cannot say that we have not explained why. I take all of the personal issues out of it to guarantee that there is a chance for simple good Caymanian common sense to prevail.

I could go on and site all kinds of horrendous examples; I do not want to do that; I simply want to leave my line of argument to the principle that I speak to and I say in my final comment on this section, we must not allow ourselves to be exposed to that, even if we know nothing on the horizon of what might happen, we must not expose ourselves to that. It has too many far-reaching implications and in matters like these we might be simply speaking to election expenditure but we all know, you not being an exception, matters like these stretch themselves into every single sector of society that you can think about and I am not having any part of that.

I was hoping when we had our first meeting and we were told that there was going to be another meeting that we would have had time to sit down and amongst ourselves, even with the differences, and sensibly get through it and come up with an arrangement that we were not uncomfortable with. I do not care who has more than who to spend. The good people of the country are going to elect who they wish and whatever happens with that we have to face that whichever way it goes. If some of us have to go home then we go back home and regroup, but we must be careful with this; very, very careful with this! I am not going to comment anymore on the point because I think it has been made before, but that is our position, Sir, and they cannot say that the position has not been explained.

Mr. Speaker, another point I wish to speak to— clause 27 as proposed in the Law seeks to amend Section 72 in the principal law. Section 72(1) of the principle law says; **“No intoxicating liquor shall be sold, offered for sale or given away at any premises situate in any electoral district in which an election is being held, to which a license issued under the Liquor Licensing Law (2000 Revision) applies, at any time between the opening of the poll and –**

- (a) in the case of a hotel, one hour after the close of the poll; and**
- (b) in any other case, the declaration of the results by the returning officer.”**

How it reads at present is, one hour after the polls close, in the case of a hotel, that hotel may commence selling alcohol but all other premises whether retail or wholesale or whatever category of liquor license there is, including restaurants, no alcoholic beverages can be sold until after the results of the Elections are declared in whatever district that is.

In the smaller districts it did not present a problem from the timing point of view but for many of the businesses, as I understand it, in speaking to the



persons from the Elections Office, in asking the reasoning behind the proposed amendment. They seem to have had representation from establishments who believe they are disadvantaged, especially because of the fact that the hotels are allowed to do so. If no one were allowed to do so then it would be okay but they seem to think that it is not fair. It will not be such a bad situation when we think of it, the fact that some of the amendments contained in the Bill allow for, especially in the larger districts, the number of counting stations to increase. West Bay and George Town in that order always take a long time. I have known the results in George Town to take from 27 to 28 hours, so if the polls close at 6 o'clock one evening you are into 9 or 10 o'clock the following night before you have the results, and West Bay not so far behind or ahead depending at how you look at it.

If we are going to have additional polling stations and the objective is to have that situation to where by midnight of Election night all the results are compiled, completed and declared then I do not think that this is a situation that we want to argue with and say that it is such a bad situation. So I do not have a problem with the logic that is being applied here and I think the only other way to handle it is if it is not wanted to happen then nobody can do it.

I can hear the logic from the hotels because of the tourism industry; the people who are here during that time are not interested in our elections, they just want to have their fun. Understanding that we do not want to go that route, then to be fair to all concerned, we are not going to argue against that amendment.

Some persons may have the desire to have no alcohol to be dispensed, and certainly, they will have that right and I can understand their thoughts also. Being practical about the situation, I believe, it is something that we have to seem to be fair even if it is not something that everyone agrees with in decisions regarding that.

Clause 26 seeks to provide for the regulation of political broadcast and the new part 4(b) comprised of Sections 65(j) to (m) providing for the regulation of statistical information. In Section 26 there are various improvements proposed, which outline specifically what one is allowed to literally say and do and it sets the tone for the behaviour of candidates during the campaign. All of us who have been there know that in the heat of the moment have, on occasions, said things that even though we publicly will not admit, we might regret, and that is because of someone saying something that you did not like and then you say something worse than that, and it takes on its own life. These additions to the Law will give us a good guideline as to our behaviour, especially during the Elections and the Campaign when all of us 'are *in the silly season*', as my colleague the Second Elected Member for George Town speaks to.

The vast majority of the proposed amendments in this Bill are amendments which we can sub-

scribe to and which we can agree to. There are a few which I have mentioned, some of them we feel more strongly about than others, which we take issue with and would hope the Government would be prepared to again look at the situation to see if we can come at, not just an arrangement where it satisfies the Opposition, but come to a situation that is as practical as possible, but at the same time, giving us the comfort that if we are to cast a vote in this Legislative Assembly, whichever way we go with it, we can believe that we are doing the right thing.

Mr. Speaker, perhaps others will speak, I am certain the Government is going to respond and I once again ask for them to have a serious look at some of the points that have been made and not think about us and them in this, but to look at the circumstances under which we bring our positions and to examine clearly the logic that we have applied.

We on this side will wait to hear what the Government's disposition is and that will guide us into the way that we cast our vote, which we know is in the minority.

Thank you.

**The Deputy Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

I recognise the Honorable Minister for Education.

**Hon. Roy Bodden:** Mr. Speaker, I wish to make a few brief comments on the Elections (Amendment) Bill, 2004.

Perhaps the most important comment I should like to make is that there is an inherent danger in trying to amend a bill that is as important and as controversial as this at this the eleventh and three quarter hour. I cannot say that I am entirely happy with such an undertaking at this time of short notice because I believe that democracy and efficiency would have been much better served had we more time to debate, study, ponder and discuss these issues. Nevertheless, having registered my personal disposition I want to move on to address some concerns.

Contrary to what the Opposition tries to portray, I believe that the electoral system we have here is a good system. Comparatively speaking we experience none of the problems that are experienced in other jurisdictions where politics often times take a violent turn.

I was listening last evening to some Members of the Opposition and I believe it was the Second Elected Member for George Town talking about the issue of postal ballots and insinuating that there is an inherent danger in the way postal ballots were handled and indeed I believe he drew reference to some situation, which according to what I inferred from his contribution, bordered on corruption or illegal practices.

Certainly the Member was right to express what he considers his democratic opinion. Just like

there are problems with postal ballots so too are their problems with their proposal of mobile voting and there is no way that I, in my right senses and having knowledge of what I have about mobile polling stations in other jurisdictions, is going to allow that kind of insidiousness to creep into our system, which thus far has been free from the ramifications and the outcomes of what mobile polling stations can lead to. I say that to say that there is no system that offers perfection if we are talking about a democracy. Just like beauty is in the eye of the beholder sometimes these problems are in the eyes of those who perceive them. Certainly, that is the case with what I heard the Second Elected Member for George Town try to articulate about postal ballots.

There are some things in the Law that gives me concern. One thing that comes to mind and I am going to say: I believe that if we are talking about a mature democracy—I was just chuckling to myself because in every jurisdiction of the world that I know political polls are allowed to be taken. I do not see anything wrong when taking political polls once the pollsters identify themselves and publish the results. The democrats have their pollsters and the republicans have their pollsters, indeed people who are conscientious welcome this because it gives them a mark to measure their performance by vis à vis that of their opponents. If you have a machinery or any kind of political organisation just because someone lag behind in the poll might not necessarily mean that they are going to lose. What I would legislate against is mischievous, unlicensed, uninformed and uneducated persons taking polls and publishing them.

In my organisation I will have polls taken because I believe in scientific management and I believe that is the way to go. It is personally for my own edification and I certainly will not be publishing them but I do not really care because I remember vividly the last election, a poll was published saying that my colleague and I were not going to win, the results proved otherwise. I say that to say that sometimes we have to weigh very carefully what we are trying to preserve and protect against.

I see the logic, sense and necessity to guard against mischievous people and people who are unlicensed or uninformed publishing results to create mischief. If we have pollsters who are licensed and who are neutral parties then I do not know if there is anything wrong with that. As I said, in most of the developed countries that I read about they have them in political parties; commission them and if individual people want to do so as long as their names and addresses are indicated so that if there is any mischievousness proven they can be taken to court. I think that is all that one need ask for.

I listened to other areas of contention by the Opposition and the insinuation regarding the expense limits and the whole management of expenses. The expenditure of monies and political campaign is the source of concern all over the world but there is no

overriding evidence to say that the Cayman Islands is worst off than any other jurisdiction where this is concerned. Indeed I believe that we are much better off than many other jurisdictions and it is an absolute impossibility to believe that we can, by legislation, contrive a perfect situation.

What I think is necessary in this regard is to arrive at a reasonable limit of expenditure and structure it so that it covers the critical period. What I fear happening is that in our haste to do good we put the situation so that it is out of limit of those who may seek to gain public office by making the terms and conditions onerously difficult so that individuals and candidates of a humble origin find it difficult, if not impossible, to contest the election because the Law is so constructed they will not be able to comply. That is a danger that we should pay credence and attention to. Of course, I believe that campaign expenses should be regulated and I listened carefully to the insinuation made especially by the Leader of the Opposition.

I do not know if any evidence exists to say that any people are bought in the Cayman Islands. I certainly do not know of any and if the Opposition knows then they are duty bound to say, but I refrain from insinuation and casting aspersions because if the truth be known there is no evidence to say that anything irregular or illegal has transpired in the elections up to now, or is about to transpire in the forthcoming election. I suppose it is the Opposition's job to say that there is a *boggy man* around every corner. I believe that if we incorporate we can get a liveable law, even at this hour and I would think that is what we should strive to do. We have a responsibility to debate passionately and to present our causes as truthfully as possible and if we do that then, even at this late hour, I believe that we can have an Elections Law that all of us can accept.

**The Deputy Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Third call, does any other Member wish to speak, if not I call on the Government to wind up?

#### Point of Procedure

**Mr. V. Arden McLean:** Mr. Speaker, on a point of procedure.

**The Deputy Speaker:** Member from East End.

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

Mr. Speaker, procedurally the Honourable Temporary First Official Member introduced the amendments to the Elections Law and he is not here so procedures require the Mover of any motion or bill would reply to the debate thereon. So, I wonder how that transpires now with him not being here.

**The Deputy Speaker:** Honourable Member for East End my understanding is that in the event of sickness,

death or other misfortunes there are provisions made for a deputy from the Government side for the completion of bills when they have been moved.

My understanding from the Government is that in the absence of the Temporary First Official Member the Leader of Government Business has been asked to respond on behalf of the Government.

**Dr. the Hon. Frank S. McField:** Mr. Speaker.

**The Deputy Speaker:** The Honourable Minister of Community Affairs.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, it surprises me that the Opposition is not in the position to understand that the work of the Government must continue and the fact that we do not have the individual who originally moved the Motion does not take away from the fact that it is the Government that is moving this Motion in the Legislative Assembly and therefore, it is up to the Government in the absence of the individual who has been chosen to move this motion to choose another person to do so, and this is exactly what is happening in these circumstances.

I also do not understand what worry is that the Opposition has.

**Mr. V. Arden McLean:** Mr. Speaker.

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

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

We are merely trying to get clarity on this. On public bills Standing Order 44(4) says; "**A Member submitting such a Bill for presentation shall be known throughout the subsequent proceedings as the Member in charge of the Bill.**" So, we were trying to get some clarification and I am very glad that the Government and, in particular, the Minister for Community Affairs has now, finally, admitted that this is the Elected Government that is bringing this Bill, because in his debate he said that the Civil Servants were bringing it through the First Official Member. We thank him very much.

**The Deputy Speaker:** Thank you very much Honourable Member for your observation.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, I would just say, and I am not going to continue this back and forth, but to just say that the logic of the Member from East End is that he is trying to do a one-upmanship. They got up not on a point to try to prove something about myself, but got up on a point to try to question the fact that the Leader of Government Business was doing a response. Now that they understand that they do have a right to do so I am willing to sit own in my seat and be quiet.

**The Deputy Speaker:** I recognise the Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, the Member from East End jumps up at every occasion and the truth is that I am sympathetic to his misunderstanding of things that he does not comprehend.

I am not amazed by the debate on this Bill, but as usual, I am concerned with the type of debate and I do not know why the Opposition deems it necessary to carry on the way that they do. I recognise that there is an election before us but do they really have to try to make a crisis out of everything that comes before this House. Let me begin clearly by saying that the Leader of the Opposition, the First Elected Member for George Town, asked us not to rebut as if it is an us and them. He should have talked to his mates before they spoke because that is how they debated the issues. So, he should have asked that of his colleagues before, but of course, he wanted them to do all of the donkey work and carry on the way they carried then he comes behind and tries to be Mr. nice guy like he had not ran in an election before. All that his team mates did was to try and blame the Government for everything.

Let me move to this thing about whose bill it is. There is nothing in this Bill for me to shirk from. I saw two things happening in this debate, the Dundas Report, which was not made to the Cabinet and was not before the House, and in my opinion should not have been debated. Nevertheless, Members were made to refer to it. The other issue was the Law. The amendments before the House were sent to Cabinet and everybody had those amendments and in March the Chief Secretary at KirkHouse, distributed them and there was a meeting with every Member. Before it came here the matter was with the Elections Officials trying to get to various amendments and other people were talking to them and, of course, they were looking at how best to make the electoral process better, and just last week we dealt in Cabinet with these matters.

When we addressed and talk about time, why they are here and who they belong to, the amendments came from the Cabinet. The Law is that we see the needs that exist and the need to help make better our electoral process. There is nothing being hidden here as to who this belongs to. The Report of Dundas was made to the Election Office, not to the Cabinet and what was presented to Cabinet was the draft amendment, no report, and that Report had never been laid here as a policy because we, the Cabinet and the Government never adopted the Report. They have had some time and that has been a ploy of the Opposition, so I am not going to get riled up about that. They need something to chat about and they do that like a super boiler. I am not concerned about that but what I am concerned about is the various references made by several of them, not

the least the Second Elected Member from George Town, the General Secretary of the PPM.

There is no obstruction to justice in these amendments and democracy is more alive in this country today as it has ever been. While some people are talking about the party system, the party system has given us more democracy than has ever been and it will continue to do that if we abide by the rules of our parties, stick together on one side of the party, working with the party and involve the public, it will be a democratic process.

So, when I look around and see the things that make our democracy better; we have a Complaints Commissioner who has a law degree behind him that he has to depend on and with which he will work with. Do not say that the Government is hiding or trying to hide anything! We would not put a Complaints Commissioner in place if we did not intend for the Government or the Civil Service to be accountable, whichever way we look at it. When we speak about moving the Bill, I believe the Minister for Community Affairs was actually thanking the Civil Service and the Elections Officials who did the work on this, and also the Official Member who moved the Bill.

There is now and has always existed, room for where if one Member of Government moves a bill another can be deputised to reply for him in the same way that we do questions. If a Member is not here he can deputise someone to either ask that it be put over for another day or that it be answered by that Minister or person. So there is always room and there has to be because work has to go on. You do not sit still as the Minister of Community Affairs has said. So, I do not understand all of the flux going on over there with the Members from the Opposition and the point raised by the Member from East End who did not know what he was doing.

*[inaudible comments]*

**Hon. W. McKeeva Bush:** Mr. Speaker, the Member is saying that I am in charge of everybody, let me address this because that is what they go out and say publicly. We have to act for one another in the Cabinet when we are not there. So, the Member can carry on and open his mouth as much as he likes but he is talking nonsense and he must recognise that he is taking nonsense! I only act for my Ministry and when I am asked to act for another Ministry. I have no powers over the other Ministers of Cabinet, no more than they have over me. So, do not get out there— I know that they talked about this dictatorship and dictatorial this and dictatorial that, I cannot do one thing unless I have the support of Cabinet! I cannot go further unless I have the support of this Honourable House! Does that make me a dictator? The Member from East End never usually knows what he is saying when he is standing—and less when he is sitting down, because when he is sitting down he is sitting down on his sense.

When the Opposition makes the kind of innuendoes and outright accusations, they are not hurting the Government; they downright hurt these Islands. I had to raise that point yesterday in the CPA meeting, I said to them: Remember when you go together overseas, or by yourself you are not representing the PPM or the UDP, you are representing the Cayman Islands! When they rise here they can say they are representatives or belong to a party, but they are also representatives of these Islands and when they make the kind of accusations and innuendoes that have been made here over the last three years, and in particular, some of what has been said recently in the debate on this Bill, is downright disloyal to the country! No wonder so much can be said elsewhere.

Their speech made here was only made to inflame and create doubt as if the Government were doing those things, like they talked about, taking away a level playing field. I think that came from the two Members on the front bench now, when in fact what this Legislation is doing is making a level playing field for everybody; we are making a level playing field. I am not surprised by their debate; it is only part of what I have come to expect from the Opposition as they exists.

While I am on it, they are talking about elections; I am not scared of election. I heard the Leader of the Opposition and all of them that spoke refer to the coming elections, I am not scared of that. I have faced the elections since 1980 and I have done well because I think the people see that and I trust the good common sense of the people of these Islands. So, I am not concerned about the ranting and ravings of the Opposition. It seems that they believe that is going to cure everything. That is not going to cure the problems of this country; I can tell the world and the Cayman Islands that. I can tell the people of these Islands and the people of George Town that if they want to try to cure some of the problems they should really look at whom the Opposition and the Government exists of, but the Opposition as they stand are offering nothing to cure the problems of the country. Everything is blown out of proportion and you do not govern like that.

In dealing with the level playing field, what was outlined by the Second Elected Member from George Town is not new. When he outlined is in the present law that anyone can spend— this is one of the things the Leader of the Opposition pitched on— anyone can spend whatever amount before the cut-off date, which is one hundred and ten days before polling day when the stipulated amount a candidate can spend kicks in. This is not new and that particular clause does not give anyone on this side a greater advantage than it gives the PPM or any other group or independent candidate; that has been and is in the present law. The fact is you are not a candidate until nomination. I do not know how they are going to address this and I heard the Opposition Leader trying to make much of that.

Prior to nomination it does not matter what amount and if he can come up with a formula where we can govern someone's expenditure before they become a candidate, because you are only a candidate on nomination day, if they can come up with a formula and if they have it they criticise it, of course, as they usually do! If they can come up with a formula where the elections officials can advise the Government that we can govern someone before they become a candidate on expenditure, then let them bring the formula. You will be trampling people's rights if they want to go out there before they announce their candidacy and actually sign the nomination papers and spend their money—you would be trampling on their rights if they want to build a community centre and say, '*I George Jones built that community centre and I am asking you to vote for me*'.

If they want to spend their money and put down a road or if they want to spend their money and buy a boat or send someone on cruises, as I hear they are doing now, then that is their business! You cannot tell people what to do, but the Opposition got up here and made all sorts of racket. I do not think that I can refer to the East End Member who keeps chatting over there like a washing machine; I am not going to pay him any mind. They have been in the game, they have been in the process but the Bible says, '*as a man thinketh so is he*'.

The definition of a candidate currently includes a sitting member of the Legislative Assembly who is disadvantaged because of the one hundred and ten days factor before an election; this includes them also. He must give an account for one hundred and ten days. Do not say that what we are doing is wrong; we are trying to level the playing field. The prospective candidates who are not sitting members only become an official candidate on nomination day, which is approximately forty-two days before elections day. What we are proposing is to give a level playing field to everyone because the expenditure kicks in the same time for everybody.

Not many jurisdictions set limits, so do not try to sell the Cayman Islands short. The Cayman Islands is one of the few that do and I think that we are doing the right thing. We have to be realistic though because if you are going to be a candidate there is certain expenditure and I do not think any one candidate in the last election spent \$10,000. It is very unrealistic with all the expense in advertising and so on. I do not understand where the Opposition is going with that one.

Mr. Speaker, I have represented the people of West Bay and of these Islands for 20 years and throughout that time if I was asked for something I evaluated the request, but if I could help I did so. I have never shirked from assisting people in need. Some people only know other people in need at election time, they forget about them all year round, some of these so called candidates. As a Back Bench Member or a Minister in Cabinet I have never shirked.

Unfortunately, there are those who believe if you help someone, no matter when, then you are buying votes. I have seen some written by that; I see one person who will always oppose me, he is not from West Bay but he lives in West Bay and he just has to chew on it because he cannot get me defeated. So, he will have to live with that. I do not think that the people should listen to him, I see him writing letters and saying all sorts of stuff about people buying votes, he must know who bought votes and I do not think that I should listen to him. I recall that he sat an entire day with a fork trying to scrape an old wife [fish]. I have no intention to ever listen to that man who is an "expert" on everything.

So, they try to make it be that you cannot help anyone at all, at election time and even when you declare it they say that you are buying votes. I will say this, they must remember that elected members of Cabinet are representatives and remain so until a new Cabinet is sworn in. I will continue my work as I have always done.

On the matter of mobile voting, I do not think that is the right thing to do and they can throw any innuendo, say as much as they want and make any accusation but mobile voting, in my opinion, takes away the right of secrecy. As it is now when a postal ballot is sent to one person then one or two persons might see who that person is voting for but on the mobile vote every candidate agent, to be fair, would need to be present thereby taking away the secrecy of the vote.

I hear the Second Elected Member for George Town saying that is not correct; maybe he can tell me why it is not correct but I would think so. If they are saying that we should send out a mobile unit to get people votes then you are going to have to have several people present. I would dare say to be fair to the candidates, that you would have to have their agents present. I heard them talking about they went to several boxes—I guess they must know what happened in George Town. I do not think that is the evil part of it but the Law provides for an improved system and I thank those people.

Except for the count, I think that the Cayman Islands have the best system in the region. If we did not have the best system then we would not be called upon to help other jurisdictions. I have had requests where people have talked to me saying that we should have electronic voting. We live in a world of technology but you only have to take a look at Florida and see what happened. Now in the United States they are going to internet voting, how much complaints and petitions that is bringing about. I think we have the best. We have people who volunteer to be an election official and they are known citizens of this country; people who are trusted and have a good name and they sit there and conduct the polls. I think we have done well over the years.

The greatest fault I find is the matter of the count because it takes a long time, and as far as I am

concerned, it takes too long, but as long as we need to take we should do it to make sure that all things are done and we are doing it manually, and everything can be checked back and proven. Even in the midst of the vote when you are challenged—the last time in the midst of one box they challenged my vote and when they recounted I had two more. So, I do not mind that, but it is a long time and I think what is proposed now will make it better. You will be able to have counting at each polling station and tabulated at the main polling station and that is very good, we will get out of there quicker and it will be less punishing for some.

The matter about the agent and I can see the Member from East End flinging his hands in the air saying this is a bad thing. If you had an agent—

*[inaudible comment]*

**Hon. W. McKeever Bush:** Because you would not keep your mouth shut when you were supposed to.

When you have an agent and you give him or her instructions to follow from the law and he or she goes off and does something wrong, that is not the candidate's fault. For example, if someone wants to set up a candidate by saying that he gave something to the agent for the candidate, the candidate would have to prove otherwise. Agents, in my opinion, when you appoint one, must be able to be called to account. So far I do not think that they mind that, those who want to get involved and offer themselves to their candidate of their choice to be an agent, they do not mind being called to account.

On the matter of independence, I cannot see what we are doing here is an advantage over them. I do not know why the Opposition would raise that because the independents can spend \$35,000 and if I am a party candidate or group candidate I can only spend \$30,000 I cannot see that as an advantage over the independent. If he chooses to be independent then he is by himself and he must recognise that.

Mr. Speaker, I have signed amendments for the Mover of the Bill. The amendment proposed in relation to clause 3 of the Bill is in the deletion of section 4(2) for the purpose of providing three deputy supervisors without restricting one to responsibility only for Cayman Brac and Little Cayman.

The amendment proposed in relation to Clause 10 of the Bill is to change the start time in a political and a political party cannot be registered from the issue writs for a general election to nomination day.

The reason for the change to Clause 12 is to remove the provision for nomination deposits to be paid before nomination day.

The amendment to Clause 16 makes it clear that two counting agents can be appointed by each candidate to attend the counting of the votes at each counting station.

The amendment to Clause 19 enables agents and candidates to retain written records of the persons who present themselves at the polls.

The amendment to Clause 25 of the Bill is various changes in relation to election expenses. The changes proposed are as follows: A returning officer would no longer be required to give public notice of the names and addresses of election agents and to replace section 58(5) with the provisions of section 60(5) of the current Elections Law (2000 Revision), and to remove the regulation of the relationship between the candidate and his election agents, particularly, in relation to the employment of others in respect of an election and to remove various provisions that made an election agent responsible for a candidate's election expenses, and to remove the provision for the incurring election expenses of political parties based on the number of electors in a district.

The amendment to Clause 30 is for the purpose of retaining the existing nomination form-16 in the Elections Law (2000 Revision) until the requested amendment to the Constitution of the Cayman Islands is approved. The declaration in relation to not possessing any other citizenship would be invalid.

My last point before I take my seat. Members spoke of the taking of polls. I do not mind people taking polls but I believe that they should be accountable as to how those polls are taken and to be able to give as they are called upon, scientific research, and they should be able to be held accountable if they give a poll. I have seen polls when they came up with the percentage; it is more than 100 per cent. I have seen it! I am not worried about those who are taking polls to say that I am going to lose because they said that the last time; they had me down as number five. I knew that that was not the way that it was going to happen. I am not really burdened down because they take the poll. What must happen though is that they must be able to be held accountable if they give wrong and misleading information. Just as there are other wrongs in the election process then that would be counted as wrong. People are mischievous and do and say all sorts of things. For instance, I never dreamed that I would have a team to contend with to say that they are the dream team from the right side of the street. I never thought that anyone in the Cayman Islands would do that but to each his own and we shall have to wait to see whether it is the dream team in regards to my constituency or whether it is a nightmare on Rose Garden Street.

Mr. Speaker, I think the Temporary First Official Member, in moving the Bill laid the ground work well, and I think we can move to the Committee Stage where if anything else needs to be trashed out we have the Elections Officials and the Legal persons here and we could take it at that time.

Again, I thank the Elections Office, all of them but in particular, Mr. Gomez, Mr. Connor and Mr. Scott for their work on continuing to help us keep the best system in the region. Some people blow it out of

proportion and that is what the Opposition has done. We do not have those kinds of situations here. I have seen results in some territories where they have ten thousand people and end up with twelve to fifteen thousand votes.

*[inaudible comments]*

**Hon. W. McKeeva Bush:** Mr. Speaker, I am sorry that the Member for East End feels that way. *[background inaudible comments]* Well you should not be uttering those things.

As I said earlier, they should remember this is the Cayman Islands we are talking about and when you mention those things you are actually carrying down the people who vote. Do not think that they are fools and that they are out there downright dirty and could be just bought—they should never make those kinds of remarks. I have always credited our people for being good honest people. So, if they know of wrongdoing put it on the Table of the House or run to the newspaper with it otherwise stop making those kinds of innuendoes on the people of these Islands, because that is who they are making to look dirty, the voters.

Mr. Speaker, I would also like to thank Mrs. Myrtle Brandt who worked with us tirelessly on these amendments and amendments to the amendments, and who has stayed here late at night with us even in times of illness. So, I would ask all Members to now go into Committee and ask the Opposition to behave themselves.

**The Deputy Speaker:** The question is that a Bill shortly entitled the Elections (Amendment) Bill, 2004 be given a Second Reading. All those in favour please say Aye. Those against, No.

Ayes and Noes.

**Hon. W. McKeeva Bush:** Mr. Speaker, can we have a Division please.

**The Deputy Speaker:** Certainly! Madam Clerk.

#### Division No. 2/04

##### Ayes:

Hon. W. McKeeva Bush  
Hon. Gilbert A. McLean  
Hon. Roy Bodden  
Hon. Juliana O'Connor-Connolly  
Dr. the Hon. Frank McField  
Hon. George A. McCarthy  
Capt. A. Eugene Ebanks

##### Noes:

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

##### Absent:

Hon. Donovan W.F. Ebanks  
Hon. Samuel Bulgin  
Mr. Rolston M. Anglin  
Mr. Lyndon L. Martin

**The Clerk:** Seven Ayes, five Noes, four absent.

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

**Agreed by majority: The Elections (Amendment) Bill, 2004 given a Second Reading.**

**The Deputy Speaker:** At this time I propose to take the luncheon break and we will resume at 2.30 pm.

**Proceedings suspended at 12.37 pm**

**Proceedings resumed at 3.00 pm**

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

#### **The Community College (Amendment) Bill, 2004 (White)**

**The Deputy Speaker:** The Honourable Minister for Education.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. I wish to move the Community College (Amendment) Bill, 2004 (White).

As Honourable Members would have realised by now, the Community College has entered its transformation stage and will be a University this September. Before that transformation can successfully take place there is needed, some amendments to the current Community College Law (1999 Revision). The transformation has become necessary for a number of reasons, not the least of which is the fact that the Community College as an existing institution has achieved, over the years, an excellent academic record. Its students receive acceptance and in some cases advance standing in even the most prestigious of international institutions and indeed the graduates of the Community College of the Cayman Islands attend universities in the United Kingdom, United States and Canada, and equip themselves well.

The University College, like the Community College must maintain its comprehensive role, that is, the University College must continue to offer to the Caymanian community opportunities for academic, professional and continuing education.

Mr. Speaker, in moving this amendment I would like to lay the groundwork for a broader understanding of what is undertaking and in so doing I will try to be brief but comprehensive because I believe that that will, in addition to making the amendments clear and understandable to Honourable Members, it will also allow for the listening public to understand what is being undertaking and it will give me the opportunity to do a little public relation work for the soon to be University College.

**The Deputy Speaker:** The Bill has been duly moved, does the Mover wish to speak thereto?

**Hon. Roy Bodden:** Thank you, Mr. Speaker. The first thing that will need to be done in this exercise is for us to change the name of the institution from the Community College to the University College.

I have told the Board of Governors that the College must maintain the role that it has cast for itself and which has come to be accepted in the Cayman Islands. We are especially concerned that the College offer opportunities for Caymanian students to pursue their interests in technical and vocational education. Some people will be curious to find out how a university college can also be a college which offers scope and opportunities for technical and vocational education. This, Mr. Speaker, is not a new phenomenon. Throughout the Caribbean, Barbados, Antigua, Jamaica and in several of the other Islands the Community Colleges are being transformed into university colleges and there is an outstanding institution in Barbados, which was formally known as the Samuel Jackman Prescod Polytechnic Institute, specialising in technical and vocational education, which is, as we speak, being transformed into a university college. So, it is possible for an institution such as a university college to offer academic courses as well as courses in technical and vocational education.

I was saying in my introductory remarks that the Community College Board of Governors have accepted the fact that the Institution must maintain its comprehensive focus providing opportunities for those in the Caymanian society to access not only academic education but also professional, and continuing education and those persons who have an interest in technical and vocational education, as well as those persons who would wish to pursue interests that would be classed as hobbies.

We have, I might add, made several remarkable articulation agreements with premier institutions offering technical and vocational education, one being the British Columbia Institute of Technology. This is a large institution of some 35,000 students offering the full spectrum of courses and degrees in technical and vocational education. Most recently I visited the New England Technical College, or as its official name is, the New England Institute of Technology because shortly we will be sending eight students who most recently graduated from the Community College to the New England Institute of Technology to pursue degrees in applied technology, electronics and electrical engineering, building technologies, architecture and drafting. There is even scope for those students wishing to pursue advanced studies in the automotive technologies. This is in recognition for the need to place greater emphasis on technical and vocational training and education in the Cayman Islands.

I have said before that we are considered to be doing very well in the academic areas where about 30 per cent of our students excel and go on to tertiary level education. At the technical and vocational level we have to build up our cohorts of students and provide them opportunities to qualify and advance them-

selves in these areas. However, in order to be completely successful we realise that we must strengthen the curriculum at the High School and must initiate an articulation agreement between the High School and the Community College. We have put the necessary mechanisms in place to strengthen the curriculum of the High School and we will shortly be entering the articulation agreement phase between the High School and the Community College. It is proposed to start this exercise from year seven at the George Hicks High School so that by the time the students reach year seven and are ready to go into the High School they will have been firmly grounded in the rudiments of technical and vocational education in those areas, which they wish to pursue so that we can have a seamless transition from the High School to the Community College on to the degree granting institutions.

Our Community College, soon to be University College, will start with five areas of concentration in the field of business. Business management, accounting, finance commerce and banking and I am made to understand that it is proposed to set up a business institute. The President has told me that he expects that within a year or two we will be able to offer the CPA degrees here at the University College. However, there is another reason why we must go this route. That reason is, we are sending ever year more and more of our students on to tertiary level education mainly in the United States and Canada but significantly too, the United Kingdom. Within the United States especially, I have read that college tuition fees rise on average of 10 per cent per annum. Just this past year I am informed from the academic journals that tuition fees in the United States rose on an average of 35 per cent. We calculated at one stage there were one hundred and ninety nine Caymanian students studying abroad on scholarships. Each student, except in the cases of the Cayman Scholar, receives on average US \$20,000 per annum. So, we can see that if the numbers keep increasing we will soon have an amount which is unsustainable. The challenge therefore, would be to continue to send all deserving students who have made successful applications on to tertiary level education ensuring that they get the best. This does not include the students whom we would normally send to the Community College to grant associate degrees.

This past year the Education Council awarded 76 scholarships to Caymanian students studying abroad for tertiary level degrees. We have yet to complete the processing of those who are applying to go locally to the same University College. Additionally, all students going to United States institutions will have to go to Jamaica to get their student visas. This, Mr. Speaker, is an added expense on the students and it is also an inconvenience and there is absolutely no guarantee that the students who apply are going to get the visas in the first instances of application, for part of the application has to be done on line and the interview must take place in person at the United States



Embassy in Kingston, which will necessitate the students getting up and getting in line from five o'clock in the morning. I say all of that to say that this move to transform the Community College into the University College of the Cayman Islands is a move in the right direction, especially as it enhances the ability of Caymanian students to access at the same time and in the same numbers, technical and vocational education as they can access academic education.

Mr. Speaker, we realise that we live in a credential society. We went to great pains to ensure that those students studying in technical and vocational areas would be no less qualified and no less trained and educated than those going on to the academic streams. I am happy to say that the students pursuing technical and vocational education at the University College level will be getting Bachelor Degrees in applied technology with a major in electronics and electrical engineering, and a major in building technologies and a major in autotronics. We also have additional areas coming on line such as medical technologists, architecture and drafting.

The University College will be offering in the first year Bachelor of Science Degrees in the five areas that I have previously outlined. In addition to that, next year teacher education and information and communications technology will be coming on line. As we speak, we are conducting negotiations for an articulation agreement with a Teachers College in Massachusetts to begin our teacher training programme in September of 2005. We have the necessary administrators in place; we have faculty and the President of the College has told me that he is pleased at the increase in the ennoblement, thus far, as a result of interest and enthusiasm for the degree granting programme.

This will offer opportunities for those Caymanians who may be mature and working to attain degrees by part time studies because the College, as has been established and is its tradition will be offering opportunities for those who wish to avail themselves of the opportunity to study part time to take degrees. Already we have had approaches from various corporate entities within the employment sector wishing to pursue specialist training for some of their staff. This is indeed a momentous occasion and another step in the provision of excellent educational opportunities to the people of the Cayman Islands, courtesy of the United Democratic Party Government. This is a vision, which has come to reality, and I would hope that Honourable Members, when they receive their invitations for the charter service and for the launching and transformation of the Community College to the University College, will come and share some of the joys and success and the pomp, pageantry and ceremony that will be available during this full week of transformation.

There are about nine short clauses, all of which are designed to make this transformation more easily understood.

We are amending the name from the Community College to the University College and we are mak-

ing further minor changes, which have to do with the relation of the Community College being transformed into the University College. Changing the number of members on the Board of Governors and making a change, which will allow the institution to provide tertiary level education.

Clause 6 repeals and replaces Clause 9 which gave limited immunity from suit to members of the Board of Governors so that employees can also enjoy immunity and make the whole provision clearer.

In Clause 7 we add degrees to the academic qualifications of the College.

Clause 8 replaces the current Section 17 for the appointment of up to two vice presidents because quite naturally if we are increasing the number of students we also have to change up the administration and improve the bureaucracy.

I commend these amendments to my Honourable colleagues and would invite them, if there are any areas which they would seek enlightenment, understanding or clarification on, to raise it in their debate and I shall be willing and happy to clear up and inform them of what is being done.

Thank you.

**The Deputy Speaker:** Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, if I had not sat here in this Honourable House for nigh on four years now and listened to the guilt edge tongue of my good friend and colleague the Minister for Education, for all of those years, I might perhaps have been persuaded this afternoon that the Honourable Minister was actually getting something done. For almost four years now the aircraft of educational reform has been sitting on the tarmac revving its engines just about for takeoff.

The speech which the Honourable Minister just delivered in large part, if one were to close your eyes and go back to early 2001, one could have perhaps perceived that that was his maiden speech when he took up the mantle of Education Minister. That certainly would not be the sort of speech one would be expecting from a Minister who has had the reigns of this Office for now nearly four years.

I think the Honourable Minister himself summed it up very accurately. He spoke about pomp, pageantry and ceremony and in my view; those are the trademarks of that Minister and of the Ministry during his tenure. We have had lots of that, but when it comes to actual achievements the Minister has been tried and found wanting.

We all know that we are on the eve of Elections and that every opportunity will be seized by the Government to trot out some proposed new reform, project or plan but that is not what the country ought to be treated to at this time by this Government. What

ought to be pointed to is the track record. We are not at the stage where the Ministers ought to be getting up saying what they are going to do so please forgive me Mr. and Mrs. Electorate for what I have not done, will you elect me again. That is what we have been treated to this evening in relation to this matter.

If this were earlier in the term those of us on this side who have been proposing and pushing for reform, particularly in relation to technical and vocational training in this country, for all of the years I have been here and the many more years before that my colleague, the First Elected Member for George Town and Leader of the Opposition has been, we would have been happy to hear about proposals now that finally technical and vocational training is going to be introduced as part of the curriculum at George Hicks High School. Assurances that the whole thing is going to be looked at and that John Gray High School is going to expand its availability of those programmes, courses, resources and all of those things would have filled our hearts with delight—

**Hon. Roy Bodden:** What do you think articulation means?

**Mr. Alden M. McLaughlin, Jr.:** I know what articulation means—

*[Inaudible comments]*

**Mr Alden M. McLaughlin, Jr.:** Mr. Speaker, I am sorry that I have discomfited the Honourable Minister but as he says, he will have an opportunity to get back up and whip me.

All of those wonderful things he has now proposed that are going to happen if he is re-elected—he did not say that, but that is essentially what he means—are matters that ought to have been addressed in his four-year tenure and in this Government's almost four-year tenure. That is the point we are making. Talk is cheap and the Minister is very good at that, but what has actually been done? This is what the country needs to understand. What has been done to improve the educational plant in this country? That is the question that ought to be answered, not what you are going to do if you are re-elected.

We have been saying on this side of this Honourable House, over and over again, and it seems it has finally started to resonate, a little late in the day, with the Honourable Minister— that between 25-30 per cent of those who graduate from High School have the academic ability and inclination to be able to take up academic scholarships and tertiary education at colleges. The other 70 per cent have been failed by consecutive Ministers of Education in this country who have not provided them with the necessary resources to be able to develop their vocational and technical skills to take their rightful place in this community. The First Elected Member for George

Town has been saying that for about 12 years. The irony of it all is that for a large part of that time the Honourable Minister of Education who then sat on this side of the House was his cohort. What has happened in those almost four years that have passed between November 2000 and now? An account must be given for those years and for the absence of any such programmes. That is what the Honourable Minister ought to be addressing when he gets up, not to beat me for being a fop, as he has said I am.

Mr. Speaker, the fallacy of this all is this: Over the course of the past 20-25 years this country has gone through tremendous development. We have had to import labour from all quarters of the globe to be able to help create this economic miracle. The population of this country has increased from approximately 10,000 in 1970 to somewhere between 45 and 50,000 in my estimate, at this point. Most of that increase is due to immigration and that has helped to make the Cayman Islands what it is, in most ways I would hasten to say, a better place, but in some ways, a lesser place. The point is that through all of this as a community and as a country and in my view, government after government have failed to place sufficient value on technical and vocational qualifications and we have failed to communicate to our people, to the children and to the parents of those children, the importance of the value of technical and vocational skills and careers. So we wind up year after year graduating students through the system, 70 per cent of whom are ill suited to pursue higher academic training. That 70 per cent which are left behind are left by and large without any basic skills. They are always simply entry level individuals who by and large command the lowest wage there is.

At the same time, as of now we still have some 15,000 persons, or thereabouts, on work permits. Those persons come in with their technical skills; the full range of construction trades, masons, carpenters, plumbers, bricklayers, air conditioning technicians, you name it; earning significant sums of money, commanding \$18 and \$20 per hour and our own people are left without those skills, without access to institutions which would enable them to acquire these skills and more fundamentally with this view, this cultural perspective that somehow to engage in those sorts of activities and vocations is demeaning.

I am not blaming the Honourable Minister for all of that, he has only had four years, but my point about the Honourable Minister's tenure is that nothing has been done. It has been more of the same; it is as bad as it was when Mr. Truman Bodden was here and I hear he is trying to come back again too. What has been done to address these things?

We are going to change the name of the Community College and call it a University College and I do not have any difficulty with that. We are going to offer a few degrees, I do not have any problem with that, but nothing I have heard convinces me that there

is any real initiative to make technical and vocational training a major focus of that institution or any other.

If we go to Tourism and the hotel industry and the ancillary industries related to tourism, you are hard pressed in this country to walk into a tourist related facility and meet a Caymanian face and hear a Caymanian voice. Again, I am not placing the blame on the Honourable Minister; he has had four years and there were a lot before him. Again, the same cultural prejudice against engaging in those sorts of jobs — and I am not speculating or reading from any book that tells me about that cultural prejudice because I grew up in this society and I know where it springs from and it is understandable.

My parent's generation did not have access to the sort of educational facilities that were available when I was growing up. There was a limit to the level of education you could get in this country and few people had resources to go elsewhere. So, when the boom years started my parents' generation could not seize most of those opportunities because they required skills, professional training and university education, which none of them had. So, that generation said: *'my children are not going to work in the hotels and they are not going to do these various other demeaning jobs because we had to do that in order to raise them and we sent them to school to get the best education they could get so that they would not have to do that.'* So, that is where the cultural prejudice comes from. I am very well aware of that, but what we have done over the past 30 years or so is to fool ourselves and all of the people in this country in believing that unless you put on a white shirt and a pretty tie and walk into one of the banks and stand up and say, yes Sir, take their money and change their cheque that you do not have a good job. The educational system has been structured in a way in which the academic students are segregated from very early, placed in their little niche, promoted and given every benefit and privilege they can to do as well as they can and the other ones, well, they will be come through and be all right and find their place. For a long time when the population was quite small that sufficed. It was never fair, it was never right!

However, we have reached the point now, Mr. Speaker, where there is a significant sector of this community without any skill-sets that enables them to function, other than just above the bottom of the ladder. They in turn have children and the reality is, those people at that level tend to have more children and they come up and face the same challenges and it just gets worse and worse and worse. What makes it even more worrying, is that they look around and see "foreigners" taking their jobs. The reason the foreigners can take their jobs and have to take their jobs is because by and large they do not have the necessary skills to be able to engage in a proper way in whatever industry they would like to work in; and that is what we have to address,

Mr. Speaker, it is encouraging to hear the Minister say that they are now going to seek to introduce this whole question of technical and vocational training from George Hicks, which is a junior high school. However, my indictment, Mr. Speaker, is this: Why is it being announced now? This is the sort of initiative that the Minister ought to have not just spoken to, but to have taken off with at the start of his term of office.

The Hotel industry, Mr. Speaker, that I started to mention just a moment ago — we have had a hotel training school here, it came and it went. The then Minister said, if I recall him correctly, that it was a lack of interest; that might well be the case because that in large part, I believe, is due to the cultural prejudice, which I also referred to earlier. However, it is the duty of the Government to develop the necessary educational programmes to articulate a philosophy, which gives value to service based jobs.

This Government, Mr. Speaker, in addition to what facilities exists at The Community College bought what was formerly the John Silvers hotel, ostensibly for use as a hotel training school. We are now almost at the end of this Government's term and as far as I know all that has happened is that money has changed hands and Government has taken possession of John Silvers and bailed the former proprietor of it out of the terrible financial mess he was in, in relation to it with Caribbean Development Bank and the place just sits there. That is the extent of what has been done about a hotel training school in this country under the term of this Government and of this Minister.

Mr. Speaker, do we not understand that in addition to providing good remunerative labour and employment opportunities to our people, that our Caymanian people's involvement in the hotel industry is critical to its viability? People do not come to the Cayman Islands because they want to be served by persons from all over the world. If that were the case they would have gone to some place that had one of these "It's a Small World After All" — sort of exhibits where you can go from place to place and meet everybody from all over the world, all of the global citizens. They come to Cayman because they want a Caymanian experience. So, the things are interlinked.

We have to get our people involved in working in the industry, particularly the tourism industry in these Islands in a meaningful way. I have heard people say that they have come to Cayman and gone through an entire week on the Island and never met a Caymanian. If we want this country to succeed and survive as a tourism destination we are going to have to look at some of the things that are fundamentally wrong with the product we are trying to market. It is all well and good to talk about us having cruise ships booked here until the year 2010, and we need these people to come, but what are these people coming for? They come for the Cayman experience and part of the Cayman experience is meeting Caymanians

being served by Caymanians in the restaurants and bars!

*[Inaudible comments]*

**Mr. Alden M. McLaughlin, Jr.:** I am debating the Bill— it is very uncomfortable for you I know but I am debating the Bill.

Mr. Speaker, we are going to support this Bill, no question about it because it is an advancement of the College, but we are pointing out again to the Honourable Minister what needs to be done in addition to address the 70 per cent of graduating students who will not be inclined to take advantage of the academic opportunities provided by the College. That is what my debate is going to.

I had the benefit of attending the Cayman Islands Law School. I started there 21 years ago. I believe that the Ministry of Education ought to be working with the Portfolio of Legal Affairs, which still has responsibility for the Law School, about the need to develop facilities and resources for that very creditable, useful and successful institution. At this stage I just had the occasion to visit the Law School and to enter into the office of one of the lecturers and I was aghast at the state of the place, which is over at the Tower Building. The conditions certainly in that office, I thought were deplorable and none of us would want to work in such conditions.

The attendance at the Law School has increased phenomenally; I think the compliment is now over 100 students—

*[Inaudible comments]*

**Mr Alden M. McLaughlin, Jr.:** It ought to be in this Bill! Mr. Speaker, I would be grateful if the Honourable Leader of Government Business left me to my debate, Sir.

#### Point of Order

**Hon. W. McKeever Bush:** No. Mr. Speaker, he cannot be left to wonder all over the place and that is why I rise on a point of order. Whether he believes these things, and I agree with him that that building is lacking, he cannot debate that in this Bill, he is straying too far. Whether you believe that or not, this Bill has nothing to do with it.

Mr. Speaker, I am saying that the Member ought to stick to the Bill before the House. He has traversed all over the world now, so it might be tertiary education but it has nothing to do with the Community College Bill before the House and I draw your attention to the relevant Standing Order; I believe that I am right in saying that the Standing Order which says that you must debate what is before the House is not being followed.

**The Deputy Speaker:** Honourable Leader of Government Business I have listened to your point of order and Honourable Member I have listened intently to your debate, and I have keenly listened to your involvement from an educational standpoint, and as to what would be considered to be relevant to the Bill that is currently being debated. I would ask you to pay close attention to the challenge on relevance as you continue your debate.

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

As far as the Law School goes there have been arguments and discussions about whether it ought to be brought under the umbrella of the Community College, now to be called the University College for some time. There are strong arguments that because it is really the pre-eminent institution of tertiary education in this county with a track record of 22 years that its involvement as part of the development of the University College would do much to enhance that institution.

There are also arguments that it ought to continue to be sited in central George Town, particularly so that those who work in the Legal Department would have access to its resources, such as the library and the availability of academics close at hand to be able to offer an opinion or view on a particular issue or matter. There is strength in that argument, but I believe that after careful consideration and having sat as a member of the Legal Advisory Council for a number of years, my view has come to the point that giving the direction the Law School has taken in terms of its development and the number of foreign students that currently benefit from an education that it really ought to develop into a proper academic institution. A college attached to the University College of the Cayman Islands, as is to be, I believe both would have great benefit to the other.

As far as the Law School is concerned it is operating in substandard accommodations and straining to be able to do what it is doing very well, which is offer a first class legal education to the persons who attend there. There is a clear need for it to have new and more expansive accommodations and to have the support of a larger institution and access to facilities, which the University College would obviously provide.

So, in this country we have to get away from thinking about education in isolated terms because it is a legal education then that is separate and apart. If we are truly going to develop a university, to which the University College is a step along the path to, then I believe we ought to explore the opportunities for the Law School to be brought under this umbrella of a university. It already has a long standing arrangement with the University of Liverpool which confers the degrees. That arrangement is almost 20 years old.

When the Minister is talking about articulation agreements we have a very good example of how good these things can work. I have no doubt that I would not be standing here if it were not for the Cayman Islands Law School, and while some that are on the other side who are grumbling might have been happy if that had been the course of my life, nonetheless I am very grateful for what my time at the Law School has permitted me to be able to do with my life.

So, I am asking the Honourable Minister to bear that in mind; take that into consideration and when he is planning, as he seems to be doing, his maiden speech upon his re-election as the Minister of Education, he can put that into his plans for the next term.

Mr. Speaker, I am grateful for the opportunity to have made a few points on this Bill and as I said, we on this side are happy to support it. We are happy to support the advancement of the Community College to a University College. We are grateful to and compliment those at the school who have worked so diligently over the course of the years to turn it into the credible institution, which it is, particularly those who have worked to make this transition from a community college to a university college where it will be able to offer instruction and ultimately degrees.

This transition will not come to fruition overnight. The pomp, pageantry and ceremony are all good and help promote its profile but we do hope that come November and under another administration that we will be able to move the educational structure, plant and philosophy of this country beyond pomp, pageantry and ceremony to a point where there is reality and hope for the prospects of Caymanians.

I thank you, Sir.

**The Deputy Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Mr. Speaker, at this time I am going to move the adjournment of the House until 10 am Monday morning, and I am asking all Members to let us try to get our business in order so that we can complete the business of the House this coming week at some point. We have a lot of private member's bills and various other matters to deal with and if we are not careful we are going to run into the next meeting and that is what has been happening. I am not laying blame on either side because it is a matter of fact and we need to be a little more conscientious of time. So, I move the adjournment of this Honourable House until Monday morning at 10 am.

**The Deputy Speaker:** The question is that this House do now adjourn until 10 am Monday, 26 July 2004. All those in favour please say Aye. Those against, No.

## Ayes and Noes.

**Mr Alden M. McLaughlin, Jr.:** May we have a division please.

**The Deputy Speaker:** Madam Clerk a division please.

*[Inaudible comments]*

**Hon. W. McKeeva Bush:** We have asked for the adjournment at this time for the reason stated. So, I say yes.

## Division No. 3/04

### Ayes:

Hon. W. McKeeva Bush  
Hon. Roy Bodden  
Hon. George A. McCarthy  
Capt. A. Eugene Ebanks

### Noes:

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

### Absent:

Hon. Gilbert A. McLean  
Hon. Juliana Y. O'Connor-Connolly  
Dr. the Hon. Frank S. McField  
Hon. Donovan W.F. Ebanks  
Hon. Samuel W. Bulgin  
Mr. Rolston M. Anglin  
Mr. Lyndon L. Martin

**The Clerk:** Four Ayes, five Noes, seven Absent.

**Hon. Samuel W. Bulgin:** Mr. Speaker, I do not think I was in here when the vote was taken is that correct?

**The Deputy Speaker:** Correct.

The Noes have it and that means that the House shall continue until 4.30 or another motion for the adjournment.

**Negated by Majority: Adjournment motion failed.**

**The Deputy Speaker:** 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 Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, it seems that all kind of games can be played, this is not the first time I have seen it and the records will bear that out, but let it be recorded.

Mr. Speaker, I wonder if we can take a suspension. I wonder if they will object to that.

**The Deputy Speaker:** We will now take a 10 minute break and return quarter after four.

**Proceedings suspended at 4.06 pm**

**Proceedings resumed at 4.25 pm**

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

The Honourable Leader of Government Business with the motion for the adjournment.

**Hon. W. McKeeva Bush:** Mr. Speaker, let us see if they are going to object to this adjournment. It just shows you how if those guys get control of this country what is going to happen here.

I move the adjournment of this Honourable House until Monday morning at 10 am.

Just to say that some of our Members had to be off and I knew that the Member from East End, which I thought he said he was leaving this afternoon and he could not stay beyond 4 pm. Anyway, nevertheless, they objected to the adjournment and I hope that at this point in time they are ready to adjourn.

**The Deputy Speaker:** The question is that this House do now adjourn until 10 am Monday, 26 July 2004. All those in favour please say Aye. Those against, No.

**Ayes**

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

**At 4.30 pm the House stood adjourned until 10 am Monday, 26 July 2004.**



**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**26 JULY 2004**  
**10.50 AM**  
*Twelfth Sitting*

**The Speaker:** I will invite the Honourable Leader of the Opposition to lead us in 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 Cabinet 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 10.52 am**

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

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

**Apologies**

**The Speaker:** I extend the apology of the Clerk who is representing the Commonwealth Parliamentary Association (CPA) at the Regional Conference in

Grenada and the Second Elected Member for West Bay who is also a delegate at that Conference.

I have also received apologies for absence from the Honourable Temporary First Official Member.

I wish to take this opportunity also to thank Ms. Kathleen Watson and Miss Nana Bothwell for sitting in as procedural Clerks this morning. It is a new experience for them but I feel certain that they will handle it and I am sure with your support they will do very well indeed.

I am also saddened to announce the death of one of our stalwart politicians, Mr. Craddock Ebanks. As many of you know, Mr. Craddock served these Islands in general but in particular, his constituency of North Side for many years. I think at one stage he was known as the Father of the House and we want to extend our sincere condolences to the family of Mr. Craddock Ebanks and indeed to our Acting First Official Member, Mr. Craddock's son, as he mourns the death of his dear father.

I am not sure whether the date for the funeral has been announced but I understand it is possibly on Saturday and I would hope that as many Members of the Legislative Assembly would make every effort to be present at his funeral.

Again, our sincere condolences and I would ask the House to rise at this time as a tribute of our respect as we observe one minute of silence.

*[The House observed one minute of silence in memory of Mr. Craddock Ebanks]*

**The Speaker:** The Lord giveth and the Lord taketh away, blessed be the name of the Lord.

Please be seated.

**STATEMENTS BY HONOURABLE  
MEMBERS AND MINISTERS  
OF THE CABINET**

**The Speaker:** I have received no statements from Honourable Members or Ministers of the Cabinet.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READINGS**



### The Community College (Amendment) Bill, 2004

**The Speaker:** The Honourable Leader of Government Business continuing with his debate.

**Hon. W. McKeeva Bush:** Mr. Speaker, I am not going to be long. I rose to speak on Friday afternoon when the House was suspended and then adjourned.

I believe what Government is doing with the Community College and the presentation of this Bill is a good day for education.

No two ways about it there is much to be done and Government has always recognised this. There is much to be done about our in-education but there is a lot already done, and while the Minister is criticised for what is not being done, why not give some credit for what is being done. I believe that we have come a long way on matters of education. As I said, there is still a lot to be done and we recognise that. Anytime the Ministry or a department requires something and it comes to Cabinet, it has the full support of Cabinet Ministers, Members and Civil Servants that sit with us in Cabinet; I have said this before.

When I think of the amount of scholarships both local and overseas that this Administration has approved, I have to say that we are fortunate.

I know when in this country that scholarships were given to the favoured few; I know when only certain politician children could get scholarships; I know when you could not even get a place in High School. I had to go through that; they created the Secondary Modern School and if you had a chance to speak to people before they passed on, like Mrs. McCoy, she would have said what an injustice that was to the country. I remember distinctly that she was one of the teachers who were against that system. We do not favour when it comes to scholarships.

Even at times I am not satisfied with enough because sometimes I believe that the Council could do better, but when we find that out and believe that, then we implore on the Permanent Secretary and the Minister to look at the cases we have been informed about. However, when I think that we have given over one hundred—for this year already; there is approximately seventy six overseas scholarships granted and probably an equal amount for the local because we also grant scholarships for the Community College. When I see some of the people who oppose me and I look at their children and see that they were educated through Government and then they have the nerve to criticise Government about education. This is not being personal in any way, I am talking about fairness. I know many good children in this country who were qualified to get scholarships but did not get any. I know!

I took the position that my two children were going to be educated by my wife and myself; we had to borrow save and do what we had to do in order to do so and thank God we did so. There are many who

are not in my situation or in my position, and as I said, there is no favouritism and I do not believe that there is any because one of the people who is running against me in West Bay— top student granted tourism scholarship, but that is as it should be. While they criticise some of the things that need to be done, for God's sake repeat some of the things that are being done. When a child has done well the country should offer some assistance if that is the system.

Mr. Speaker, schools needed to be upgraded and new schools were needed because the schools were dropping down on the students. It is true that you cannot get everything done one time and I know while everybody feels that some matter is important to their particular situation and education is important, you cannot get everything done one time. Remember when the school ceilings were falling in on the classes? This was not the doing of this Administration, it is a build up over the years, but corrected by this Administration.

The new Prospect Primary School— I have not heard one of them get up to say thank you Government for getting this done. We started on the way to the new high school in Frank Sound and the West Bay School is in progress to be completed next year. Do not say that work is not being done, we just cannot get everything done. I do not know about the pomp, pageantry and ceremony, I only know of that at graduation time but that is normal— I see the Member for North Side is saying something maybe she has something to tell me, I do not know.

I do not want to continue seeing the politicisation of the system because that cannot help our children! It is a complete insult for what I saw go on in some of the graduation exercises this last time. It was very, very political and very unfortunate. I do not believe that is the right way to go and I do not think the principal needs to do that. I do not think that is what the graduation exercise is for and I do not think that small children understand or appreciate it but it is election time and it is nothing but politics being played.

I will tell the world this; they can say what they like about McKeeva but in my district, what I did when I found something was wrong or somebody said something was wrong at the school, and I have paid attention all during my political career and before, to the John Cumber Primary School, I did not become involved and get on this Floor and make a big pile of noise, I went to the Principal and she would tell me that she was talking to the Ministry and once she talks to the Ministry she would get back to me. That is how it has worked from Mrs. Bernice Levy, Mr. Hubbard Crawford and Mrs. Shirley Kidd's time. Twenty years I have served the district of West Bay and they would always say I am going to the Department or Ministry and once I have done that I will speak to you as a representative. I appreciated that and I paid attention to it but if something go wrong now and the Ministry,

Permanent Secretary or I do not know anything about it then how are we to get things done?

You cannot play politics and too much of that is going on! It is not good for the schools and I know the Permanent Secretary is in these Chambers and I will ask her and the Minister to take note that that has to stop! You cannot continue doing that and believe that all is going to be well because you are dealing with human beings, and sure enough when you have people in the audience who do not like the Government and people in the audience who like the Government, there is going to be a clash. What I saw on television during the graduation is unbelievable! It is unbelievable! You then see the connecting attacks in this House. You know that there is discourse between them because you know that some of them are not smart enough to find out the details unless they have done the work with the Civil Servants! I say that it is a bad, bad step to take and politicise the Civil Service in the way that I believe that some of the Opposition might be attempting! Remember, today it is this Government and tomorrow it could be you.

It is not right and there is work to be done in education and if they need money they only have to ask for it but there is no reason for the kind of politicisation that I see taking place, none whatsoever! You cannot embarrass the Minister with some of the things that I saw taking place. Civil Servants should not be doing that; it is not right! It is not right when the Chief Secretary is present to not acknowledge him or acknowledge him last. You cannot do these sorts of things! I have reported to the Governor what I saw taking place. Graduations, to me, are solemn occasions and yes it is one of joy because children are moving from one stage to another and going out either to the world or to another school because I did not get that opportunity. When I go there it is with a lot of joy to see how Cayman is progressing and how some of our children are doing so well. We have to be thankful!

Yes, there is work and I keep repeating that but think of where we came from. Today children are sitting in an air-conditioned classroom and they talk about the temporary classrooms as if they are a caboose. They are no caboose! I wish that I had had a room like that to grow up in when I was a child; not go to school in, grow up in! I say it again, and although people think it is a glamorous thing, it is no fun and not glamorous to lie on the floor on a plantain trash bed. When rainy weather came and the house is leaking and you are slipping the bed up and down, like this time of year, which my mother dreaded because of the rain, heat and the mosquitoes. We cannot forget where we come from and all of us as parents cannot forget to tell all our children, we must imprint on their minds where we come from and say thank God that we have come far. While there are bumps and things that are needed the education system has come a long way.

Small countries like ours are simply not scaled down versions of large countries but we require distinctive strategies for our educational development and this is what was said by one of the Reports "Goals for 2000-2004". Anything that you do should have a good foundation. While one of the Opposition Members talked about things that do not exist before 2001, he should understand that building curriculum and the right program is the right place to start. You can put any willy-nilly programmes in place and it not be effective. I will tell you in regards to the Tourism School, they thought it would be the best thing in the world to put that school at the College but it did not work. They had the best kitchen and equipment, better than some hotels but it did not have the atmosphere and ambiance and people.

Most countries have gone to places where people can stay to train the students and I would have liked to have had a school up and running but I am more satisfied that we are taking the time; we have purchased the building already (a 12 room hotel, the previous John Silver's Inn) and now we are moving forward to work with the University College, which will dovetail with the New England Institute of Technology. It will have a sound foundation to begin on and work from, I would think, at least the Middle School level, and probably the last two classes from the Primary School before they go into Middle School to get a proper grounding on the assets of the tourism industry.

Back in the 1960's and 1970's they want to see Caymanians in the industry and that is a big '*sing song*'. How are we going to get Caymanians in the industry if Caymanians do not want to go there and they can find better jobs outside, or at least, they thought they could find better jobs outside? I worked in the tourism industry; I went to school half a day Friday and came out and went to the hotels with my uncles and aunts and worked on Saturdays and Sundays. I was glad to work all day to get it. I did not recognise that that could have been a good career, I went out and tried to do something else and that is what the majority of Caymanians in the late 1960's and early 1970's there were a tremendous amount of Caymanians in the tourism industry. They were good people in the industry too.

Today a bartender can make between \$60,000 - \$70,000 a year. Executives can make much more but there was a feeling that you can only work in the banks and financial industries and companies, so everybody gravitated to that and every mother felt proud when their son went out with a necktie to work. However, most people did not think that they could have made a grand career out of the tourism industry so we now have to import far more workers. With a small population with the standard of living which we have, we are going to have to do that anyway and people who preach about sustainable development and that we are going too fast et cetera, the day that

they slow it down and stop it then our standard of living falls so expect one or the other.

We are well on the way; we have purchased a property and I am glad that we are taking the time and I hope that if the people see fit to return us that school will open next year some time and I hope that if the people do not return us the new administration will continue the work.

Bringing the educational system into technological age preparing for the 21<sup>st</sup> Century, computer technology and the likes— this is the stuff that has been going on. From what I understand, the curriculum has been strengthened, subjects added to improve the ability of students to do better in core subjects, math, English and even mechanics; these have to be completed for the student to graduate. They are core subjects so let no one *skin up their face* and make a big noise at this time because they believe this is election year and we can say anything while beating up on the Government. That is getting us nowhere.

Mr. Speaker, I did not even plan to speak on this because I thought it would be sufficient for the Minister to open the debate and for the people who wanted to say anything to say it for him to reply. However, I had to make those remarks after the attack was made from the Opposition on Friday.

Let us think of where we came from and now we are going to have a university. Think of it! I remember the days of Secondary Modern School with Mr. McHale, teacher McField and all of those who have gone on to their eternal rewards but I remember them saying '*we are looking to better times*'. We should thank God for the foundation they helped us to build. So, we are coming into our own.

We talk a lot saying that we do not like what the United Kingdom is doing to us and some even talk of independence and we have already said where our Party stands on that. Well, if we do not build up our academics we cannot go. It is no use of us talking of independence. So, I am glad that we are finally moving in the right direction and I want to thank the Minister. We say publicly the United Democratic Party is willing to spend any amount that we can spend if we have been asked to do so.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, I would like to enter into the records a short defence of my colleague the Honourable Minister responsible for Education.

I understand that this is four years since there was, in this Honourable House, a tremendous amount of criticism of the educational system in this country and one of the main critics of the educational system of this country was the present Minister of Education

and also the First Elected Member for George Town and Leader of the Opposition.

I recall those debates and the fact that we in this Honourable House had the possibility four years ago, almost exactly, to see the wish list of the then Minister of Education, and it was a substantial list that called for a tremendous improvement in the physical infrastructure within the educational system. What we did not see from that Minister, who was then responsible for education, was a wish list dealing with the educational infrastructure, the real building that you need to do within the school system.

It is unfortunate that again, we have this overemphasis on buildings rather than the emphasis on the building of people. The educational system is not just about creating places for children to occupy, but it is about providing those minds with the kinds of activities that will make them useful throughout their lives. It is about the issue of continuing education or education through life, which is impossible without a higher educational system being developed in this country. Therefore, I think it is unfortunate if those persons that were to grade the educational system, of course the Opposition have graded the educational system of this country and have decided to give the Member responsible for Education an 'F', but would they understand what precisely education is then they would not be so hasty to give the Minister of Education an 'F'. If we were to go back to the original people who tried to decide what education is, what usefulness or utility knowledge education development have, we will find out that from the very beginning there have been no complete agreement as to what education is and the purpose of education.

So, when we come to grade people with regards to the educational success many people differ. The educational system is about more than children passing exams at the end of a defined period, even if we were to ask the questions: Is education really successful or is the education system successful simply because kids are made to pass exams? Is that the true value or is that the true judge of the success of the system? Sometimes it is difficult to define what period it is that the person should really show what we might consider to be development. Some people are early in the terms of their accomplishments and some people are a little later, but because someone may not be able to pass an exam at one particular stage does not mean that system has been unsuccessful.

Judging human beings is a very difficult task. The fact that the educational system in this country has been able to show good academic results at an early stage in many of our children who have qualified to go on to further learning, again, is a sign that the system has a good foundation and that the present administration has not taken it backward but, in fact, have moved it forward. We understand that not all of the success in the educational system at this time is a result of the Minister's effort just like all of the weak-

ness that we might continue to identify is not his doing as well, but we do recognise that his concept of education is wider than that which we had to work with before. It is not a narrow defined system that is just looking at the passing of exams but he is also talking about the improvement of the students as citizens in the country. He is talking about the establishment of a cadet core within the educational system, which gives kids the possibility to look towards service of country as one of the foremost principles of showing that one is civilised or educated. Therefore education is not just a technical vocational tool but about creating citizens that will have usefulness to their society.

I think that this Minister more than any minister of Education understands the sociological importance of viewing education as a broad multidisciplinary approach to the development of our society and of those future members of our society.

We have enjoyed the papers which the Minister of Education brought to Cabinet. We have sometimes questioned some of his papers, simply because of his foresight and incredible general knowledge of all of the issues that he tackles. The Minister has spent an amazing amount of time at conferences, which some people on the Opposition tend to ridicule, but without us being exposed to the various developments in education we would not be able to plan the educational development in this country in such a way that we would keep our people abreast of what is happening in the world, and therefore, be able in such a globalise period of history to be able for them to be in the forefront rather than the background.

The fact that the Members of the Opposition continue to ridicule the Minister in terms of his travels and try to somehow suggest that it is a waste of public funds rather than seeing the fact that the Minister is a hard working Minister who, when he travels, delivers to the Cabinet a report on his travels showing exactly what it is that he has achieved. I think that he has spent his time very well in terms of helping us to be able to come to an understanding of what education is. I would like to stress that again. If we were only to look at the buildings rather than look at the citizens that we are building we would misunderstand exactly what the thrust of this Government's education policy has been.

Of course, I understand and see that the school in Prospect is being developed and, as I speak, I note that the Bill which is before this Honourable House with regards to the College really needs no other defence other than that which the Minister has put forward. The point is that a Member of the Opposition deflected from this very important Bill by dealing with certain wider and more general issues that they have with regards to education. I submit that is no more than politicising this issue because people continue to see the importance of education which is extremely important in society and people are going to vote according to how they think the future of their children are being looked at. An education is that ve-

hicle which gives people the social and economic mobility, which everyone in our society is looking for. Every one in our society should have the right to have and I think the Minister has done a tremendous job.

The school that is being built in Prospect will help to house some of the kids from the George Town Primary School; that is criticised. If he did not house the kids there what would he do while he seeks to give the George Town constituents a new primary school? It goes to show again how the Opposition makes crisis out of everything the Government does. I continue to stress that the Opposition tries to create a crisis out of every single thing that the Government does. They try to turn it upside down and turn it on its head creating a crisis on it. This Bill that the Minister has brought to advance further education in this country is stood on its head to create a crisis again.

With those few words I would like to enter into the records of this Honourable House my support for the Minister of educational policies and I hope that the Lord would continue to bless him and give him the kind of wisdom which he needs in order that he can serve in this capacity. 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 would the Honourable Minister for Education wish to exercise his right of reply?

**Hon. Roy Boddan:** Thank you, Mr. Speaker.

In an ideal world this debate on the Community College (Amendment) Bill would have long been finished, and we would have moved on to other business because it is a simple request, straightforward and easy to understand. But I am not so naive to believe that we live in an ideal world and, in any event, I am constantly reminded of the political one-upmanship practice by the Opposition so as to gain an electoral advantage.

I was not completely surprised but I was a little taken back at the vitriolic campaign mounted by the Second Elected Member for George Town and I know, because I have studied their characters well and know that the Leader of the Opposition was in on the conspiracy. So, I take it personal as a matter of honour and respect and I have to defend my integrity and my ability as the Minister of Education. I have already told people that my style is always to extend the velvet glove but I keep behind me at all times, the male fist ready to strike so I am going to strike today and strike hard.

I have never been an intellectual snob but I resent people who are my intellectual inferiors to challenge my ability and capacity to deliver, people who could not enter where I have exited, to try and put me down to say that I have not delivered. It comes down to this, when they can place on the table what I can place on the table plus a successful record then they can question me and take me to task, but I refuse to

be dictated to, to be insulted by people who I consider to be of lesser intellectual ability than myself!

I have already said in debates that there is a big difference between armchair quarterbacks and the guy who go on the field and can win the game. Anybody can be an armchair quarterback, anyone can criticise the Sunday night game on the Monday morning, but when they get on the field and have to call the signals, I want to see what they are going to do. Are they going to freeze and let people tell them 'you been there for a year and did not do anything, give me this thing boy, let me lead'?

Mr. Speaker, debate by the Opposition Members fall into two categories, the preposterous and the illusionary, but the debate delivered by the Second Elected Member for George Town was a combination of both in an effort to make the Caymanian people believe that this Minister has frittered away for four years and not delivered an educational product. I am sorry that he is not here but that is the character of them, they are cowards! They can give what they cannot take; would that he was here to hear what I have to say today, but perhaps, his colleagues can take the message to him because I am drawing a line in the sand.

Mr. Speaker, I say without fear of successful contradiction that what has been done in education under my tenure is remarkable. I will pit against anyone's because I have sense. I came in with a plan and I want, with your permission, to draw reference to the manifesto which my colleague, Gilbert McLean, and I had in the Election of 2000 under national goals. The very first goal says, "**Encourage the development and enhancement of education in both the academic and vocational fields with increased emphasis on the latter while promoting teacher training for Caymanians and ensuring the availability of adequate classroom space, teaching aids and materials.**"

Mr. Speaker, we took the Vision 2008 document and drew from that on what we wanted to deliver to both constituency and country. Shortly after coming to office I attended the 14<sup>th</sup> Commonwealth Ministers of Education Conference in Nova Scotia and from that I drew a platform of five objectives; teacher training, schools improvement, information technology in the schools, citizenship and human rights education, and technical and vocational education. That is the plan which I worked to for the four years that I have been in office. All these things have to be done simultaneously with all else that is going on.

We know that we have a system that delivers well academically; we know that we have a system that does well for the top 30 per cent and we know we have to strengthen the remaining 70 per cent, but it is not easy to do that because at the same time you are bolstering and strengthening that 70 per cent you have to ensure that the standard of excellence for the 30 per cent continues, and that is what we have been doing and improving upon that. You cannot just stop

everything now and it is technical and vocational education—I am not a crisis manager, Sir! I have to keep a broad and comprehensive view on the system and we are doing the things that are necessary to develop technical and vocational education.

We have to ensure that we have a sound curriculum, we have to ensure that there is articulation and continuation and we have decided that we have to begin from the Middle School to the High School and into the soon to be University College. However, there is one thing more, technical and vocational education has changed in the way it had been delivered and it is no more greasy mechanics and no more pounding like they use to. Everything is delivered through the latest in information technology, through computers.

In autotronics it is analysers, this equipment costs lots of money so we have also to factor in what we are going to do so that there is no duplication of resources but so that we get optimum and maximum use of the resources. Do you think that is accomplished by someone just getting up saying that the Minister of Education is not doing anything about technical and vocational education and we get in we are going to do it? Who over there is going to do it? Where is their plan? Who is qualified? Talk is cheap! I want to see if those who talk the talk can walk the walk but they will have to wait their turn just like I had to wait mine. So, in the main time they can be building their plans.

Talking about the equipping of the laboratories, we are talking about \$250,000. On a visit to the Samuel Jackman Prescott Polytechnic Institute in Barbados, when the Permanent Secretary and I went to the air-conditioning and refrigeration unit, we were told that the analyser equipment and instruments cost \$350,000; that was just one section. When you think of autotronics, electronics and electrical engineering, anyone—even Slocum in Breakers—can spout off that we need technical and vocational education, but we need planning to get to the point where we make the maximum effort out of the delivery of the system and that is where we are heading. It is my responsibility to take the baton from the point at which I received it to the next point. That is what we are doing in a systematic and effective way.

As we speak, we are preparing to send eight students, recent graduates of the Community College to the New England Institute of Technology or New England Tech, which it is preferred to be called. At the same time we are looking to strengthen the curriculum and to enter into articulation agreements with the high school and the middle school so that we are building up a system because that is what it takes. It takes scientific management, not crisis management, nothing could be further from the truth than what the Second Elected Member for George Town had to say the other day and his efforts however valiant were unconvincing. Therefore he cannot make anybody believe that what he said was anything other than hot air. He

cannot let us believe that that was, as the French say, *'une vraie scandale'*. That was not a true scandal at all, it was a figment of his imagination and he knows that.

I want to mention something that I did not mention before, which I said I was not going to mention because it really does not bother me, I have no ego to stroke; I heard the Leader mention it and I noticed it. When I talk about pageantry, ceremony and pomp they had better learn it because Cayman is the only place in the world where the Minister of Education is in a formal function and the Leader of the Opposition is mentioned before the Minister of Education by his own teachers. If that were to happen in Jamaica, in the United Kingdom or the United States somebody would be in trouble! So, those people who are politicising these things had better learn and I know there are such things as protocol and respect and honour, and it is not about me but about the office held. It is not about the Leader of Government Business but it is about the office held. The old adage says, *'respect begets respect'*.

It is clear that the PPM is operating in a realm of educational blur for I do not understand how they believe that I am going to let them kill me like they killed my predecessor. No, Mr. Speaker, no! Every time I am charged I am going to mount and offer a robust defence and so I am standing this morning shoulders squared and head unbowed in the full confidence that no one on the side of the People's Progressive Movement can do for education what has been done in the last four years by this Minister with the help of his colleagues and the United Democratic Party Government; none!

May I remind them that when we announced that we were building a school in Prospect they said it could not happen. They were trying to make hay out of the fact that we told them a high school is going to come on line in Frank Sound and that is happening. So, we are moving forward. I would like to know what their plans are because they have not said anything other than get up and criticise to try and make me look like an amateur and like I do not know what I am doing. It is downright patently fallacious, disingenuous and duplicitous the arguments that the Second Elected Member for George Town gave concerning educational achievements and accomplishments! I am sorry that he is not here, he could learn effective opposition because when my colleague the now Minister of Health and myself were Opposition Members, only two of us—every time we gave criticism we were in our seats to hear what the Government had to say, not drop the pile and leave it. Sometimes I am not inclined to take them seriously because if you give you have to learn to take and they could be edified and enlightened by my defence!

Mr. Speaker, I am not, and I do not care whether it cost me friendship or money, I do not care, I am speaking the truth and I am going to speak that forcefully and loud. It does not matter to me because I

believe in what I am saying and I know it to be the truth. It is character and not circumstances that maketh a man!

The Second Elected Member for George Town should listen to his contribution and to the number of times he vacillated—towards the end he tried to retreat. He should listen to some of the disingenuousness and duplicity that went on in his speech. Mr. Speaker, in the end he tried to be apologetic as if to believe that would buy any favours with me. I know that I am in a war, I have been in many, many wars and I know what my responsibility is here and I know what this business is about. There is no one more gentlemanly than me, I can even be saintly when the necessity arises, but oh, Mr. Speaker, on the other hand, there is no one who is more passionate about defending himself than I am, especially when I know I have done my best and that other people have been saying what is not representative of the facts.

Mr. Speaker, I listened to his debate and perhaps his colleague, the Elected Member for East End can help him out. I am going to give them an old proverb that says: *'La boca y traidortorre du lo corre'*—*'the mouth is traitor to the heart'*. You cannot say that you are supporting something if you are not supporting it in your heart and that is just what he did towards the end.

The Second Elected Member for George Town and the People's Progressive Movement cannot speak out of the two sides of their mouth; they cannot because they know they are going to be exposed; they know that they are going to be taught and reminded of what is true. I heard them in debate after debate, I have never heard them give credit where credit was due and even me, during my most grudging years was careful to be fair, I was careful to say this is good and this is good but this is not so good. They have never! All they have come out with is the Minister of Education has produced a litany of evil! Nothing could be further from the truth. I have never heard them say the Minister of Education must be doing something right. We do not hear anymore about this flare-up of criminal gang activity in the schools. I have never heard them talk about the mentoring programme, the Cadet Core, coaching for success or about bringing youngsters back into the school. I have never heard them talk about these things; all I hear them talk about is the evil that Minister is doing us, bringing temporary classrooms, overcrowding the system, but never one credit.

Is that the role of a conscientious Opposition? Do you believe that the role of a conscientious Opposition is not also a role where they should also be fair, balance, objective and where there should be conscientious? You do not need those kinds of people in the Government. If they cannot acknowledge that there has to be a balance and there must be some good, even in the most evil of persons. Irresponsibility, duplicity and disingenuousness; those are not the characters of a responsible opposition but the characters

of people who are seeking power. I want to warn them that power has a way of mocking those who seek it so they had better beware.

In an effort to improve the system on what we are doing, the Employment Relations Department carried out a work skills assessment survey and we found out the most sought after skills and we found out other things. We found out that many employers have a view that there is a poor to non-existent work ethic among Caymanians. We went to the greatest expert that we knew, probably the greatest expert in North America, Dr. James Bridges and will be, come September, introducing work ethics into the curriculum of our schools from the primary schools up to the University College. Is not that moving to address the needs and improve the educational product? I did not hear the Opposition talk about that and certainly they must have known.

I do not hear them talk about these things. I do not hear them talk about how the Cadet Core is producing rounder, more full citizens of the youngsters who embark on it; you know why? It is because their view of education is narrow and see education only as producing a community of Philistines who's intention and objective is to mask personal wealth while I see education as the production of citizens who are altruistic; who have a community view; who have a sense of obligation and a moral responsibility to not only uplift themselves, but simultaneously, uplift their community, *c'est la difference*. That is why education is best left to the educators. My philosophy and my view of education is starkly different from theirs. I believe that our youngsters who graduate from this system must not only be able to help themselves economically, but also must feel that they have an obligation and a responsibility to help the community, to uplift the community, to help those who are less fortunate to do something to make their community better. That is the kind of system that this Minister is trying to promote and perpetuate.

Mr. Speaker, I see myself as the father of a new genre of education ministers that will view education in its broadest sense and be able to cater to those who are average and weak just as efficiently as those who are excellent. That is what we are trying to do. But to build up any good system takes time. It is a painstaking exercise, which is sometimes fraught with trial and error and taxes the patients but no one can say truthfully that the system has not improved; that the system is not improving or that we are not adequately addressing the programmes. Otherwise why would we have students to send to a technical college at this stage? Why? At the same time that we are strengthening the curriculum, introducing new programmes, we are taking care of the physical infrastructure.

What the Opposition does not seem to realise is that even those who are rooted to technical and vocational education must also, as the Leader of Government Business alluded to, be proficient in the

core subjects of mathematics, English and social studies; they must also do well in that. No mention was made of the cultural prejudice. I did not hear the Second Elected Member for George Town mention the notion we have to get over of cultural prejudice, people are saying, I know I do not want you to do this—

### Point of Order

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

**The Speaker:** The Second Elected Member for George Town, do you have a point of order?

**Mr Alden M McLaughlin, Jr:** Yes, Sir. The Honourable Minister is deliberately misleading this House. He was either sleeping or was out of the Chamber when I was debating because I went into the whole question of cultural prejudice at great length.

**The Speaker:** I have circulated to all Honourable Members what constitutes a legitimate point of order. I have also gone to great lengths to explain that 'misleading the house' is not a legitimate point of order unless it can be shown that the Member knowingly and maliciously misled the House thus constituting a fraudulent point of order. Therefore I would not consider that a legitimate point of order but I would ask the Honourable Minister to make his comment on what was just raised by the Second Elected Member for George Town.

**Hon. Roy Boddan:** Thank you, Mr. Speaker. Far be it from me to wish to take anything away from the Honourable gentleman and if he said that he mentioned cultural differences then I proffer my apologies for accusing him of not mentioning them.

**The Speaker:** Thank you Honourable Minister. Please continue.

**Hon. Roy Boddan:** Mr. Speaker, cultural prejudice is an important factor to consider in us offering technical and vocational education because we have to find a way to let our people understand that service does not mean servility and that it is okay to work with the hands; that those persons who do work with the hands are no less intellectually superior to those who do otherwise. So, what we are talking about is that at the same time we are promoting technical and vocational education we have to be removing hurdling and alleviating these cultural prejudices and they are not easy.

The final thing I wish to make on this business of offering technical and vocational education, in this way, is that perhaps the third piece of the puzzle is the most critical. When we have trained our people in technical and vocational fields, we have then to ensure that they get the jobs for which they are

trained. I can tell you as Minister with responsibility also for human resources or labour, this is not easy.

We are training our people to replace expatriate labour. It is not easy in many instances to have this done because the employers who have this expatriate labour are reluctant to get rid of these persons to hire Caymanians for obvious reasons, not the least of which is the fact that in some instances the *Sword of Damocles* is held over the expatriate labourers head and they are meant to take on tasks and to work under circumstances that the Caymanians would not work under. It is not as simple as it might appear to be.

Mr. Speaker, finally, when the chickens have come home to roost, as they certainly are coming now, it is incumbent upon us and we shall have to ask ourselves whether it was worth being disingenuous, duplicitous, mischievous and misleading just to gain a political advantage or whether when we speak, we speak from the heart knowing full well and feeling that we have the ability, wherewithal and the skill to deliver what we know needs to be delivered. I say without fear of successful contradiction that I have done and will continue to do my best. I have the support of my colleagues and surrounding staff, and I am delivering an excellent product and if given the opportunity I will continue to deliver excellence, but I am not going to compromise my position nor sacrifice my integrity just like I am not going to let people beat me down with what I consider is less than the truth and facts. Enough said on this matter.

Mr. Speaker, I am happy and relieved to finally reach the point where I can conclude the work on the Community College (Amendment) Bill. I am happy for the support of this Honourable House because I believe that this move to transform the Community College into a University College is the right and appropriate move to make at this time, and it is a move which bodes well for the future development of this country.

It would be most remiss of me if I would conclude this debate without paying tribute to the President and his staff. The Community College of the Cayman Islands is an institution of excellent repute respected by its sister institutions in the rest of the Caribbean and respected indeed, by all those institutions of higher education which accepts the student graduates of the Community College. The President and his staff has taken the College from a fledgling institution to a University College, no small order, and this gentleman who has a persuasive way about him has laboured diligently and assiduously over the years to manage the staff, including the junior staff at such an expert level where he could bring, with the encouragement of his Board of Governors, his institution to this level.

My sincere congratulations go out to this gentleman and his staff. Also to the Board of Governors who had the vision to see that this was the next logical move in the development and life of the Commu-

nity College of the Cayman Islands and I am happy that it happened under my watch. It is fitting for me that it happened under my watch because I supported the college from the very beginning and I take great pride in my vision as an educator. I take greater pride in my ability to help develop the people of the Cayman Islands to become not only economically self sustaining but to have a sense of themselves and a sense of a community. This institution and the nobility and sense of community, which it will bring, will enhance the opportunities for Caymanians. It will be a comprehensive institution catering not only to those cohorts of students who are immediate graduates of high schools, but even to persons of maturity who wish to continue their education and in an era of life long learning this is indeed noble and commendable.

I would wish for the President and his staff God's speed and I look forward to further working with them to build on the excellent reputation that he has laboured so assiduously to achieve for his Institution. The entire Cayman Islands can be proud and I extend an open invitation to the Members of this Honourable House and to all those in this community on Charter Day, which I believe is 28 August, to come and witness this ceremony because history will be in the making, a history of which we can all be proud. I thank you.

**The Speaker:** The question is that a Bill shortly entitled the Community College (Amendment) Bill, 2004 be given a Second Reading. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed. The Community College (Amendment) Bill, 2004 was given a second reading.**

**The Speaker:** The House will now go into Committee to consider the Bill.

**House in Committee at 12.11 pm**

## **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 authorise the Honourable Official Member to correct minor errors and such the like in these Bills.

I now invite Madam Clerk to state the Bill and read the clauses.

**The Penal Code (Amendment) Bill, 2004**

**The Clerk:**

Clause 1

Short title



- Clause 2 Amendment of section 2 of the Penal Code (1995 Revision) – saving of certain Laws.
- Clause 3 Repeal of section 3A – Abolition of common law offences.
- Clause 4 Savings.

**The Chairman:** The question is that Clauses 1 through 4 form 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 Chairman:** We have a new Clause, Clause 5, which we will now consider in accordance with Standing Order 52(8).

I call on the Honourable Second Official Member to move the amendment.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Chairman. In accordance with the provisions of Standing Order 52(1) and (2) I, the Honourable Second Official Member wish to move the following Committee Stage Amendment to the Penal Code (Amendment) Bill, 2004 - that the Bill be amended by inserting the following clause as clause 5 – “Transitional  
Nothing in this Law or in the Penal Code (Amendment) Law, 1998 applies in relation to any trial or any proceedings which began before the commencement of this Law or the 1998 Law”.

**The Chairman:** For the record the Clause was deemed to have been read a first time and was set down for Second Reading and is now open for debate. If no debate the Question is that Clause 5 forms part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

**The Chairman:** The Ayes have it. Clause 5 forms part of the Bill.

**Agreed: New Clause 5 passed.**

**The Clerk:** A Bill for a law to amend the Penal Code (1995 Revision) and for incidental purposes.

**The Chairman:** The question is that the Title forms part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

**The Chairman:** The Ayes have it. The title forms part of the Bill

**Agreed: Title Passed.**

**The Chairman:** I believe that it is the wish of Honourable Members that we take the luncheon break at this time and when we return we will come back to the Elections (Amendment) Bill, 2004. We now take the luncheon break to return at 2.30 pm.

**House suspended at 12.15 pm**

**House resumed at 2.54 pm**

**The Chairman:** Please be seated. I call on the Honourable Leader of Government Business to speak on the proposed procedure in Committee.

**The Elections (Amendment) Bill, 2004**  
*(Deferred until Wednesday, 28 July 2004)*

**Hon. W. McKeever Bush:** Mr. Chairman, I am going to ask the Committee to defer the Committee Stage of the Elections Law at this point. We are still looking at some matters that need to be fine tuned and we are looking at it with the Legal Council. So we ask that we go on to the next item.

**The Community College (Amendment) Bill, 2004**

**A Bill for a Law to amend the Community College Law (1999 Revision) to empower the institution to award Bachelors Degrees; and to make provision for the related matters**

**The Clerk:**

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|----------|---|
| Clause 1 | Short title and commencement  |
| Clause 2 | amendment of section 1 - short title  |
| Clause 3 | Amendment of section 2 – definitions  |
| Clause 4 | Amendment of section 3 – establishment of College   |
| Clause 5 | Amendment of section 4 – functions of College   |
| Clause 6 | Repeal and substitution of section 9 – liability of members                                     |
| Clause 7 | Amendment of section 13 – powers of Board   |
| Clause 8 | Repeal and substitution of section 17 – Vice President  |
| Clause 9 | Amendment of Schedule – Constitution and Procedure of the Administrative and Academic Committee |

**The Chairman:** The question is that Clauses 1 through 9 of the Community College (Amendment) Bill, 2004 form part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

**The Chairman:** The Ayes have it. Clauses 1 through 9 forms part of the Bill.

**Agreed: Clauses 1 through 9 passed.**

**The Clerk:** A Bill for a Law to amend the Community College Law (1999 Revision) to empower the institution to award Bachelors Degrees; and to make provision for the related matters.

**The Chairman:** The question is that the Title forms part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The title forms part of the Bill.

**Agreed: Title passed.**

**The Chairman:** Proceedings in Committee has concluded on these two Bills we will now report on the Bills. The question is that the House resume to report on the Bills.

**House resumed at 2.59 pm.**

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

## REPORTS ON BILLS

### The Penal Code (Amendment) Bill, 2004

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Mr. Speaker, I beg to report that a bill entitled the Penal Code (Amendment) Bill, 2004 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 Third Reading.

### The Community College (Amendment) Bill, 2004

**The Speaker:** As was previously mentioned the Elections (Amendment) Bill 2004 has been deferred from Committee Stage through the Reporting Stage and the Third Reading. On the Community College (Amendment) Bill, 2004 I call on the Honourable Minister for Education.

**Hon. Roy Boddén:** Mr. Speaker, I beg to report that a bill for a Law to amend the Community College Law was considered by a committee of the whole House and passed with minor amendments.

**The Speaker:** The Bill has been duly reported and is set down for Third Reading.

### The Penal Code (Amendment) Bill, 2004

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Mr. Speaker, I beg to move for the Third Reading of a Bill entitled the Penal Code (Amendment) Bill, 2004 that it be given a Third Reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Penal Code (Amendment) Bill, 2004 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 Penal Code (Amendment) Bill, 2004 was given a Third Reading and passed.**

### The Community College (Amendment) Bill, 2004

**The Speaker:** The Honourable Minister for Education.

**Hon. Roy Boddén:** Mr. Speaker, I beg to move that a Bill entitled the Community College (Amendment) Bill, 2004 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Community College (Amendment) Bill, 2004 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 Community College (Amendment) Bill, 2004 was given a Third Reading and passed**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker, I would ask if you can take a suspension at this time to allow the cleanup on the Elections Law to take place. It should be completed in a couple of minutes.

**The Speaker:** Honourable Members accordingly we will suspend for 15 minutes to allow the Legal Draftsman to complete the Committee stage amendment to the Elections Law.

**House suspended at 3.05 pm**

**House resumed at 3.55 pm**

## THIRD READINGS

**The Speaker:** Please be seated. Proceedings are resumed. The Honourable Leader of Government Business.

### **ADJOURNMENT**

**Hon. W. McKeeva Bush:** Mr. Speaker, there are numerous amendments to the Elections Law and the Elections Officials have finalised and reworked them, and I believe it would be better if we adjourned the House at this time, as much as I hate to do that seeing that we have things to be doing. Nevertheless, to give Opposition Members time to peruse and examine the amendments, I believe it is better to adjourn until Wednesday at 11 am. Members here have a meeting at 10 am with the Members of the All Party Parliamentary Group.

**The Speaker:** The question is that this House do now adjourn until 11 am Wednesday, 28 July 2004. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**At 3.55 pm the House stood adjourned until 11 am on Wednesday, 28 July 2004.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**28 JULY 2004**  
**12.20 PM**  
*Thirteenth Sitting*

**The Speaker:** I will invite the Honourable Second Official Member to lead us in prayers.

**PRAYERS**

**Hon. Samuel W. Bulgin:** 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 Cabinet 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 12.22 pm**

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

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

**Apologies**

**The Speaker:** Honourable Members, firstly, I wish to apologise to the Honourable House for the late start, which was due to certain important issues having to be resolved prior to the opening this morning.

Also, I have received apologies for absence from the Honourable Temporary First Official Member and the Second Elected Member for West Bay.

**PRESENTATION OF PAPERS  
AND OF REPORTS**

**Attorney General Review 2003**

**The Speaker:** The Honourable Second Official Member responsible for Legal Affairs.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.

I beg the leave of this Honourable House to lay on the Table the document entitled "Attorney General Review 2003 Portfolio of Legal Affairs".

**The Speaker:** So ordered, would the Honourable Member wish to speak thereto?

**Hon. Samuel W. Bulgin:** Yes, very briefly.

Mr. Speaker. Let me hasten to say that there is no legal or indeed any requirement for the Attorney General's Portfolio to undertake documents and lay an annual review before this Honourable House. However, given the unsettling events of early last year I am persuaded that consistent with the notion of openness and transparency it would be an excellent gesture to undertake the publication of an annual review of the Attorney General's Office.

This publication is therefore an effort to convey to the public in a general way who we are and what we do. As Honourable Members are aware, it is not uncommon or unreasonable for the role of the Attorney General's Portfolio to be misunderstood. Some people often associate us with only busily prosecuting offenders to be sent off to Northward Prison.

We are about much more than that and we have a much wider focus. Accordingly, Sir, we have attempted to set out in this Review some of the functions of the office. The contents of the Review are merely indicative and is in no way meant to be exhaustive. I commend it to Members of this Honourable House. It is an inaugural publication; it is historic, significant and indeed timely. It is meant to be as opened and informative as we are allowed to be, and it touches on areas such as the prosecutorial functions, advice to Government on civil matters and indeed all matters; it

touches on the Financial Reporting Authority (FRA), the Law School and Legislative Drafting.

Our vision is to continue to promote law and order, adequate and proper administration of justice in these Islands. We are about providing quality legal services in a timely, courteous and efficient manner whilst at the same time upholding professional ethics in the conduct of our duties.

In keeping with our mission, which includes providing the Government of the Cayman Islands with sound legal advice, representing the Government and the Crown on civil and criminal litigation, and doing so with the level of skills and professionalism required, and indeed, expected in an increasingly sophisticated commercial environment and by the widening sphere of crime in such a manner as to positively influence the administration of justice in these Islands, we are committed to promoting law and order.

I wish to reiterate that the publication is not an individual effort on my part; it is a team effort and I wish to extend my appreciation to members of my staff and to Government Information Services (GIS) for their effort in assisting me to put this document together.

Thank you.

#### **Discussion Draft White Paper on the Traffic (Amendment) Bill, 2004**

**The Speaker:** The Honourable Leader of Government Business and Honourable Minister for Tourism, Environment, Development and Commerce.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House a Bill for a Law to Amend the Traffic Law (2003 Revision) to further regulate the grant of driving licenses to teenagers; and for Incidental and Connected Purposes.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

Mr. Speaker, I had hoped to be able to bring this Bill and take it through its normal passage in the House, but the people who have been advising me on it wants further clarification on certain things and therefore I propose to bring it in September or if there is any meeting before when I complete my discussions with them then I will do so.

The Bill is an important one as for a long time the public have talked about the need for a revision to take into consideration the age of teenagers and in particular, recent times when Mrs. Patricia Ebanks spearheaded a certain organisation and done quite a bit of education on the matter. I believe the time is right.

There are numerous problems with the aspect of the licensing presently. The fact that teenagers get them at a very young age people feel that age should be increased. To provide a learners license to a teenager is valid for 18 months and maybe reviewed for a further period of twelve months but thereafter no renewals should be permitted unless the applicant, since the last renewal, has taken at least one driving test relating to the grant of a restricted drivers license. The Bill provides and what has been recommended is that we look at this aspect of licensing at the age of 16 and 17.

Many teenagers have had their lives taken and I am so conscious of it because I have been to so many funerals just to see these young lives that had so much hope wiped out. I just went to a very well attended funeral of a young person killed in a car crash and as a parent when these sorts of things happen you think you know what the parent is going through.

One of the other problems that we have to address is the new import cars that are being so easily modified; this is a big problem and the community is crying out for changes.

As I said, I would have hoped that I could have taken this through all its stages but I am going to lay it on the Table for public input so that Members of the House would have much more time and bring it back as soon as possible. I hope nothing happens before then because this is long overdue.

Thank you, Mr. Speaker.

#### **STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET**

##### **Purchase of a Crane for the Port Authority in George Town, Grand Cayman**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, we are now in a time when people are starting to electioneer. In my constituency there is a team, as yet, being hid from the public that consists of Mr. Leonard Ebanks, Former Constitutional Commissioner and candidate in 2000, Mr. Thomas Jefferson, former Minister of Tourism, and although they say that they are not supporters of a party system, they have enjoined themselves to Mr. Mario Ebanks, First Vice President of the PPM, and Mr. Dalkeith Bothwell, a senior member of the People's Progressive Movement. It would be a rather immaculate birth for this alliance not to produce a PPM party slate, but I guess they believe that the people of West Bay and indeed the Cayman Islands are easily deceived.

Mr. Jefferson (the former Minister of Tourism) recently called into Radio Cayman Talk Show and then wrote a letter to a newspaper about my comments on the Port's development at my recent public meeting,

and took offence to what I had said about the cranes and their inability to be used on the finger pier.

He said, and I quote, "**I did not buy the crane, the Port Authority did**". Here he is trying to shift the responsibility for his dastardly acts to the Port Authority. He was the Minister responsible for the Port Authority and he was the Chairman of the Port Authority. He cannot run and try to hide from the facts nor can he try to shift the blame to anyone else. As the old saying goes, "*the bucks stopped with him*".

The facts are that he orchestrated the purchase of the Manitowoc 250 Crane in 1997. He brought into the country a new shipping company, his own; ran out the private sector cranes on the Dock because he said his ship was not being treated fairly. After this crane was purchased it was discovered that it could not operate on the 200-foot finger pier for two reasons. First, the pier was not structurally able to support the weight of the crane's 300 tonnes and secondly, even if the pier could have supported the weight the tracks are too wide for it to be operated on the pier, nor could part of the boom of the crane be operated. It is still stored away and cannot be used; it is useless. The operations of the crane were therefore limited to the solid portion of the dock.

Mr. Speaker, allow me to repeat what I said again for the benefit of the Caymanian people and also for Mr. Jefferson who continues to say, and I quote, "**May I ask Mr. Bush how then did the ships get unloaded?**"

In 2003 the finger pier was upgraded to a solid structure and widened to 65 feet. These two actions have resulted in the utilisation of the entire 200-feet of the finger pier by the cranes. Put simply, there is now 440 continuous feet of dock that can be utilised by the cranes. In so doing ship sizes calling at the Port in 2004 were increased from 260 twenty foot equivalent units (TEU) capacity ships to 515 twenty foot equivalent units, capacity ships, to meet demands.

He goes on to say that from 1997 until 2000 (when the people finally caught on to what was happening), that the annual operations of the crane were profitable. Again, please allow me to set the record straight.

The crane operations on its own have never produced a positive cash flow for the Port Authority. For example in the year 2003, a typical year, crane revenues were \$445,080 and expenses including crane operations and stevedores, wages, pensions, medical, maintenance, parts and loan payments were \$917,316. This produced a negative cash flow of \$462,236 for the crane operations. Crane revenues are derived from direct charges to the shipping companies that use the Port services and these were set at \$15.00 per lift per TEU. Coincidentally this

rate was set in 1997 when the new crane was purchased.

Mr. Speaker, there are two basic reasons why the crane operation do not produce positive cash flows. First, the crane charges of \$15.00 per TEU were arbitrarily set. Secondly, Stevedores services by the Port Authority are free and were never factored into crane charges when they were initially set. Less it is said otherwise, our George Town Port is comparable with major ports in the number of lifts per hour, and indeed exceeds many other ports.

The former Minister tries further to take credit for our new security procedures, as he alludes to the fact that the Port Authority had trucking personnel removed from the port operation. There were no security challenges in 1997 that compares to those we face since 9/11. The new security measures announced had nothing to do with the limited type of security concerns that were in 1997. The International Community of Ports took three years to formulate into practice this new system. We are now operating under this new port security system, which far exceeds anything Mr. Jefferson said he had tried to implement.

The former minister tries to further take credit for the trucking operations. This operation was put in place in 1989 although it came into effect in 1991 and we all know that Mr. Jefferson was not responsible for the Port Authority's expansion at that time. If I may say so, Mr. Speaker, it was yourself who was in charge of the Port at the time. Also the trucking operations between the Dock and Cargo Distribution Centre has worked well over the years but has never produced a positive cash flow until 2002 when we had to adjust the trucking rates to better reflect the true cost of the service, we had to increase the cost.

Therefore, I expect no better from the former Minister of Tourism, who led our tourism industry, which had started to take a downturn in 1998, who had no television advertising in the United States, our biggest trade market, no tourism management policy and no summer programmes. Yet he had a budget of over C\$25 million. This Ministry have been operating in my time with a budget of \$19-20 million. Mr. Speaker, he went to great lengths to hide the true tourism arrival figures by manipulating the statistics. He did this by including local travelling residents.

When he said that the country was receiving 430,000 people, that actual number was closer to 300,000 or below. This could not have been so because in 2000 the hotels were empty, there were no cars being rented, restaurants were empty, including his own, no charter boat business and what cruise ship business that did come into the country was given to the bigger operators and no small water sports operators were allowed to conduct business with the major hotels under his watch. He simply did not take care of the needs of the people, but more specifically, he did not look after the small water sports operators from West Bay, and he was dishonest in putting out wrong information as he was informed was wrong.

How can you expect openness, care or concern from this ex-minister who has done those things? This is the same ex-minister who cannot give a proper account of the \$11 million that was used for the Pedro Castle Project. This project, where container loads of mahogany disappeared; this project, which the Public Accounts Committee has been unable to get to the bottom of concerning the expenses; this property, Pedro Castle Project—which he said that when it was built would make millions of dollars—deceived Executive Council. Instead it has been in deficit from the beginning some 7 years ago.

The country should well remember the fiasco surrounding the Pedro Castle Project where no relevant bills could be produced for the \$11 million of expenditure and perhaps the Opposition, who seeks to change the Government over mismanagement need to look at their new found running mate in West Bay; the same running mate that they campaigned against in 2000.

Mr. Speaker, I trust that this detailed description of the events and circumstances of the Port Operations under the former minister Mr. Jefferson, will finally educate him on the condition that he left the Port Authority in, as he surely had no clue about the operations when he was the Minister.

Thank you, Mr. Speaker.

**The Speaker:** Honourable Members I will take a two minute suspension to clarify an issue with the Leader of Government Business and I will ask Members to please sit in their seats.

**Proceedings suspended at 12.51 pm**

**Proceedings resumed at 12.52 pm**

**The Speaker:** Honourable Members proceedings are resumed.

I would like to say that we did start very late this morning and it is now 7 minutes to 1 o'clock, which is our luncheon period, but instead of taking the usual one and a half hour for lunch I am proposing that we take only one hour and return to start promptly at 2 pm, if possible. So, we take the luncheon suspension at this time.

**Proceedings suspended at 12.53 pm**

**Proceedings resumed at 2.10 pm**

**The Speaker:** Proceedings are resumed.

## GOVERNMENT BUSINESS

### BILLS

**The Speaker:** The House will now go into Committee to consider the Election Amendment Bill 2004.

**House in Committee at 2.10 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 its Clauses.

#### The Elections (Amendment) Bill, 2004

**The Chairman:** Honourable Members are aware that an amendment, Amendment No. 5 to this Bill, was circulated which subsumes the details contained in amendments 1 through 4. So, the previous amendments 1 through 4 are no longer required, they are all included in amendment No. 5. I want to thank the Honourable Leader of Government Business for making it much simpler and easier to deal with just one amendment that all of the committee stage amendments are now included in the one amendment.

The Honourable Leader of Government Business.

Withdrawal of Committee Stage Amendments 1 through 4 to the Elections (Amendment) Bill, 2004

**Hon. W. McKeever Bush:** Mr. Chairman, I would like to move that Committee Stage Amendments 1 to 4 which had been circulated be withdrawn, as you have already explained to the Committee and I will stop there.

**The Chairman:** I had also given you the green light on this so I will order accordingly.

Madam Clerk please read the Clauses.

#### Clauses 1 and 2

**The Clerk:**

Clause 1	Short title and commencement
Clause 2	Amendment of section 2 of the Elections Law (2000 Revision) – definitions and interpretation

**The Chairman:** The question is that Clauses 1 and 2 form 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.**

**Hon. Juliana O'Connor-Connolly:** Mr. Chairman. I just want to make a quick observation, which would not change the vote. In Clause 2 on page 10 where it refers to in Section 2(1) the last line of that section where it says, 'in the opinion of the supervisor', as a reminder under the old Law Section 56(1) previously said 'the Old Governor' and I think this is yet but one example where the move has been made by the Government to keep the separation of powers in this section.

**The Chairman:** Thank you, most kindly. I will bring this comment to the attention of the Second Official Member and ask him to deal with it accordingly.

### Clause 3

**The Clerk:** Clause 3 Repeal and substitution of section 4 – appointment powers and duties of Deputy Supervisor.

**The Chairman:** Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, the amendment proposed in relation to Clause 3 of the Bill is the deletion of Section 4(2) for the purpose of providing 3 Deputy Supervisors without restricting one only for responsibility for Cayman Brac and Little Cayman.

**The Chairman:** The question is that the amendment forms 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 the Clause as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 3 as amended passed.**

### Clauses 4 and 5

**The Clerk:**  
 Clause 4 Amendment of sections 8 – appointment of returning officer.  
 Clause 5 Amendment of section 13 – preparation of quarterly register.

**The Chairman:** The question is that Clauses 4 and 5 form 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 passed.**

### Clause 6

**The Clerk:** Clause 6 Amendment of section 14 – revised list.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, I propose to move an amendment to Clause 6:- In Clause 6, in the new section 14 (2) proposed for insertion in the principal Law by inserting below paragraph (b) the following words - “; and copies of the revised list shall be offered for sale in printed or electronic form at prices set by the Supervisor from time to time”;

**The Chairman:** The question is that the amendment forms 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 the amendment as amended form 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 amended passed.**

### Clauses 7 and 8

**The Clerk:**  
 Clause 7 Amendment of section 15 – procedure as to omissions and objections.  
 Clause 8 Amendment of section 18 – revised list to be certified and deemed register of electors.

**The Chairman:** The question is that Clauses 7 and 8 form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.



**Agreed: Clauses 7 and 8 passed.**

### Clause 9

**The Clerk:** Clause 9 Repeal and substitution of Section 21 – change of electors name or residence.

**The Chairman:** Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, the amendment proposed in relation to Clause 9 - In Clause 9, in the new section 21 (a) proposed for insertion in the principal Law by deleting the words “within six weeks of” and substituting the words “within a reasonable period but no later than three months after”;

**The Chairman:** The question is that the amendment forms 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 the Clause as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 9 as amended passed.**

### Clause 10

**The Clerk:** Clause 10 Insertion of section 2(A) – registration of political parties.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** The amendment proposed in relation to Clause 10- In Clause 10, in the new section 21D proposed for insertion in the principal Law, by deleting subsection (1) and substituting the following subsection - “(1) No political party shall be registered between nomination day and the day on which all writs for a general election have been returned.”;

**The Chairman:** The question is that the amendment form 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 the Clause as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause as amended 10 passed.**

### Clause 11

**The Clerk:** Clause 11 Amendment of Section 23 – Nominations.

**The Chairman:** The question is that the Clause form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 11 passed.**

### Clause 12

**The Clerk:** Clause 12 Amendment of section 26 – deposits.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, by deleting clause 12 and substituting the following - “Amendment of 12. The Principal Law is amended in section 26 as follows – section 26 – deposits — in subsection (1), by repealing the words “or before”; and in subsection (3), by repealing the words “the Financial Secretary” and substituting the words “the chief officer in the Portfolio of Internal and External Affairs (as defined in section 3 of the Public Management and Finance Law (2003 Revision), for transmission to the Financial Secretary”;

**The Chairman:** The question is that the amendment form 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 the Clause as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 12 as amended passed.**

#### Clauses 13 through 15

**The Clerk:**

- Clause 13 Amendment of section 28 – contested elections, publication of date and place etc.
- Clause 14 Repeal and substitution of section 30 and 31 – presiding officers; poll clerks.
- Clause 15 Amendment of section 33 – supplies of election material.

**The Chairman:** The question is that Clauses 13 through 15 form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 13 through 15 passed.**

#### Clause 16

**The Clerk:** Clause 16 Amendment of section 34 – polling and counting agent.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, in clause 16 by deleting paragraph (a) and substituting the following paragraph – “(a) in subsection (1) –

- (i) by repealing the words “seven days” and substituting the words “ten days”; and
- (ii) by repealing paragraph (b) and substituting the following paragraph – ‘(b) two counting agents to attend at the counting of the votes at each counting station.’”

**The Chairman:** The question is that the amendment forms 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 the Clause as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 16 as amended passed.**

#### Clauses 17 and 18

**The Clerk:**

- Clause 17 Repeal of sections 39 and 40 – transfer of electors in special cases; where transferred elector to vote.
- Clause 18 Amendment of section 41 – proceedings at poll.

**The Chairman:** The question is that Clauses 17 and 18 form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 17 and 18 passed.**

#### Clause 19

**The Clerk:** Clause 19 Amendment of section 42 – who are to be admitted within polling stations.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, the amendment to clause 19 would enable candidates to retain written records of persons who present themselves at the polls.

**The Chairman:** The question is that the amendment form 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 the Clause as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause as amended passed.**

#### Clauses 20 through 24

**The Clerk:**

- Clause 20 Amendment of section 43 – general mode of taking ballot.

- Clause 21 Amendment of section 50 – who may be present.
- Clause 22 Amendment of section 51 – proceedings at the close of the Poll.
- Clause 23 Amendment of section 52 – the count.
- Clause 24 Amendment of section 56 – custody of election documents.

**The Chairman:** The question is that Clauses 20 through 24 form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 20 through 24 passed.**

**The Chairman:** I will take a brief suspension here to look at another amendment that has just been brought to me.

**Proceedings suspended at 2.24 pm**

**Proceedings resumed at 2.28 pm**

**The Chairman:** Committee is resumed.

#### Clause 25

**The Clerk:** Clause 25 Repeal and substitution of part 4 – election expense.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Chairman, the amendment to clause 25 has various changes proposed in relation to election expenses. The proposed changes are as follows –

- (i) in the new section 58 (3) proposed for insertion in the principal Law, by deleting the words “, and the returning officer shall forthwith give public notice of the name and address of every election agent so appointed”;
- (ii) in the new section 58 (4) proposed for insertion in the principal Law, by deleting the words “who shall forthwith give public notice thereof”;
- (iii) by deleting the new section 58 (5) proposed for insertion in the principal Law and substituting the following –

“(5) Where any act or omission of an association or body of persons, corporate or unincorporated, is a offence under this Law, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be guilty of that offence if it is proved –

(a) that the act or omission took place with his consent or connivance; or

(b) that he failed to exercise all due diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.”;

- (iv) in the new section 58 proposed for insertion in the principal Law by deleting subsections (6), (7), (8) and (9);
- (v) in the new section 59 proposed for insertion in the principal Law by deleting subsections (1), (2), (3) and (4);
- (vi) in the section 59 (5) proposed for insertion in the principal Law by deleting the words “by the election agent” and substituting the words “by the candidate”;
- (vii) by deleting the new section 60 (2) proposed for insertion in the principal Law and substituting the following –

“(2) No candidate shall be deemed to be guilty of an illegal practice by reason of any other person having incurred any expenditure in connection with the candidature of the candidate in contravention of this Part, unless it is proved that such expenditure was incurred with his knowledge or consent or that he did not take all reasonable steps to prevent the incurrence of such expenditure.”;

- (viii) in the new section 61 proposed for insertion in the principal Law, by deleting subsection (4);
- (ix) in the new section 65 (1) proposed for insertion in the principal Law by deleting the words “shall keep an account book in which shall be recorded –” and substituting the words “shall keep an account of –”;
- (x) in the new section 65 (4) proposed for insertion in the principal Law by deleting the words “the account book” and substituting the words “the account”;
- (xi) in the new section 65 (5) proposed for insertion in the principal Law by deleting the words “a constable” and substituting the words “the Attorney – General”; and
- (xii) by deleting the new section 65 (6) and (7) proposed for insertion in the principal Law and substituting the following-

“(6) The Supervisor shall keep a copy of the return at his office until the close of the poll for the second general election that takes place after the date on which the Supervisor received the return, and at the expiration of that period the Supervisor shall cause the copy of the return to be destroyed.

“(7) Where a provision of this Part would be inconsistent with the register of Interests Law,

1996, the Register of Interests Law, 1996 shall to the extent of the inconsistency prevail over that provision of this Part.”;

**The Chairman:** The question is that the amendment form 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 now is that the Clause as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 25 as amended passed.**

#### **Clause 26 and 27**

**The Clerk:**

Clause 26 Insertion of Part 4A and part 4B – political broadcasts, publication of statistical information.

Clause 27 Amendment of section 72 – intoxicating liquor not to be sold or given.

**The Chairman:** The question is that Clauses 26 and 27 form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 26 and 27 passed.**

**The Chairman:** I will again take a brief suspension. I think we have an amendment to Clause 28 that is now being circulated.

**Proceedings suspended at 2.30 pm**

**Proceedings resumed at 2.31 pm**

**The Chairman:** Madam Clerk.

#### **Clause 28**

**The Clerk:** Clause 28 Amendment of section 83 – illegal practices and penalties.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, in accordance with the provisions of Standing Order 52 (1) and (2), I move the following amendment to The Election (Amendment) Bill, 2004, that the Bill be amended in clause 28 (b), in the new section 83 (1a) proposed for insertion in the principal Law by deleting the following words - “or both (unless otherwise expressly provided); and in addition to any other penalty, such person shall be incapable during a period of five years from the date of conviction of being registered as an elector or of voting at any election, or of being a candidate for election to the Assembly, or, if elected before his conviction, of retaining his seat as a member”

The feeling is that the provision in the amendment, which is dealing with minor offences, is draconian and it is already covered in Section 82 for major offences for whoever has been convicted of bribery, treating, undue influence or personating or aiding, abetting, counselling or procuring the commission of any of the said offences. So, it is covered for the major ones and that is how it should be.

**The Chairman:** The amendment has been duly moved does any Member wish to speak to this? If no Member wish to speak the question is that the amendment forms 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 the Clause as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 28 as amended passed.**

#### **Clause 29**

**The Clerk:** Clause 29 Amendment of Section 90 – power to make rules.

**The Chairman:** The question is that Clause 29 form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 29 passed.**

**Clause 30**

**The Clerk:** Clause 30 Amendment of Second schedule – Forms.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, the amendment to Clause 30 is for the purpose of retaining the existing nomination Form-16 in the Election Law 2000 (Revision) until the requested amendment to the Constitution of the Cayman Islands is approved. The declaration in relation to not possessing any other citizenship would be invalid. – In clause 30 by deleting paragraph (h).

**The Chairman:** The question is that the amendment form part of the Second Schedule. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 30 as amended passed.**

**The Chairman:** The question now is that the Second Schedule as amended form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: The Second Schedule as amended passed.**

**The Clerk:** A Bill for a Law to Amend the Elections Law (2000 Revision) to Refine and Modernise the Elections Legislative Scheme of the Cayman Islands and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Title passed.**

**Clause 31**

**The Clerk:** Clause 31 Amendment of Third Schedule – Elections rule.

**The Chairman:** The question is that Clause 31 form part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 31 passed.**

**The Chairman:** Honourable Members this brings us to the close of proceedings on the Bill in Committee and we will now resume the House.

**House resumed at 2.38 pm.**

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

**REPORT ON BILLS****The Elections (Amendment) Bill, 2004**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

I beg to report that a Bill for a law to amend the Elections Law, (2000 Revision) to refine and modernise the Election and Legislative Scheme of the Cayman Islands and for incidental and connected purposes was examined in Committee and various amendments made thereto.

**The Speaker:** The Bill has been duly reported and is set down for Third Reading.

**THIRD READING****The Elections (Amendment) Bill, 2004**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg to move that a Bill for a Law to amend the Elections Law (2000 Revision) be given a Third Reading.

**The Speaker:** The question is that a Bill shortly entitled The Elections (Amendment) Bill, 2004 as amended 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 Elections (Amendment) Bill, 2004 was given a Third Reading and passed.**

**The Speaker:** The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, could we have a Division please.

Madam Clerk could you please call a division.?

**Division No. 4/04**

**Ayes: 6**

Hon. W. McKeeva Bush  
Hon. Juliana O'Connor – Connolly  
Dr. the Hon. Frank S. McField  
Hon. Samuel Bulgin  
Hon. George McCarthy  
Mr. Cline A. Glidden, Jr.

**Noes: 4**

Hon. D. Kurt Tibbetts  
Mr. Anthony Eden  
Ms. Edna M. Moyle  
Mr. V. Arden McLean

**Absent: 7**

Hon. Gilbert McLean  
Hon. Roy Bodden  
Hon. Donovan Ebanks  
Mr. Rolston Anglin  
Capt. A. Eugene Ebanks  
Mr Alden M McLaughlin, Jr.  
Mr. Lyndon L. Martin

**The Speaker:** I confirm that the Division is 6 Ayes, 4 Noes, 7 Absentees. The Motion is accordingly carried.

The question is that the Elections (Amendment) Bill, 2004 as amended has been read a third time and is passed.

**Agreed by majority that the Elections (Amendment) Bill, 2004 was given a Third Reading and Passed.**

**Suspension of Standing Orders 45, 46(1), (2) and (4)**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I move that the suspension of Standing Orders 45, 46(1), (2) and (4) to allow the Public Service Pensions (Amendment) Bill, 2004 to be read a first and second time.

**The Speaker:** The question is that Standing Orders 45, 46(1), (2) and (4) be suspended in order to allow the Public Service Pensions (Amendment) Bill, 2004 to be read a first and second time. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Standing Orders 45, 46 (1), (2) and (4) suspended.**

**FIRST READING**

**Public Service Pensions (Amendment) Bill, 2004**

**The Clerk:** The Public Service Pensions (Amendment) Bill, 2004.

**The Speaker:** The Bill was deemed to have been read a first time and is set down for second reading.

**SECOND READING**

**Public Service Pensions (Amendment) Bill, 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I would like to seek the leave of this Honourable House to defer the debate on the Second Reading of the Public Service Pensions (Amendment) Bill, 2004. The reason being, I would like to take it at the same time that the Parliamentary Pensions (Amendment) Bill is set down to be dealt with. That Bill will be brought to this Honourable House this afternoon. The Senior Legislative Council that worked on the Public Service Pensions Bill is currently working on the Parliamentary Pensions Bill, and as Honourable Member will note, it is the practice of in this House to have the Legislative Council who has dealt with the Bill to be on hand when the Bill is being debated.

**The Speaker:** The question is that the Second Reading on the Public Service Pensions (Amendment) Bill, 2004 be deferred. As a consequence we cannot go into Committee on it so therefore the deferral would also apply to the Committee Stage on the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: The Second Reading on the Public Service Pensions (Amendment) Bill, 2004 deferred.**

**The Speaker:** Madam Clerk, we will now move to Item 6 on the Order Paper.

**OTHER BUSINESS**

**PRIVATE MEMBERS' MOTIONS**

**Private Member's Motion No. 1/04**

**Reviewing Laws and Policies to enhance the ability of the Royal Cayman Islands Police**

**The Speaker:** Honourable Members the Second Elected Member for West Bay is away on official busi-

ness but he has requested the Fourth Elected Member from West Bay to carry his Motion through. (I would have checked on those details) I now call on the Fourth Elected Member for West Bay to continue.

**Mr. Cline A. Glidden, Jr:** Thank you, Mr. Speaker. I thank this Honourable House on behalf of my colleague, the Second Elected Member for West Bay, for their assistance in allowing the business to be continued even though he has had to be off the Island on official business.

In speaking to my colleague he felt that he had sufficiently moved the Motion and in the event that he is not here for the winding up or the answer to any questions that may come during the contribution of other Members, I will attempt to do that on his behalf.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

The Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I rise to accept the Motion on behalf of the Government and to make a few observations in doing so, with the leave of this House.

In his debate on this Motion the Member covered a number of areas and has made a number of observations on these issues. I would like to say that I have taken a look at the Police Law in preparing to respond to this Motion. It, in part, says that the functions of the police include the maintenance and enforcement of law and order, the preservation of the peace, the protection of life and property, the prevention and detection of crime and apprehension of offenders.

On the issue of the remit and response of police in certain circumstances, I wish to make the observation that sometimes it is really a question of the police trying to determine whether they are empowered to act in certain circumstances and if they are, to what extent are their powers. It is not unusual for police officers to seek clarification from the Government Legal Department on certain issues. I would say that this approach should be encouraged as it helps to clarify their role and the state of the Law as it relates to a particular incident.

Police officers, like most of us, are creatures of statute and their powers and the phase of it are defined and contained in the four corners of the Police Law. I say 'on the face of it' because initially that is how it appears. There are certain powers that the police enjoy, which are not necessarily written in the Police Law. The Common Law is part of our system and there are certain instances where the police, even though the Police Law may not expressly so provide, the police can act in certain circumstances. An example of that is, the police have power which

is part of their duty to prevent breach of the peace and the police takes the view that they are not empowered to enter private premises out of fear that they may be held liable for trespass, but the Common Law has always been that if the police has reason to believe that a breach of the peace is about to occur or is taking place, even though it is private premises, the police is empowered to enter those premises and prevent or try to put an end to such breach. If you pick up the Police Law and look in it you would not see that sort of language expressly provided therein, but it is power that the police also enjoy and they need to bear this in mind.

The Member, in his debate, also touched on individuals riding around on pedal cycles with machetes and what appear to be offensive weapons being openly displayed. The position is that the Law has provided certain definitions for offensive and prohibited weapons and there are certain latitude provided to the police in dealing with these matters. If a person is riding around with a machete on his bike and the police have reason to believe that the machete is not being used as part of the person's profession or trade or for domestic use then the Law deems that in those circumstances it might very well be an offensive weapon. It goes further than that. If the police has reason to suspect that the person who is riding that bike or carrying a machete, intends to use it to cause harm to another person, the police does not have to wait for the person to act they are empowered in Law to arrest the person for being in possession of an offensive weapon and to confiscate the weapon pending the outcome of the hearing.

I know as a matter-of-fact that the police are uncertain in most instances dealing with machetes being conveyed in cars or on pedal cycles. It is not unusual for them to call the Legal Department to find out whether they have the power to seize machetes or any such weapons. The law makes it quite clear that unless it is being carried for use in the profession or trade or for domestic use and if the police have reason to believe that it is likely to be used to cause injury to any person then it is deemed to be an offensive weapon and should be confiscated and the person should be arrested in those circumstances.

I am not faulting the police for that but I am saying that maybe what we need to do is to look at the language of the legislation and see where we can make it much clearer so that all can follow readily.

Mr. Speaker, the Member also makes reference to big boom boxes or portable disco techs in cars. I, like all Honourable Members of this House, would readily concede that it is a colossal nuisance and needs to be dealt with. I recall having discussions last year with a certain Chief Inspector of Police on this matter and the instrument that was to be used to measure the decibel levels, and as I speak, I am aware that the issue is under review. I intend to take up the issue again with Chief Inspector Myles to see how we can further advance this matter. It ought to be dealt with because not only is it a danger but it is a nuisance.

On the issue of whether the police has the discretion or whether it should be left to the discretion of the police officer, where there is a serious accident to request samples of breath— I looked at the Traffic Law and it does provide that the police has discretion to do so. I believe that it was deliberately worded that way because it does not follow that if there is a serious accident then one or both drivers are necessarily inebriated or intoxicated. So, I think it is a matter of judgment call for the police who are trained in these matters to determine whether they should ask for a sample.

I take the Members point that maybe it should not be left to the discretion of the police but I would say, at this stage sir that it is something that needs to be looked at a little more carefully. I undertake to have discussions with the Commissioner of Police and Legislative Drafting Department, and certainly with Cabinet colleagues, to see whether it should be a mandatory requirement that samples of breath be taken on every occasion where there is a serious accident.

The other thing I recall from the debate with the Member was that he had touched on the issue of complaints and discipline of police officers, and whether it should be the Governor or the Commissioner of Police who should have the powers to discipline officers of a certain rank once the complaint has been made. He opined in his debate that it should be left to the Commissioner of Police who should be seized with the authority to do so.

I wish to make the observation that there are as many views on that as there are Members in this House; some of us who are of a different school of thought. I will tell you that my personal opinion is that there should be an independent body that is established to deal with complaints against the police; a body of three or four individuals who are not members of the police force or of the Government, but should be a police complaints tribunal authority or something, which would deal with these things. That is my opinion and I have not articulated that in any other forum but the Member from West Bay made the suggestion and we intend to have a look at all of this. May I just add that it is really a matter that comes under the remit of His Excellency the Governor but it is something that has been noted before and one that we intend to look into and take on board the suggestions by the Member in his debate.

The Motion is quite timely. There are weaknesses to be addressed and issues that need to be looked at which would help to enhance the Police crime fighting abilities and I am happy to accept the motion on behalf of Government and to look into these matters and see how we can advance the cause.

Thank you.

**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. When the Second Elected Member for West Bay moved this Motion, I believe it was last Thursday; I was struck with the irony of what was transpiring during the course of the same day. Earlier that morning the Honourable Minister with responsibility for Community Services had read at length, for the best part of an hour, a statement on the accomplishments of the Ministry of Community Services and the Minister spoke at length about the achievements of his Ministry in relation to the question of Social Services and Prison Services and generally spoke, as he likes to say, from a sociological point of view.

*[Laughter]*

**Mr Alden M. McLaughlin, Jr:** The Minister outlined many of the programmes and initiatives that his Ministry has undertaken, been involved with and promoted and continued over the course of his three year tenure.

One of the things that the Minister has been fond of saying, not just on that occasion, but in the past, is that the numbers of persons who are incarcerated at Northward Prison and Fairbanks, are on the decline. When his colleague and Back Bench supporter, outlined the basis upon which this Motion is being brought, a motion to review laws and policies to enhance the ability of the Royal Cayman Islands Police, I was struck by two things. One, the approach to dealing with these antisocial issues is markedly different between the Minister and the Second Elected Member for West Bay.

The Minister for Community Services says over and over again—and he has been consistent on this point—is that the answer to most of the problems that we are facing in terms of increase in crime and growing antisocial attitudes, is not by incarcerating people or giving them longer sentences, putting them away. The approach of the Second Elected Member for West Bay seems to be one of enhancing the power of the state and the security services to give the police greater ability to deal with those who do not conform to societal rules, regulations and laws. That again I thought spoke loud and clear as to the certain division in approach between the Government and its supporting Back Bench, at least that Member and presumably the Member who seconded the Motion. It also spoke with certain eloquence about the actual state of affairs that obtains in the Cayman Islands and in particular, West Bay. On the one hand you have the Honourable Minister setting out his accomplishments and painting a picture that the society as a whole has improved generally as a result of his stewardship. On the other hand we have the Second Elected Member for West Bay saying and setting out in great detail the fact that the use of drugs and the violent crime, and the attendant to other offences of



burglary and threatening violence, and those sorts of offences have increased in West Bay, to a point where they believe that the police need additional powers and abilities to be able to cope with the growing crime wave.

So, the Government needs to decide what the position is. We cannot on the same day have the Minister boasting about his accomplishments saying that the incarceration figures are down and that generally speaking, the overall social position in these Islands has improved, then have his supporting Back Bench Members to approve a motion to give the police more power to cope with growing crime in West Bay.

**The Speaker:** Honourable Member would you please give me a minute.

I would like to let all members in the precincts, whether you are sitting in the gallery or within the Chambers, to know that you must obey the normal decorum in the Chambers. Thus there will be no answering of phones or eating while sitting in the gallery whether you are members of the Press or otherwise. I expect the same decorum from you as I expect from the Members within the immediate Chambers.

Please continue Second Elected Member for George Town.

**Mr Alden M. McLaughlin, Jr:** Mr. Speaker, I was saying that the sort of approach and forked tongue with which the Government speaks is further evidence of the schizophrenic nature of this Government. I would ask that at some point the real Government stand up and say what the true position in relation to crime in this country is.

I have spent a lot of time with police officers socially over the course of many years and I do it quite often, so I generally have a feel for how the rank and file within the police force are feeling about their job and the situations in the Islands generally. My assessment is that at this point the police are generally happy with the way things are going and with the legislation they have, which enables them to carry out their duties.

They have concerns about lack of certain equipment, particularly safety equipment, and the situation they have to face in Cayman becomes increasingly more violent and those concerns grow. However, they believe that they are properly staffed and are concerned about not having sufficient vehicles and vehicles that can give good service and are in good condition. However, from my assessment and discussions with police officers the police are generally satisfied with their ability to carry out their job. I have not heard officers complain about not having the legal jurisdiction to arrest people or to enter premises or confiscate offensive or dangerous weapons. I have not heard those sorts of complaints

at all. I am not saying that they do not exist but I am not aware of them.

We have to balance in this country like everywhere else, the rights of the individual and be careful that we do not create situations whereby people start to believe that perhaps this is the beginning of the a police state and the police have too much power, that they are oppressive and not friends of the people.

I am not at all averse to us reviewing the laws and policies but I would caution us against creating a situation where the legislation and thereby the Police may be accused of being overbearing. We need to continue to have the check of the legislation and of the courts to ensure that access to people's premises is not generally available in all circumstances. There is a good reason why there are search warrants and why a certain hurdle has to be overcome before a magistrate or Justice of the Peace will sign a search warrant in certain circumstances. It is because we need to continue to ensure that the fundamental rights of people to privacy to the sanctity of their homes is not just washed away in this effort to ensure that no criminal gets away. We have to balance those competing interests and that is what the current legislation and the Common Law has developed over times.

Yes, there are times and circumstances when one needs to enhance security when there are threats and we have seen with the tragic events of 9/11 and all that have followed from that, that circumstances will dictate how much liberty people have, how far the state is prepared to go to invade those fundamental rights to ensure the overall safety of the nation. I acknowledge that but I do not think that we are at that stage in Cayman. I would really caution this Honourable House that when we are looking at the Laws and policies, as the Second Elected Member for West Bay has asked that we do, to bear in mind the importance of those principles; the sanctity of ones home and ones person that the police have an important function and role to play but there ought to be certain basic triggers, which are in place before anyone is open to just indiscriminate search and seizure.

I believe that generally speaking the legislation that obtains in Cayman coupled with the Common Law do provide that necessary balance with the Court sitting as arbiter. I am not convinced by anything that the Second Elected Member for West Bay has said in saying that we are in grave risk of being overrun by the criminal element because the police do not have the necessary equipment or the supporting legislation to enable them to carry out their job properly. I think that sometimes we cause the police not to exercise their own judgement and discretion because we are so critical of what they do.

The Honourable Minister for Community Services has a book called "The Death of Common Sense" and I think that is often what is overlooked when we give people jobs to do. All Legislatures are far too prone to seek to remove any element of discretion of good judgement of the exercise of common sense from

persons who are required to carry out various functions and duties under the laws.

I hear talk about the need for the Legislature to increase sentences in relation to certain offences and essentially to tie the hands of the Judiciary because we supposedly, who sit here in this Honourable House know better than the judges what sentences should be given for certain offences. I know first hand that any Judiciary deeply resents that sort of encroachment on the exercise of their discretion and their judgment. As far as the police are concerned often we are far too critical and too willing to say what ought to happen. The Second Elected Member for West Bay spoke about the question on whether or not someone should be breathalysed following a serious car accident. He suggested in his debate that it ought to be a matter of law. That again removes any exercise of judgment or discretion on the part of the police.

We have to understand that when we invest people with responsibility and authority they are not robots and if we want people to carry out jobs properly we have to give them the ability and support to make professional judgment in relation to matters otherwise we demean the office they hold, they believe that their views do not really matter in the exercise of what they are doing and they are bound to have less pride in the job that they carry out. There has to be an element of exercise of common sense. If common sense is dead, as the book that the Minister has seems to suggest, we ought not to be burying it. If there is somewhere that it can be resuscitated, invigorated and given a second life then that is what we ought to be doing.

The Second Elected Member for West Bay also spoke about the inability of the police to clear property in which criminal activity is being perpetrated. There is a piece of legislation called the Town and Communities Law, which I think is Law 7 of 1895, if I remember correctly, that allows the clearing of property when there is a perceived nuisance. We need not go across special legislation to clear a couple pieces of property in West Bay; there is legislation which provides a basis for it, but you have to follow the process.

I am alarmed that West Bay has been experiencing such a crime wave. I say that the Second Elected Member for West Bay and his colleagues ought not to have left the situation until now before any action is attempted to try to address these concerns. There are clearly fundamental issues at work in Cayman generally, but specifically, in West Bay which this Government seems to have been either unwilling or unable to properly address. Here we are now three and a half months before the general elections debating a motion brought by the Second Elected Member for West Bay to review laws and policies to enhance the ability of the Royal Cayman Islands Police to deal with these issues.

It reads **“BE IT RESOLVED THAT Government consider reviewing applicable laws and policies to enhance the ability of the Royal Cayman Islands Police to more effectively and safely carry out their duties.”** If I were a cynic I would conclude that the purpose of that Motion was simply to create a platform to be able to articulate concerns about the district of West Bay and to create the impression that the Government was really concerned about these issues and is doing everything it could to ensure that things were put right.

Mr. Speaker, I have listened very carefully to what the Honourable Second Official Member has said and though he couched it in more diplomatic terms than I will, sitting where I am, I believe that he too is concerned to ensure that we do not so inhibit the ability of the Police to be able to deal with these matters, to tie their hands in the exercise of discretion. That he is also concerned that we do not upset a balance that has been established over a long period of time.

With him on that side and having expressed those views I do derive some degree of comfort that nothing too radical or extraordinary is likely to emanate from the Government Bench in terms of an amendment bill. Perhaps with having the benefit of his sage advice and following his restraint, the other more zealous Members of the Government might be persuaded that we need not create a police state in order to seek to address some of these growing problems in relation to crime in the Cayman Islands generally.

Mr. Speaker, there is no doubt in my mind nor do I believe there ought to be any doubt in anyone's mind that while the overall statistics might indicate, as the Minister for Community Services has indicated, that the number of crimes are on the decline. There are a number of offences that are clearly on the increase and are causing great concern to members of the community and to the police.

The Minister for Education has said that gangs are no longer an issue in the schools. That maybe the case, although I do not think that is entirely true, but the activities that were carried on by school gangs are on the decline within schools but what is clear is that over the course of the four years that this House has served the incidents of gang activity and violent crimes involving even death have significantly increased. I am not attempting to lie that at the foot of the Honourable Minister but it is a symptom of the society in which we live. The Minister was appointed as a chairman of a committee before he was a Minister to examine the causes of youth violence. I have forgotten exactly what the name of the committee was; it was rather a long name. I know he carried out various enquiries and sessions with persons and he produced a report.

We have had violent gang related deaths in Cayman, but in particular, George Town in the recent past. I myself have attended two such funerals and in each instance I left there so distressed, worried and concerned about the future of this country and the young people that in both instances I had to go home

and lie down. The last one, in particular, that I attended, I believe I was the only Elected Member there, I did the obituary and I spoke to those people and I know that I upset some of them because word came back to me, about the consequences of living this kind of lifestyle that this is how it is going to end. To see how unrepentant members of one gang were, touch me to my core. I experienced fear, concern, grief, every range of emotion you can consider except anything that feels good, to see them sitting there in their regalia staring me and the rest of the platform down as they laid to rest one of their soldiers.

As a Caymanian—forget for the moment of my being a representative—that gave me a feeling I cannot describe. The fact that two persons died in that spate; that we put in a police post there temporarily, which calmed the situation down and which to a large extent have quelled the anxieties of those good people who live in that neighbourhood is a good thing, but the underlying problems, cancer which is there in relation to the drug trade and to gangs is still there. So, we ought not to pretend for a moment that this has all gone away because things are quite. Those of us who move about in this country and frequent local places and talk to the ordinary folk, as I know the Minister does, understand that there are still fundamental underlying problems.

So, Mr. Speaker, while we really ought to support any measure which will allow the police within reason to be able to deal with these things, the answers to the fundamental problems do not lie, in my view, in an increased police presence or a heavily armed police force, or a police who have an enhanced ability to walk into people's homes and search people indiscriminately. The problems which are fermenting and have been fermenting for many years have, as the Minister for Community Services has said, a deeper more inherent basis. This superficial approach of the Second Elected Member for West Bay to enhance the abilities of the police is not going to address the problem. It may temporarily frighten certain elements that might change their tactics or adopt a lower profile for the time being until they understand how the system goes and how it works, but it is not going to address the fundamental problems which are sociological problems.

In the Royal Cayman Islands Police Service's Annual Report 2002 which we have just received, the police have spoken about the increase of certain offences. They talk about domestic violence, page 36, paragraph 33; **"Unfortunately, the year in review saw a significant increase in the number of reported incidents of domestic violence for the year. There were 1,517 compared to 1,211 in 2001, which was an increase of 25.2%."** Paragraph 34; **"Whilst a number of these domestic violence incidents did not involve any physical abuse, there were 2 incidents in which there were attempts to murder the victims and 6 in**

**which grievous bodily harm was inflicted. In these cases, sentences of imprisonment ranging from 5 to 7 years were given to the perpetrators. In addition to these incidents there was, regrettably, a significant overall increase in the number of occasions in which the victims received injuries of varying degrees of seriousness. Assaults causing actual bodily harm rose from 10 in 2001 to 299 in 2002 and wounding rose from 3 in 2001 to 5 in 2002."**

Mr. Speaker, there is evidence of an increase in seriousness offences, in particular, violent offences. There is also evidence of an increase in sexual offences. Paragraph 56 of the Royal Cayman Police Service Annual Report 2002 states as follows: **"During 2002, young girls continue to be sexually preyed on by older men. There was a marked increase in the number of reported incidents of Defilement of girls under the age of 16 years. There were 27 such incidents being reported in 2002 compared to 19 in 2001. Two of the victims were girls under the age of 12 years. Alarming, the ages of the perpetrators of these defilement cases continue to rise with men as old as 37 cultivating sexual relationships with girls as young as 11 years. In addition to the defilement cases, there was one report of a case of 'gang' rape of a 13 year-old girl. Other matters which the Family Support Unit dealt with were 2 cases of Incest and 14 cases of Indecent Assault against girls under the age of 16 years and 1 case of Gross Indecency against a boy under 14 years."**

While one can perhaps paint a prettier picture by going to the fact that there is an overall reduction in offences, the reality of the Cayman in which we live is that serious crimes, particularly crimes against the person, are on the increase and arming the Police with more guns and with greater abilities to go into people's homes, without a warrant is not going to address those fundamental problems.

There is no magic wand or silver bullet to deal with this problem, and I am not suggesting that the Honourable Minister is responsible for these increases; I am just seeking to deal with the assertion or the image that things are better because clearly they are not. There may be less people in Northward, and that is a good thing perhaps, but the incidents of serious crime is on the increase and those sorts of problems to which I just referred are problems that go to the core, to the heart and to the being of the society. The increase of sexual predators, the increase in violent crime all speak to some serious problems within the family unit and society as a whole.

While I, like the Second Elected Member for West Bay, have grave concern about the state of this country and the growing increase in serious crime, I do not believe that simply reviewing the laws as the Second Elected Member for West Bay has suggested, with a view to enhancing the ability of the police is going to answer the fundamental problems. I am all for giving the Police whatever equipment they need; I know there are safety gear that they are concerned about, those

who have to go into difficult situations ought to be given as much protection as they can get. They need to have the support of the establishment and the society to enable them to do the job that they are bound and required to do.

I would not wish for anything that I have said to be construed as unwillingness on my part or on the part of the Opposition to support the police in carrying out their lawful duties but I am equally anxious to ensure that civil society does not begin to feel that it is being subjected to oppressive and boundless actions or actions that do not have any legal parameters by the police in carrying out their duties. I would not want us to go down the road of creating something which some might consider and seize upon as the beginning of a police sort of state approach to it. Cayman has always been known—there are always questions, concerns and criticisms about the judicial system and the police force. I believe that we have a very good system, a time tested system, a system based on due process. Sometimes the system does not work as good as it ought to but everyone, everything and every system have some fallibility. I believe that we ought to be concentrating principally on trying to root out and find out what it is that is causing the increases in serious offences in these Islands and seek to address those sorts of things.

In terms of drugs, we need to place more emphasis on what is now termed demand reduction and the various programmes that we are doing, the Quest Programme, which I am very familiar with as a Lion; the 'DARE', which I know the police are doing; all to teach the youngsters in our society the dangers that are inherent in taking a certain path in developing a certain lifestyle. I believe that we ought to be trying to focus more of our energies and more of Government's resources on these sorts of preventative programmes rather than creating a situation where what we believe is going to keep people from engaging in this sort of behaviour is a heavily armed and always present police force.

Mr. Speaker, I believe I have traversed all the areas of this that I would like to. I am sorry that the Second Elected Member for West Bay will not be here himself to respond but no doubt his colleagues on the other side will be able to do so properly. I hope that they have taken on board what I have said and that they viewed what I have said as constructive, and that when they get up to respond they will be able to have given some thought and some analysis to the overall situation and perhaps the matter might move from simply being a platform for essentially a good discussion on matters such as these just prior to the elections to something where we might actually be able to achieve some positive result.

I thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to Speak?

The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, it would appear that some great wind blowing in fresh servility has entered these Chambers.

Listening to the Second Elected Member from George Town saying some very constructive things and at the same time mooting in fact that perhaps the Government could do more, but not recognising the fact that even from a legal perspective you cannot blame the Government of this country and you cannot blame the present administration of this country for the fact that it seeks to produce the number of inmates in Northward Prison and that we view the decrease as something that is positive.

We know the 1999 riots (according to the experts who did the evaluation of the causes leading up to the 1999 riots) were caused mainly as a result of overcrowding. The Government, of course, has choices and we could take the monies that we spend in giving increases to the old aged persons in our society, seamen and others and we could build prisons to hold young people, or we could try by our social strategies to reduce the numbers of persons reaching our prisons and the number of recidivism which we encounter.

We must always bear in mind by using our common sense that each Government and country only has so much available and that at no particular time will we be living in a utopia. No society will be without a social individuals and actions. We have tried to stress that we are seeking ways to manage the social development and the social crisis in our society so as to minimise the cost which it has to those individuals and to our society as a whole, but in no way are we pretending that by reducing the numbers at Northward that there might not be manifestations of a social and criminal behaviour in other areas.

We are not saying that the numbers at Northward reflect the criminal activities of the society; we are saying it reflects the fact that our orientation and belief is that we are not solving the problem simply by locking people up. Regardless of how many people will try to knock me in the head to get me to change, I think it is common sense, it has been proven all over the world through the ages that prison, by itself, does not act as a deterrent to persons who are already misguided, who already have wrong values as a result of the primary and secondary socialisation.

We are not saying that people who are misguided should not be punished we are simply stating that once you punish them you have still not corrected their misguided values. Simply, that is what I have been trying to communicate to this Honourable House and to this country.

I do not think that I have a conflict with the Second Elected Member from West Bay simply because he is calling for the Government to consider ways of strengthening the laws in such a way that the

police would have an easier job or be more efficient or effective in dealing with a job, or dealing with those persons who commit crime. My job is not the job of the person responsible for policing policies; I am responsible for social policies which takes place before and after policing.

We feel that if we do our jobs well enough from the social point, the police will have an easier job. So, we have emphasised to the Government that they should put more resources in prevention and intervention strategies, therefore our housing community projects and the whole idea of trying to regenerate the kind of sharing/caring communities that we have would help to mitigate against those individuals that would be thinking about committing crimes or having or feeling that they have a need to commit crime.

Mr. Speaker, I think that we are doing this but at the same time our Government believes that the Police should be given more or as much support as they can be given in order to fight crime. We understand that we live in a democracy and in a democracy people have certain rights and you cannot violate those rights even if you want to safeguard your own safety. That is the unfortunate part of being free because it means that you take a certain amount of risks with your brothers and sisters that you live with in society. So, it is true that in our society the police always react. In many cases crimes are committed then the police go after the criminals because they are not criminals until they have actually done something that is criminal.

In many instances we fail to understand or notice that the police are also very much involved in protective and intervention strategies in terms of deterring people from committing crimes by actually being involved with the community and in trying to get positive values and norms across to the young people. We see this with the DARE programmes which the police are involved with in the primary schools and they are beginning to try and teach and guide young people from a very early age. So, preventative work is a very important part of policing. Information gathering is also a very important part of policing. So, the police, from an intelligence perspective, are always involved in gathering information and profiling potential criminals and criminals, in order that should there be an attempt to commit crime that they have a possibility to intercede at a much faster rate and solve the problems with regards to acts that have been committed.

If the Second Elected Member from West Bay is asking that the Government consider ways to assist the police in doing their jobs and being able to deal with some of these issues, I am quite sure that what the Second Elected Member from West Bay is dealing with is specifically the issue of what the Second Elected Member from George Town was suggesting. Although we know that there is a decrease in criminal activity it does not necessarily

mean that there has not been an increase in serious crimes. So, just like the Second Elected Member from George Town has noticed that and has shared that with this Honourable House, we are saying that the Second Elected Member from West Bay is also aware of the fact that there are certain crimes occurring and the police needs to be given additional assistance, and if he is saying some legal assistance in dealing with this then we are not going to fault him for saying so; we are not going to suggest that he trying to create a police state nor are we going to say that he is interfering in the jurisdiction of the courts because the laws that guide the Courts are made here in this Parliament and not in the Courts.

It is true that drugs are responsible for the most serious crimes in our society. It is true that in the district of West Bay they have particular issues with the trafficking, use and sale of drugs and that the drugs subculture that has built in that community is also policed by a criminal element that takes control of those particular substances and creates policing problems. So, to say that if we have a rise in serious crime, namely robberies and murders, that the society is alarmed. This does not necessarily mean that we are not doing a good job in terms of the more gentle type of socialisation and persuasion and policing; it does not mean that, but we do recognise at the same time the serious criminals are not people who *grew up overnight*. Serious criminals start to display their criminal characteristics from the time they are in primary school and they were people who were not caught by the system as the system was organised before we came on the scene. So, they are out there and they are not going to go away and perhaps what the Second Elected Member from West Bay is suggesting is that we need to get serious about that particular element and we need to do something to remove them from our society one way or the other.

I do not think anybody in this society would be opposed to the fact that we need to be serious about these types of persons because these types of persons, as the Second Elected Member from George Town stated, they are of a particular mentality that offends, him, me, the Second Elected Member from West Bay and all of us. There is no way that we can be on par with them in any way, there is no way that we can have sympathy for them; they are not even the people we are trying to rehabilitate through our soft, gentle and persuasive policies. These are not the people we are talking about. We have to decide that criminals and criminals have to be categorised in such a way that we say these are the ones we are going to try to rehabilitate and these are the ones that we are going to put aside and deal with because they are not willing to be repentant. They are not willing to respect society; they are not willing to respect their brothers and sisters and therefore there is only one way that you can deal with these types of people.

If I had the money there would be a separate prison for them; they would not even mix with the oth-

ers that we are trying to do something with. We understand that we cannot throw away 100 per cent of those persons who have gone bad because many of them will be able to do better with assistance, but it is that per cent that you can do absolutely nothing with. These are the ones who continue to commit the crimes in our society; continue to commit and manage the most violent crimes in our society and I believe that the Second Elected Member from West Bay is addressing this issue. What are we going to do to give the police the kind of powers which they need to deal with these rotten apples before they get our country to the extent that we see in other places in the world? These people control and intimidate everybody. They intimidate everybody; they are out there. Some of them are in jail but a lot of them are out there and even when they are in jail they have ways of dealing with the jails so that they can continue to communicate. I apologise to the general public for the fact that I have not found a way of being able to get those persons who are in control to be of one mind and be able to have a regime that would shut them out from the decent community that we represent.

I will say this, Mr. Speaker, the police are afraid in certain instances and that is one of the reasons why we think that the fact is that perhaps we may want to have a bit more support for them from the point of view of them getting enough bullet proof vests; we might want to think about some police having access to guns a bit more readily rather than going through the procedure to produce the weapons, simply because we know that many of the persons tell us that they bury their weapons so close to where they operate that they can get them easily and have no problems in getting these weapons.

So, I am saying that when the question to this House is being asked in the way in which the Second Elected Member from West Bay asked and that is "BE IT RESOLVED THAT Government consider reviewing applicable laws and policies to enhance the ability of the Royal Cayman Islands Police to more effectively and safely carry out their duties." When we use the words "safely carry out their duties" I am thinking of the fact that it would mean from a law perspective that we give them the benefit of the doubt when it comes to confrontations. He also is foreseeing that if they challenge certain criminals in certain areas the result of that would be armed confrontations. We are looking of the growth of trees and bush in certain areas where people hang out to do what they do and again it becomes very dangerous for police to go in there especially when people know the area a little better than they do. Again, he is talking in terms of, could it be in the law that they would be required to keep the property at a certain level.

I think that the Second Elected Member from George Town mentioned the Towns and Community Law, of course, which might already have

given us the possibility to do that, but I think what is happening is that we are sharing with one another, to a certain extent, the need for us to recognise that although the Government is doing a good job after three years in terms of addressing some of the more serious issues in the country; although the Government continues to build the infrastructure to be able to address issues of addiction, issues of recidivism and crime and juvenile delinquency, there are some serious problems that the country did not manage over the period that persons like myself were not allowed to talk about—social plans and issues. Those problems have given us the serious criminals we have in our society today. These serious criminals need to be dealt with and if there is anything that any of us can think about of how to make this happen, this would be the time for us to suggest it.

I know that we have advocated and when I say "we" I mean the Minister of Education has been advocating this before I entered this Parliament, where there are sub police stations/sub, sub police stations; those police stations are so sub that you may find that they are little boxes where the person might be contained in or can be safe in and you have these posts. It is not a situation of the British style policing where you are waiting at the station for a call and as soon as you get the call you move out to the area and by the time you get there everything has already moved; the criminal moves. Whereas if you have someone there until the majority of the troops get there then you know that you are in a strategic position to accomplish something. There are certain risks to officers who are in these situations, but the point is, it is known that they will see and hear something and you do not have to start from the beginning when your police officers get there because you have the advantage of being on the turf at that particular time.

We saw the example of what happened in the Scranton area with the police being allowed to use the Arthur Martin Creative Empowerment Youth Centre. We saw that immediately it meant that the activities that were going on there ceased and people had to go find other areas. The point is, we are not saying that because the police go there that crime is no longer, but we say that we put the criminal on guard to know that the criminal is at least prohibited from committing crime in that specific area and they have to go someplace else, and you keep moving after them until you minimise the areas that they can operate in or from, and that in itself is an accomplishment. I still believe that it goes to show that people are going to do things that are bad when the police are not around but if you can have a few police men around it would cause people to think twice about doing something like that.

I am saying that if we are looking at ways to improve the way in which the police can do the jobs, we will be looking at recommending, at least, to the people who are responsible for policing in this country, that what we need to be doing is setting up these small police areas. We have also suggested— why is it that we

have to always have police as regular police? Why can we not have police as people from the community as well? We have the Special Constabulary but we are talking about going one step beyond that. We are talking about one or two persons in the neighbourhood, a little bit more than Neighbourhood Watch because it is formalised a little bit more, even if you have to give some people in the neighbourhood a formal title and a stipend. People talk about informants well these would be informants that are wearing a badge or uniform and are recognised and not the underground informants.

There is no society that is going to deal effectively with crime without people watching people and until we get to the point to understand that if we want to be safe we have to allow people to spy on other people. That is the price you have to pay. The trust between the police and the general public will develop as the result of people actively working alongside of the police in the community.

Most democracies in the world suffer from the same crime; you do not see the crimes in the more totalitarian states. I am not taking up the position as someone who wants a police state but I am saying to you that the crimes exist in the so-called capitalist democracies where people think that their individual rights means so much. At the end of the day they complain about crime but as soon as you do the watch they say: *"What are you doing outside my neighbourhood and what are you doing this for and why are the police here? Let them go!"*, then when crime increases it is the Government that is responsible for crime. I am saying that we could minimise crime by minimising the areas that criminals could effectively operate from providing that we are willing to spend money in enlisting people in the communities in a real crime watch force, meaning that we would give people some kind of badge, respect and a title. They are called in other places "Secret Police". From the point of politics it is a completely different thing but if you are talking about crime and if you have a few secret police in the area from the point of view of crime and not from the point of view of politics, then that is a good idea. After a while people do not feel as safe in the neighbourhood doing the things that they want to do.

One of the things that we also saw going on in Scranton is that a lot of the people in the area were complaining about what was going on and a lot of us saw it. The Second Elected Member from George Town is laughing but he has been there a lot of times and seen it, he knew what was going there too but it continues. It continues because the people do not feel they have the support. If you have people in the community who are like leaders in resisting and fighting against crime and taking an active role then you will find that the confidence of the community will be higher therefore the trust in the police will also be higher.

The issue of the code of silence where people feel that if they say something they are going to offend family and friends and you are going to send somebody to jail or hurt somebody, or ruin their life by sending them to jail; there is a whole dynamic here and many times there is not enough sociology applied when dealing with the issue of crime, criminal activities and policing. When we get Community Beat Officers and we are paying them to go into the Community what is that if it is not the same idea? What about a person who is already in the community who does not need to get to know the community because he or she already knows the community, being brought forward to the police? Sometimes we have the problem that in order to be a police officer you have to have a particular kind of qualification; you have to know how to right essays and know how to do this or that. Do you know the amount of people who have lost the possibility of being policemen in this country because they could not pass the English test but could pass every other test? So, there are also people who have been in trouble when they were younger and could not make it into the police but there are strong men in our community who would take up a much more active role in policing if they were encouraged to see how they could be officially integrated and a stipend given to them for whatever they are doing.

So, 'yes', if what we are talking about in this Motion is looking at how the Law or how the approach to entire policing could be altered in order for this to be done more effectively and safer. These are ways I suggest again, that our greatest asset when it comes to policing is through members of the community that is being policed. I think that it would be good if we would look in this particular way to try to solve these problems.

I also noticed that the Second Elected Member from George Town mentioned the gangs at the schools and that the Minister for Education said that they were no longer a problem. What the Minister of Education is saying is that there are always gangs in schools. We could call them groups but the natural thing is that people gang or come together. It is a natural impulse that we have. We are social animals and come together, group or behave in a particular way but it does not mean that it has to be negative or encourage negative values or activities— positive peer.

For persons who look at gangs and ask: *"How do you get rid of a gang?"* You do not try to get rid of a gang but you try to change the values and orientation so rather than them being a negative group, they are a positive group doing positive things involved. If three or four kids hang out together and are with one another all the time, are they a gang? They become a gang when they start to operate in a particular manner based on a kind of structure and philosophy. When they structure themselves and operate in a particular way. The transition from group to gang could be overnight. So, if something at the school were to flare up tomorrow it would not necessarily mean that the Minister would have been wrong in saying that at this particular time we do not have a problem with this issue. It is very possible for

them to make that transition depending upon many things.

The Commission of Enquiry into social breakdown and youth violence found that it is very difficult to say at what time you are going to have an upsurge in gang violence because it is hard to predict it. So, the recommendations is that we always be vigilant because it could always happen so we always set in motion things that would prevent it from happening because it could happen overnight; they do not need ten years to organise because they, in their very social existence, have all the tools and characteristics of what we would call a gang. Therefore it is when they begin to act a certain way that it has an adverse effect on society.

In closing, it is good to hear the Second Elected Member from George Town speak so calmly when addressing a Government's Motion. Although he is saying that the Member bringing the Motion and myself might be in disagreement because he thinks that I am peddling a liberal philosophy and the other Member is peddling a more reactionary philosophy. I say to the Member from George Town that is not the case. I peddle a liberal philosophy for those people whom I can help and I peddle a different philosophy for those people we have decided that we cannot help because they do not want us to help them; they think the greatest help is to rob and kill people. So, I do not have the philosophy that will hand out the same humanity to them. I hand out humanity to those people who are looking to society for some type of help when it comes to changing their lives and to realising their full human potential. We see them as fathers, brothers, sisters and as people we should continue to try and help. However, for those persons that are on the level that we are talking about when it comes to this Law, then I think that we must always hunt them out and always make the community and society stronger in being able to stand up to them and give the police the kind of information which they need to get to them and do what they have to do in order to protect the society.

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.

The Minister in closing sounded like one of my very good friends who is a former legislator when he said that there is a generation we had to right off in this country because they do not want and accept any assistance from anyone—I did not say that is what he meant but it sounded so much like that.

I understand where he is coming from because there are a number of people in this country, particularly in the drug trade that we cannot help in any manner because they do not wish in any way to

be helped and certainly the police is the buffer between them and us. I believe it is incumbent upon us to ensure that the police is properly tooled to carry out their respective responsibilities.

The record will speak for itself that ever since coming to this Honourable House I have advocated the police being given better tools to do their jobs and I have not reneged on that and I continue to hold fast that is one of the answers to the reduction in crime in this country.

It was interesting to look at the crime statistics in the Police Report of 2002, particularly how crimes reported and detected were related in that whilst 2002 the crimes reported and detected overall was lower. In all instances the relationship between those reported and those detected, the detected crimes have been much lower than those reported in 2001. So it something tells me that the Police do not have the necessary tools to detect some of these crimes.

It was interesting to look at the offences involving drugs (ganja and cocaine). In 2001 there were 647 offences reported involving ganja and 647 detected also. Offences involving cocaine were 409 reported and 409 detected. I cannot say one way or the other what that reflects and when we look at miscellaneous drug offences there were 146 reported and 146 detected. Then in 2002 when we look at the drug related crimes, the ones involving ganja 464 were reported and 458 detected, and with cocaine 302 reported and 293 detected. The miscellaneous drug offences was 68 reported and 67 detected. I am not trying to make a big spin out of that but we see the crimes reported have decreased and those detected have decreased, but the correlation between them compared with the previous year, there seems to be a reduction in those that were detected by the police. How that happened is not for me to say.

For four years I have been calling, as I said before, for the necessary tools for the police. The introduction of the Second Elected Member from West Bay was primarily surrounding drugs and what we need to do to assist the police to detect and remove people from neighbourhoods and the likes, like clearing vacant lots and the likes.

I support what the Second Elected Member from West Bay said however, the people of East End and I have also experienced an increase in the use of drugs. It is not going to be reported in the Police Report but everybody knows that there is a problem. In 2002 during my absence from the country the Minister for Community Services went on television and said that I was doing nothing about it. So, we all know that there is a problem with regards to drugs in East End. However, the use of drugs in East End is not as rampant and dangerous as the importation through East End. The reason for that is the deserted and uninhabited coastline we have. We know it is happening; every brother and his sister know that this is one of the main sources of importation into this country. They have become very brazen with it because they come right up to the Gov-



ernment Dock and unload it. I am not saying anything that is not true and that the people of East End do not know but the truth must be told.

I too, like the Second Elected Member from West Bay, have worked along with the police, I have people in the police force that I trust, but in the absence of the necessary tools to assist the police officers they can only respond to very little that is happening to prevent the importation of drugs along that deserted coastline. The district of North Side also experienced this as well, maybe not as much as East End because we have the channels which are much more accessible to the Sound than North Side has.

I have called for more boats, for aircrafts, and for bullet proof vests for the Police Force. If we cannot give a man the tools to do his job we cannot blame him for not doing his job.

**The Speaker:** Honourable Members we have reached the hour of 4.30 pm and I call on the Honourable Leader of Government Business to move the suspension of Standing Order 10(2) to allow us to continue with the debate on this Motion or until 5 pm whichever is earlier.

### **Suspension of Standing Order 10(2)**

**Hon. W. McKeeva Bush:** Mr. Speaker, I move for the suspension of Standing Order 10(2) in order to take business after 4.30 pm. We will continue until 5 pm.

**The Speaker:** The question is that the Standing Order 10(2) be suspended to allow for the proceedings to continue until 5 pm or the earlier completion of this Motion. 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 Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, when we stopped for the suspension I was talking about tools for the police officers. I am no expert on this but I am nevertheless convinced that with the availability of the necessary tools the police in this country would be better equipped and more efficient in the detection and interception of boats, aircrafts or whatever is being used for the importation of drugs.

It is incumbent upon us as legislators to take monies from the people of this country to be utilised in their best interest. I believe that monies spent on the necessary tools for the police force of

this country is money well spent. If we spend \$10 million and save one child's life it is money well spent. If it cost \$2 million of recurrent expenditures each year to maintain this equipment, it is money well spent. I have always said that a helicopter can serve more functions than just drug interdiction. For instance someone lost at sea or on land, general searches or for whatever, even transportation for the Commissioner and other officers, surveillance.

We must wake up and smell the roses in our country and start doing something about putting the mechanisms in place for the preservation of our people. I cannot, in all honesty, stand here and blame the Government over there because successive Governments have done nothing to put the proper tools in the hands of the police. I can blame the Government of the day when the now Minister for Health and I moved the Motion in Finance Committee in 2001 to give to the police bullet proof vests made from Kevlar and that was a motion for every police officer to have. To this day I do not believe that has been completed. The officers of the Drugs Task Force are in harms way everyday. We cannot expect our police officers who are on the front-line to forever put their lives on the line without the necessary tools to get the job done, and they have their children and families to go home to.

Mr. Speaker, if you notice I am not going into the legal aspect of this as the Second Elected Member from George Town and the Second Official Member did because that has been covered. I am talking about the physical tools necessary and I know the Minister of Education has said that we talk about the physical plant, but in this sense with regards to the police the physical plant is absolutely necessary. If we think that those criminals out there who are in the drug trade, in particular, if we think they are not armed then we should think back about a year and a half ago when they started shooting at the police boat that was in chase around the East End coast. If we think that they are not as well armed as our police force, which is our only means of protection then we are making a big mistake.

The world knows this drug trade makes more money than any government anywhere in the world; they have their own armies. I trust that we will never reach that point here but if anyone for a second thinks that they are not going to protect their trade then they have made a big mistake. If they are going to protect their trade then we have to protect our policemen that we put on the frontline to protect us. It is fair, reasonable and expected of this country regardless of which government sits in those seats across this isle.

It was interesting for me to read the Mayor of New York, Rudy Giuliani's book entitled Leadership. One of his greatest achievements in New York was the reduction of crime and it was very interesting to read his autobiography, particularly the area of how he reduced crime.

I mentioned this to a senior Police Officer but was told that hopefully one day we will get a similar

system. What Giuliani did was that he developed a computer programme which the New York Police Department did input of every crime that was committed in that city, granted that they did not have a base to compare it to so it took a few years for them to get a base in able to compare it to. They then took reports from that computer programme and went out and saw where the reported and detected crimes were being committed and they started targeting those areas and it was not anything about only the areas where murders were being committed but it was the small petty crimes like someone speeding, someone breaking a glass in a building and they starting setting police in these neighbourhoods and anyone who committed a crime was arrested. Petty crimes will stop it from escalating into major crimes thus his success over the eight years as Mayor of New York.

We need to give the police of this country the necessary tools to have their statistics available. Yes, I see the statistics of the police reports but certainly when we see a report for 2002 being completed in 2004 obviously they do not have the necessary tools available to get that information in a timely manner, immediately, in order for them to make necessary plans and be more efficient and get out there and target those petty crimes.

When one commits petty crimes like speeding or vandalism (breaking one or two windows) they start thinking that they can get away with that. We know that it is going to escalate and get bigger and bigger and in a society like ours we are saddled with a situation where everybody knows everybody else and we run the risk that they are not going to report your crime.

I think this is a good point to talk about the trust between the police and the public. I said earlier that we are trying to develop trust between the new police officers in East End and the general public. I would love to see this trust developed so that the general public knows that if they call—and the police has made every effort to try and develop that by the Crime Stoppers Hotline but there is a certain element of mistrust in the people of this country which prevents the police from getting the assistance which they require. I agree with the Minister for Community Services, we need to be spying on each other to ensure that our safety is put in place.

We need to assist the police. Our police officers need vehicles. I saw some police vehicles with over 200,000 miles on them. We need to change these vehicles. During Finance Committee I questioned the life of those vehicles on the Asset Registry and the Financial Secretary at the time told me that they varied from 3 to 10 years; the Commissioner of Police vehicle would have a longer life than the patrol car. However, we need to start somewhere on the Asset Registry and remove all the vehicles from the police force that have 200,000 miles. They are no earthly good other than to fill the

dump. They are broken down. We cannot expect our police officers to do the job because we need to *bite the bullet* and replace all of their equipment.

I do recognise that the Asset Registry has now developed a procedure to replace these vehicles but certainly some of those vehicles are still going to be in service for too long, but at least we started. I believe that we should have taken all of them to the dump and cover them over. The other thing is, we expect our police officers to drive around in Luminas that ordinary citizens drive around in. That is not a police car. I now notice that we are putting the screen between the back seat and the police officer because before there was no protective screen for the officer. Police officers are our next door neighbours. Their children play with ours. They come next door to us to have lunch. We know who they are, they are human beings and we need to ensure that they are protected so that they can return home to their children.

I certainly do not advocate a police state where they are breaking down doors, but certainly if they are concerned about their safety and their abilities to go back home at the end of their shift, do you think that they are going to break down a drug dealer's door without the necessary tools? They cannot and we should not expect them to do that.

I know we have talked about the Laws to enhance the police's ability to do their jobs and for them to become more efficient and the Second Official Member has given an undertaking to review those Laws, but a very simple part of the police job they cannot do is because of the lack of the necessary legislation, according to them. The Second Official Member in his capacity as Attorney General has said that they can go into parking lots and prosecute people for parking in handicapped parking spaces.

Therein is another problem in this country. People are encroaching on other people's rights and privileges, such as the handicapped parking spaces. It really aggravates me when I see someone parking in the handicapped space next to the door and when the person gets out of their car it is a young person who has no disability other than something wrong with their brain because they should have seen the blue or yellow and they did not see it. This is another area that we need to ensure that the police are not afraid that it is a waste of time if they prosecute someone in a parking lot. It aggravates me so much that every time I witness it I approach the person and I quietly ask them, "is there something wrong with you other than your eyesight?" that could be the only reason they are parked in the handicapped parking and if their eyesight is that bad then they should not be driving.

The reason the police are not addressing these issues is because the police are afraid it is a waste of time and when they get to court the cases may very well be abandoned. We need to protect these types of people from these predators. They rush for the handicapped spots and if you call the police they are not go-

ing to come because it does not make sense from their perspective.

Mr. Speaker, the people of East End have experienced the lack of response from the police. There are a number of reasons for the lack of response. One is the lack of staff in that particular department and two is the lack of vehicles. That says to me that something in the tool department is lacking. These are the root causes of some of the crimes in this country. If we had a helicopter do you think all of those boats would be coming in around Colliers Point? No, they would know that we have a helicopter and that the Police officers could be dispatched in 2 or 3 minutes and be in East End in 5 minutes but when they have to go on the Cayman Protector, she is as fast as molasses rolling up hill in dead winter. We need fast response time with our equipment.

I am going to leave the rest of this debate for others because those were the areas I wanted to highlight.

Mr. Speaker, I applaud the Police Department because they work under some adverse conditions and I cannot blame anyone in particular, but I certainly believe that we as a Government and people need to do more. It is not only on parade day the Police should be out here in shining colours. We need to give them dull colours, which are the tools to get the job done. They do a good job under the conditions which they have to work under and I applaud them for all of their efforts. Many of them go out and buy their own tools to do the jobs. They should not have to do that because that is our only means of defence; if anything happens in this country we are going to be pushing these police officers in the front between the perpetrators of anything against this country and us. We cannot ask them to be there if we do not provide them with the tools. My appeal is to everyone to support the police in acquiring what is needed and they are the best to tell us that. When I talk about a helicopter I have no authority on that but I know from a commonsensical view point that seems to be one of the tools missing in the drug interdiction.

I support the Motion brought by the Second Elected Member from West Bay and maybe the Government will see fit to give the Police Force the financing to do their jobs better. Thank you, Mr. Speaker.

**The Speaker:** Honourable Members although we have just one minute to go before 5. pm it is the wish of Government that we try to complete the Motion before the House and before adjournment. I will continue to open it for further debate. Does any other Member wish to speak?

The Third Elected Member for West Bay.

I think it is only fair to Members if we take a 5 minute break and ask all Members to please be back in 5 minutes.

## Proceedings suspended at 5.00 pm

## Proceedings resumed at 5.23 pm

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker. Much has been said on the Motion which was brought by the Second Elected Member from West Bay and seconded by myself. However, it only bears out the fact that we do have a problem in the Cayman Islands with the inability of the police to carry out their duties effectively because of the way the laws are at this time.

The *Caymanian Compass* front page of 21 July is headed: "Drugs a West Bay Issue". It is not just a West Bay issue but a national issue. I think maybe because of the demographics of West Bay and East End they are a little more assessable to drug runners because of the easier access by boat bringing drugs to this Island. However, we need to have a look at the laws to enable the Law Enforcement Officers to be more effective in carrying out their duties.

I would like to share with Members of this Honourable House some of the representations I have received from concerned members of the public, especially in West Bay so that everyone listening might understand better why the Second Elected Member from West Bay and I brought this Motion. If I should repeat anything that has already been said then it only bears out the fact that we have been having representation of the same nature, even though sometimes it is the same members of the public calling or wanting to see us because of their concerns for their safety.

About two weeks ago the four Elected Members of West Bay were invited to a meeting that was being held in a neighbourhood community in West Bay of parents and concerned residents. At that meeting there were also three police officers present so there was good dialogue and exchange of information, and a very interesting meeting. However, one thing that was evident and expressed was the frustrations of the police officers not being able to do more to help the neighbours when they complained about certain issues. We had neighbours who were afraid to go down the main road where they live because of encountering certain individuals on that street. They have called the police and they show up but by the time the police get there they have walked off the street so there is nothing the Police can do. Unless they stays in that location 24 hours a day, the neighbours are really concerned about their safety, not only by the amount of drug use but the amount of drug dealings in the area.

These are some of the reasons why we have brought this Motion. We have to give the Law Enforcement Officers the necessary tools to be effective in doing their jobs. Just like a carpenter, mason or a soldier, you have to give them the tools they need otherwise they will not get the job done. You cannot send a soldier to war without his weapons and you cannot send a carpenter to do a job unless he has his tools and the same applies for our police officers. We have to do whatever is necessary to allow them to be effective to carry out their

duties. They are only human beings like the rest of us and they are also concerned about their safety. They know that most of these drug users and pushers are armed and if they go to make an enquiry or arrest they do not have the weapons or security to defend themselves; they feel threatened and at a disadvantage. I am not here to say that is the answer to all of the problems, I am only making a point to say that the police are feeling that way because they have expressed it to us. I am not advocating that we send out armed police, but we have to do whatever is necessary to enable the police officers to carry out their duties. When we went to the meeting they wanted us to meet with them because they could not get the kind of help that they needed and the police were there and said that their hands are tied because the way that the law is they could not do certain things and this only manifested itself when we were at the meeting because they showed their frustrations as well.

The law abiding citizens of this country need our help and it is up to us to give them the kind of help that they deserve. Mr. Speaker, we have to put *teeth* in the laws to allow this to happen. Without doing that the Police are helpless and I do not want to keep repeating myself but it is a fact, Mr. Speaker. We have to make the amendments by doing whatever is necessary for the Law Enforcement Officers to be able to get out there and make some effective arrests where the charges can stick and take some of the criminals off the street. Until that time our Island is not going to get any better. We have to do whatever we can if we intend to enjoy our tranquillity and feeling of secure neighbourhoods then we have to do whatever necessary to maintain that.

I am sure that the time has come for us to stop talking and start doing something. There is an old saying which says "*a biting dog do not bark and a barking dog do not bite*" we have to stop barking and do some biting and get some action, law and order back in the communities to let the neighbourhoods feel safe.

We have copies of written complaints from concerned citizens who wrote to the police asking for help and the police in very sympathetic terms says "yes we understand but there is not much we can do because our hands are tied". These are the kinds of situations we are faced with and we cannot afford to let this continue indefinitely; we have to take action to prevent it from escalating.

We are told of certain streets that the law abiding citizens cannot walk across because the drug users and pushers are sitting in the streets and will not let them past. We have had a situation where the garbage trucks refuse to go down certain streets because of being confronted by these individuals. This is the kind of situations that are existing in our country. What has our Islands come to? These individuals are intimidating the neighbourhoods. I can-

not say it enough but we have to find a way to put a stop to this.

Mr. Speaker, it is imperative that we do something about this situation. I have heard arguments from both sides of the Floor however, the fact remains that we have a problem and we have to do something about it. Without repeating what has already been said, I am going to urge all the Members of this Honourable House to support this Motion. Thank you.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

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

I rise to give my support to this worthy Motion brought to this Honourable Legislative Assembly by the Second Elected Member from West Bay and the Third Elected Member who just spoke.

Mr. Speaker, I think it is safe to say that all Honourable Members of this Legislative Assembly truly appreciate the changing dynamics of our society and the need for there to be a dual approach to the rise in criminal activity. As mentioned by the Second Elected Member from George Town, it is very important that we deal with the social aspect that is causing these changes and I think it is safe to say that the records of the United Democratic Party under the leadership of the Minister of Community Developments has various programmes in place and in the works to address some of the social causes behind the increase in serious crime. So, this Government is committed to dealing with crime seriously from both angles, addressing the causes and symptoms but also from the policing perspective.

The caption mentioned by the Third Elected Member from the district of West Bay from the newspaper or drugs being a West Bay issue, he accurately pointed out that it is not just a West Bay issue. So often I hear my good friend, who is not present at the moment but was here earlier, from the district of Bodden Town, the Third Elected Member from Bodden Town, always referring to drugs as being one of the greatest threats in this country and something that must be addressed with a great degree of seriousness and I give him credit in that respect.

Drugs are an issue in the district for which I represent of Cayman Brac and Little Cayman. I would like to take this Opportunity to thank the Honourable Minister for Community Development for having a curative measure in place in Cayman Brac in the form of a drug counsellor and I thank the United Democratic Party for making that possible.

Mr. Speaker, it is important when looking at these issues that we understand the full scope of the issue at hand and we, the Member of the United Democratic Party, understand fully that there must be a curative and educational component to reduce drug demand, but at the same time policing is of crucial importance. The United Democratic Party has seen the need of increased police presence in Cayman Brac. We

have made available the funds to increase the number of constables on the streets on the Brac. Even after the increase in officers we have seen the need to have a greater presence by the soon to be opening of a sub-station of the police force within the district of Spot Bay to increase the presence of policing within that district.

So, the United Democratic Party is well aware of the necessity of properly funding and equipping the police but in all cases there is room for more. The police officers on the Brac, included in their 2002 Report, recently have made a plea for new vehicles. I join with them today in making that plea. I also use this opportunity to give credit to the community police officer for the Brac, a fine officer by the name of Mr. Dave Asher who have worked diligently since his appointment to build up a good rapport, not only with the youth but with the general community as a whole, and has been very successful in this regard.

There is a need within policing to better understand and grasp better, from my perspective, as a member of the community and as a general citizen, of what justifies sufficient grounds of suspicion to conduct a urine test or some other form of determining whether drugs is in ones system or not. I have had this dialogue with the previous Commissioner of Police and with the Chief Inspector of Police in Cayman Brac. In many instances members of the community will see gathering of individuals and see reasons to suspect that drug use has been taking place and will call the police but upon the response of the police, howbeit quickly or over a longer period of time, when they get there these guys are quite slick and fast and the substance has disappeared. However, it is my belief if those individuals are tested you will find more than adequate proof within their system but there has to be grounds of suspicion for that test to take place.

Somehow we need to lower that threshold of what is considered as reasonable grounds of suspicion because in many cases I have seen what myself as a layman would consider more than reasonable grounds of suspicion, be it the behaviour of the individuals, the odour in the air or the reports from general citizens of the society who have seen activity and have these guys tested. We know what they are doing but because the substance is a consumable one it is consumed and gone before the police arrive and there is nothing there for the police to find. That is representation that has come to me so often that the police respond but when they get there nothing can be done because the drugs have disappeared. I believe wholeheartedly that there is a need to have protection of one's rights that there is not miscellaneous or frivolous testing of an individual in violation of his rights. However, that threshold seems to be extremely high.

I also would like to comment on the need of expedience within the judiciary. So often these

cases are prosecuted by the police but it gets tied into the system for so long and the individual remains on the street continuing in his behaviour. This can go on one year or two years. I remember the incident of a police being beaten on Cayman Brac and the case going on for a two year period prior to there being a conviction.

Mr. Speaker, it is very important that the motivation for these police officers who put themselves out on the line and go to a point of conviction that they see that that effort has been met by appropriate and suitable treatment within the judiciary. It seems to be a regular practice for the continual deferral. I would not want to suggest that anyone is not eligible or deserving of a fair hearing. I am simply speaking from the Police perspective; it has to be demoralising to see the cases that they have put before the system go for such a long period while they have to deal with the same individuals day after day on the street.

The district of Cayman Brac and Little Cayman still remains to be a fairly crime free jurisdiction. A jurisdiction where most people feel safe, most people live in harmony and we look forward to— (pause). Mr. Speaker, the beautiful Islands of Cayman Brac and Little Cayman has to continue its efforts to maintain that tranquil crime free environment. To do so we need to properly equip the police officers, not only physically but ensure that issues such as conflict resolution techniques are properly entrenched into the officers when they are dealing with issues such as domestic violence.

The Police Report that has been mentioned in this Honourable Legislative Assembly today, highlights the fact that for the first time we have a native born Cayman Bracer in the ranks of Sergeant in Cayman Brac and that is something that we are quite proud of and he brings to the job a great wealth of experience, some 19 years of policing in the Brac and a great understanding of the general community and the necessity to work along with the people.

Before I resume my seat I would like to commend that officer and his constables that work along with him and to also make a commendation to a group of young men, it was captured in the *Caymanian Compass* about a year ago when a group of young men in Cayman Brac took it upon themselves—I played only the role of offering transport to them—and identified a particular site that was not only a sore eye in the community but it was a sight that was rumoured to be used as a drug haven. Those young men did not only go to that site and demolished the old house that was there, with the owners permission, and removed all the debris, they went a bit further and beautified the area to turn what was a sore eye into a beautiful location where I have seen individuals go (it is on the beach side) and watch the sunset in the evenings.

Those young men made me feel very good because so often young men are categorised into that group of unproductive, uncaring individuals but they took interest, on that early Saturday morning, in their community and went in with sledge hammers and even machetes because we were not properly equipped and

demolished the precincts. So many members of that community came up to us that day and said we are so happy. It was more happy for me to see that we had an opportunity where the Community Police Officer, Mr. Dave Asher, some young men who were serving community time as well as some young men in the community who genuinely went out there to better their community to demolish that structure and beautify that particular area. In the space of an 8 hour day they had transformed one particular site in Cayman Brac. I say that to say that we must be realistic with the problem at hand but also in instances such as this provide hope that there is a future; that there is a strong good element within our community that if groomed and cultivated in the right direction can give us hope for there being a day that we can once more return to a drug free Cayman Islands.

Mr. Speaker, with those words said, I pledge my support to the Motion, the Mover, Seconder and the deputed responder.

Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I intend to be brief.

Mr. Speaker, I believe that the Government has a fair understanding of what the Motion is seeking. There are far too many instances when the police are called but not able to meet the situation because there needs to be more clarity in some laws to meet that situation. Members have traversed this title of the Law more than what the Motion says. I would say that given the circumstances which the Police must operate, I believe that they are doing a sterling job. Of course there is room for improvement and I believe the team that we have now, Commissioner Braggs and Deputy Commissioner Dixon and the rest of them, are trying to deal effectively with problems that while they might have been evident to the community, governments in the past would not take and place in a full and frank manner. Now when you listen to others speak out and when you move around, people are not so afraid to try to address the matter, although I believe that the community needs to be more cooperative with the police. The police cannot be everywhere; they cannot be at Morgan's Harbour and Boatswain Bay or Vicks Ville where a boat might come in; it is just not possible. Perhaps if we put in the capabilities then people will have to expect that we have to pay for these things.

So, I believe that the Government is doing its best in assisting the police and I think that the top brass is moving in the right direction. I do not think that anyone here, in this House, can honestly say

that the police service is shackled. As I said, there are many needs all around and the Government is addressing them as best as we can.

One must look at the success of the Service in dealing with criminal activity. You cannot point to criminal activity in this country and not point to the success of the Police Service. I believe that the service is much more successful today than at any other time and I know that we are doing our best to help them to be successful.

Last year's Budget provided additional funding to the police to allow increased foot and bicycle patrols. While we clamour about cars, on this small Island, I think as much as they can use them around the community it is much better. No, you cannot use them in a chase but for policing the community I think bicycles is a good option because people get to see the police, they get to talk to them and get the feeling that the police are around.

Mr. Speaker, my good friend from East End is grumbling as usual as if he is in pain and I say to him that if he is in pain he should take some sort of tablet or medicine or something that would make him keep his mouth shut! If his head hurts it is because he has so much rubbish in it.

An amount in excess of \$1.7 million has been allocated for police interception equipment and for the upgrading of the East End Police Station and the new Drugs Task Force Facility at the Marine Basin. We agreed on DNA testing some time back and it is moving forward. That will help the detection rate in this county a lot better and it will be much easier for the police force.

I recognise that drug usage continue to plague us as it is doing so many other societies. Over the years and since 1993 we have tried to educate and offer residential treatment centres locally. I remember well the accusations and licks I took in purchasing the Holly Estate for \$600,000 at that time to get three homes and between 7 to 8 acres of land to put in place a treatment centre and a halfway house. I remember quite well the licks that I took for it; now that is in use today and there is nothing said about it. The Treatment Centre exists today. Today more than ever programmes and centres exist for those that want to be treated. A lot of people say that there is nothing for young people to do but this country have more programmes, centres and places that are positive for young people than I believe any region in comparison to our size. There is a tremendous amount of things for our young people to do here and parents need to get involved with their young people as much as possible and of course parents have to work, and we are mindful of all of that. After school programmes are put in place so that when parents have to be at work at the crucial time when the young people are left alone they have a positive venue to be at.

A lot is being done and accomplished but the countries that produce drugs can do so much easier

and export more effectively than the world can effectively and proactively treat the users, unfortunately.

I believe that the country's borders need to be well protected. I have said that and have come up with an idea of creating a home guard, and I thought that we could use some of the more elderly folks to assist with it but when I took advice on it I had to look at it again, and that is not to say that it will never happen, but we have to look at the technology that is available today. The Commissioner of Police, the Cabinet Secretary, the Financial Secretary, Mr. Jefferson, and I were in London to a meeting about security. We went to Portsmouth to look at equipment and they have radar equipment; they have a plane that from 10 miles away the bales can be seen in the boat. They also have several vessels that can move quickly. I do not know how much we can afford because when we check the radar and the plane that goes with it, it is well over \$10 million. I believe that this country is going to have to do it and I believe that we can get good terms. We can probably have two radars, one in Cayman Brac or Little Cayman and one on Grand Cayman. It picks up a drum in a 7 or 10 foot sea. It is so accurate.

Mr. Speaker, when I look at the things that this country needs and to think where we came from in 2000 with only available cash of \$2.5 million we have good cash today by good management. Yes, the last count was \$89 million but that could easily go down so we have to be very careful in expenditure. We do not know what is going to happen. The United States is predicting a terrorist strike and heightened levels of terrorist activity. We pray to God that nothing like that happens because we are just beginning to turn our economy around and get back at proper levels of our various accounts.

When we look at the needs that we have, we could spend \$50 million on education and schools and when you only look at this one, for instance, we know that the country has to have something like this, it will cost over a period of couple years between \$10 to 14 million. However, the country's borders must be protected. As the Member from East End said, when you find boats coming in right there in East End shooting at the police, we are going to really have to prioritise but we are going to have to *buckle down, bite the bullet* and get something done about the protection of our borders. If we cannot do the home guard, which I believe would have offered some employment and service with pride by some of our older people given minimum equipment, it would take a lot of people to patrol the borders of these Islands and it would probably be more costly because you are then dealing with human resources, which will be a costly item.

It is not easy and I hear the genuine cries from the other side and from our side about what is needed, and it is a juggle we are going to have to do to find the money to be able to deal with some of

these issues. That is one, interdiction and education, but I believe that punishment must fit the crime too. I am one who believes in capital punishment and I know when we had it on the books, I remember back in the 1970's there were about 13 unsolved murders, so we can say that maybe it was not so effective, but we know when we built the gallows at Northward, just go back and see what the criminal rate was. Today your life does not seem to be worth very much and it is sad to say that in our small Islands it is so, but it is so.

There is no scare of the police to an extent by some of the criminal elements. I believe, and I have said this to the Governor, we need that body that we had created some time back where they go out and deal with the criminal elements to keep the streets clean. We dare not let crime get out of hand in these Islands. People have to understand that if they do the crime then they will have to pay for it.

I believe that there needs to be harsher treatment; we cannot take a liberal stance and I have said this before, in the presence of the Governor, publicly. From my point of view, the United Kingdom is liberal. One only has to study what they do, how they are treating their laws and prisons and so forth. Prison must be a place that people fear to go. To day they are saying that you have to educate, that is expenditure and we are doing that, but that is part of the treatment and other things have to be put in place. We in this House have to accept and should accept that the punishment must fit the crime. We are not going to be safe unless we let the criminals know that they might be big and bad but we are not so scared of them that we are afraid to do what is right to let you understand that this country is not going to be taken away.

So, Mr. Speaker, I listened to this debate and you can hear the fluff from people coming across but you could tell the times when they were genuine about crime and what we are facing. I do not think the Motion is out of place but the Government understands what they are trying to do. It is the actual motion and I believe some of that needs to be done, and as the Honourable Attorney General has said, I recognise that as well. So, from our point we know that if we are going to keep down crime we are going to have to take some extra strong measures in punishment and we are going to have to spend money for interdiction.

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 not, would the Fourth Elected Member for West Bay wish to exercise his right of reply on behalf of the Second Elected Member for West Bay who is the Mover of the Motion?

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

The House can already see the benefits of a good party structure where even though the Second Elected Member from West Bay had to leave because of the unified position on this side, we can respond on

his behalf. In responding on his behalf I want to ensure to the Members that have stayed at this time of the evening that I will try to be briefer than my colleague, the Second Elected Member from West Bay is known to be.

I have the pleasure of responding on behalf of the Second Elected Member from West Bay and I expected the task to be an easier one after the great detail my colleague went into when introducing the Motion. I too want to say that as a representative of the district of West Bay and in speaking to some of my constituents, they were a bit disturbed with the headlines, "Drugs a West Bay Problem". I was happy to hear that the other Members in this Chamber recognise that it is a national problem, at least in the majority. For a while when I heard the Second Elected Member from George Town, I really felt that he was detached from his constituency and did not recognise that it was a national problem since he tried to paint the increasing crime as being something that was more dominant in the district of West Bay.

I am happy to have heard the Honourable Second Official Member acknowledging the possible need for clarifications in accordance with the respective laws, which would make it clear to the police as to what their rights would be in the event that there is some confusion as to exactly what right they do have in enforcing the law. I am sure that the residents of all districts in the Cayman Islands will be happy to hear that the review is ongoing concerning the noise from cars in relation to the boom boxes that we are all familiar with. I want to thank him for his enlightening remarks concerning the existing laws and acceptance by him of looking and reviewing as the Motion calls for the applicable laws and policies to enhance the ability of the Royal Cayman Islands Police to more effectively and safely carry out their duties.

In picking up from where the Second Elected Member from George Town spoke about in what could be seen as a difference in policy between the Ministry of Community Affairs and what was presented by the Second Elected Member from West Bay when it came to assisting the police. I want to make it clear that he seemed to believe in some way that greater policing or enhancing the ability of the police to do their jobs would lead to increased incarceration in the prison, but as the Member from East End made the point as to Mayor Giuliani of New York. The purpose of assisting the police could have the effect of being a deterrent, which would then stop the crimes from being serious crimes and in that way it would cut down the incarceration in the prison.

I am sure that those Members who are fair would understand that this is the position my colleague, the Second Elected Member from West Bay, made when we talked about increasing the

ability of the police to do their jobs and assisting them in doing their jobs.

The Second Elected Member from George Town made reference to the Annual Police Report 2002 on page 36, paragraph 33, he quoted where it said, "**Unfortunately, the year in review saw a significant increase in the number of reported incidents of domestic violence for the year.**" I do not want to assume that he was trying to be mischievous and blame the Government but for some reason he chose to stop where it said that was an increase of 25.2 per cent. If he had carried on reading that same paragraph it also says, "**The reason for this increase may be attributed to the continuing public awareness programmes on domestic violence such as the monthly televised FOCUS, the Caribbean Regional Domestic Violence Intervention Training and the Business and Professional Women Club's Annual "16 Days of Activism Against Gender Violence" campaign. These initiatives are vital in the fight against domestic violence as their objective is to educate the public on the effect domestic violence has on the victim, the fabric of the family structure and the entire community.**" There we have what could be seen as a double edge sword because the Minister who has the responsibility for Community and Women's Affairs is what this falls under.

What the Report is saying is that there is not an increase in crime. Basically what the Report is saying is that the potential is that the crime was always there but because of education— Mr. Speaker, if the Member from North Side would listen to what I am saying, all I am saying is that the increase in crime could necessarily be attributed to greater education where we have more people coming forward reporting crime. I know she was defending the position as to who started those programmes and I am not getting into who started them. I am just saying that because of an increase in the education and this is coming out of the same report that the Member from George Town read from. So, if the fact was that the crimes were being committed prior to that but were not being reported because of a lack of education, then it is interesting to see how those statistics could be used to say that the Minister is not doing a good job because now it appears to be that there is more crime.

I just wanted to make sure that in the full interest of disclosure, the entire paragraph, which the Member made reference to, was read for the public so that they could understand exactly what was said when it came to increases in domestic violence.

Growing up and living in the district of West Bay I too have seen first hand the effects of drugs specifically to the potentially positive people that could have made a significant contribution to the Cayman Islands. Almost on a daily basis I see friends of mine with whom I have grown up and spent much of my younger years with who have now succumbed to the deadly and destructive ills of drug use. Like the Second Elected Member from George Town said, I have to give



thanks to my mother and father for making sure that I had such a positive influence and the other good people in the district of West Bay who was able to give me a positive influence and keep me away from where I have seen so many of my close friends end up. I fully recognise that the issue is a big problem; the issue is even made much bigger due to the fact that it is such a profitable business. I think that all sides of this Honourable House recognise, like the Member from East End said, he has more of a problem of importation, and in West Bay we are dealing with the problem that is caused by that importation with the consumption and the ill effects that we have there.

As representatives on many occasions we have worked with the police to try to assist them, whether it was clearing property, speaking to land owners or whatever assistance that we could offer to them. I think that is important as a role. It is not a popular or positive thing to get up and talk about and we see how the press made it to be an issue for the district of West Bay. We recognise that it is hard for politicians to get up and speak about those issues that could be seen in such a negative light. As responsible representatives I think it is commendable that my colleague the Second Elected Member from West Bay, even in an election year, is willing to get up and talk about the problems and concerns that the people of the district that we were elected to represent have expressed to us, and to ask the Government to reconsider doing whatever can be done to improve that situation.

Mr. Speaker, the Second Elected Member from George Town criticised the Member for saying that it has only been at this time that he brought the Motion. I would like to remind the Member who is representing a bigger district that I am sure has significantly higher increases in crime, that even though he may consider it to be late it is still earlier than what that Member, the Second Elected Member from George Town has done.

So before we get up to criticise and say that it has taken four years the Member should look back and realise that if the Member from West Bay had not brought the Motion he would not have gotten the opportunity to stand and discuss it. For whatever reason he did not appear to believe that it was an important enough issue concerning the district of George Town, I assume, for him to bring a similar motion.

Mr. Speaker, listening to that Member discuss the possibility and discuss how we were going to turn the Cayman Islands into a police state and to go on to talk about the rights and freedoms that have to be afforded to everyone, if I was a cynic I would have thought that the Member did not realise that he was no longer being paid to represent that aspect of society as in his previous profession, but is now being paid to represent the people of George Town who as a majority are all community minded

and law abiding citizens. Since I am an eternal optimist even for that Member, I will chalk it up to political posturing since it is an election year, and an attempt by that Member to not only gain the support of the law abiding citizens of George Town but also to gain the support of those who may be involved in criminal or deviant behaviour, which I assume could be seen as a desperate position or it could be that the Member did not recognise who he was representing.

Mr. Speaker, I have to agree with the Member for East End on the calls he has been making for the police assistance. However, when he said he cannot blame the Government because previous governments had neglected and done nothing and that he could blame the Government for when the now Minister of Health and himself brought a motion in 2001 asking for more to assist the police, I need to remind him that if he was bringing it with the Minister of Health it would not have been this Government at that time.

So, I accept fully what he said that he blames previous administrations and obviously by the acceptance of governments, at this stage, the Government is cognisant, prepared, willing and able to do something about this Motion. Even though the Member was saying only two, it is obvious that those two must have made a difference.

While this may not be well received by the Members of the Opposition, I only felt that it would be my duty to represent— not having the Second Elected Member from West Bay here and having all of the pot shots that were taken to him, it was my duty to adequately defend the position that was taken. I know that in the interest of the party system if he had to do the same for me I would feel confident that he would do it.

So, Mr. Speaker, the credit that I must give the Second Elected Member from West Bay for bringing this Motion, which the Second Official Member titled a timely one, would be the comparison the Member from East End made with Rudy Giuliani and his foresight in solving the problem in New York City.

What my colleague has asked for in helping the police do a job which we all recognise as being a difficult, demanding and thankless job in the protection of these beautiful Cayman Islands is to assist them by reviewing any laws that may need to be reviewed to allow them to better do their job in a safer and more efficient manner. That is what the good people of West Bay elected us as representatives for, to recognise the problems that they are facing; to be willing to come and acknowledge the problems that the district is facing and be willing to be part of a group of a Government, namely the United Democratic Party, that is willing and able to do something about the problem.

Taking the ostrich approach of burying our heads in the sand and say that everything is well and try to be everything to everyone is not the approach of this Government of which I am proud to be a part of.

I am happy to hear the Leader of Government Business giving the information concerning the options that have been explored for national security and bor-

der control and I have full confidence, as I am sure the rest of the people of the Cayman Islands does, that the United Democratic Party Government who has achieved so much in such a short time will do its utmost best to deal with this most troubling situation as soon as it is possible to do so.

Only the very unreasonable people could expect such a turn around in the economy; such work from the international perspectives; such work with insurance and all of the other issues and to try and deal with the significant crime issues, but as I said, Rome was not built in a day, there is a lot of work to be done and I am sure that is why the people of the Cayman Islands will elect the United Democratic Party come 17 November, so that they can continue the much needed work that is to be done and all of the work that has been started to be addressed under this administration.

Mr. Speaker, I do hope and fully expect the full support of this Honourable House after listening to the debate. I want to thank all the Members who have debated on his behalf and I thank them for the positive contributions that have been made, and I look forward to the support of this Motion. Thank you.

**The Speaker:** The question is BE IT RESOLVED THAT Government consider reviewing applicable laws and policies to enhance the ability of the Royal Cayman Islands Police to more effectively and safely carry out their duties. All in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Private Member's Motion No. 1/04 passed.**

**The Speaker:** The Honourable Leader of Government Business I call on you for the motion for the adjournment.

**Hon. W. McKeever Bush:** Mr. Speaker, we thank the House for its indulgence and staff for staying late.

I would like to say that I am wondering if we could fly the flag at half mast on Friday, 30 July 2004 in memory of the late Mr. Craddock Ebanks, a past Member of Parliament.

**The Speaker:** Honourable Leader of Government Business I think that is a reasonable, timely and proper request for this Honourable House. I am sure that there is no objection from Members. So accordingly I order that the flag be flown at half mast on Friday.

**Hon. W. McKeever Bush:** Having agreed on that, thank you very much. I move the adjournment of this Honourable House until 10 am tomorrow morning Thursday, 29 July 2004.

**The Speaker:** The question is that this House do now adjourn. All in favour please say Aye. Those against, No.

**Ayes.**

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

**At 6.38 pm the House stood adjourned until 10 am Thursday, 29 July, 2004.**

**ADJOURNMENT**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**29 JULY 2004**  
**10.58 AM**  
*Fourteenth Sitting*

**The Speaker:** I invite the Elected Member for North Side to lead us in prayers.

have apologies from the Honourable Second Official Member for the late arrival.

**PRAYERS**

**Ms. Edna 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 Cabinet 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 are resumed.

**Proceedings resumed at 11.00 am**

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

**Apologies**

**The Speaker:** I have received apologies for absence from the Honourable Temporary First Official Member and the Second Elected Member for West Bay. I also

**STATEMENTS BY HONOURABLE  
MEMBERS AND MINISTERS  
OF THE GOVERNMENT**

**A Policy Paper – Protecting, Enhancing and Promoting the Cayman Islands**

**'A Cayman Islands Constitution for the future'**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

In December last year when we called off the trip to London, we said that we would come back to the public on Constitution matters and to tell the people where we were at. We did not go to London because we felt that the Foreign Office was leveraging the constitutional talks against the European Union Savings Directive.

The Cayman Islands' relationship with the United Kingdom dates back around five hundred years when Jamaica became independent in 1962. We decided to retain direct links of the Islands to the Crown and became a separate British Crown Colony. We continued to value our links with the United Kingdom and with the Crown, and our present Constitution took effect in 1972 with numerous revisions made since then. We have a long and proud history of political stability and economic dynamism coupled with a strong tradition of political and civil rights. The Cayman Islands have been a Parliamentary Democracy since 1831 when the first Government of the Cayman Islands was established.

The present Constitution established the Cayman Islands as a British Dependant Territory, now a United Kingdom Overseas Territory and these arrangements were reviewed by the Constitutional Modernisation Review Commission in 2002. It is our belief however that the proposals put forward by the Commissioners did not advance the Constitutional arrangements of the Cayman Islands sufficiently and that they too closely resembled those given to British Colonies seeking independence in the post second World War era.

The Cayman Islands should aim to modernise and advance its constitutional arrangements. This is especially needed in this era of globalisation and also given the United Kingdom's membership of the

European Union, the expansion of the European Union in terms of policy and the United Kingdom's compliance with European Union's legislation and regulations that will adversely affect these Islands and have a significant impact on our economic well-being. We aim for a more progressive partnership with the United Kingdom. The Cayman Islands need a constitution fit for the twenty first century and we desire a step change from the existing colonial constitution. However, I must stress that the United Democratic Party has no desire to seek independence from the United Kingdom; that is not at question. Our main objective is to ensure that we establish a system whereby we have greater control over our destiny. We cannot allow the United Kingdom to make unilateral decisions, signing up to initiatives without first consulting us. This is totally unacceptable and we will do everything within our powers to ensure that the interests and wellbeing of our Islands are always taken into account. I am not going to stand idly by and have anyone impose unilateral regulations and laws which will have a detrimental impact on our country's economy.

We will promote a positive alternative to the current Constitution to ensure the Cayman Islands have a modern Constitution to reflect the needs and ambitions of the people of these Islands. We want a constitution that will not only serve our Islands tomorrow, but one that will serve our children and our children's children. In the immediate term however, we shall also work with respected third parties to clarify any existing ambiguity around the existing constitution. The Legislative Assembly is an important body and its Members carry a heavy burden of constituency and legislative work. In order to address this matter we believe there is merit in moving from a unicameral to a bicameral system with the Legislative Assembly remaining the prevailing House. An additional chamber would promote political engagement and improve scrutiny of legislation and proposed agreements.

Our people have expressed a desire to be involved in the decisions that affect our country and the Senate will provide the ideal medium of fostering and encouraging more open dialogue. Most importantly, it will provide the Government with a wider cross section of views when legislation or international treaties are being discussed or contemplated. The creation of a second chamber or senate, offers the following benefits to the people of the Cayman Islands: Improved decision making; a greater variation of views; a more balanced representation of competing interests; increased accountability; a bicameral system is more open to the public and would improve engagement, public debate and citizen engagement, and improved legislative authority. The Senate would be responsible for studying legislation and making recommendations. All legislation except for financial resolutions would be submitted to the Senate for consideration. The Senate would not have the power to block

legislation indefinitely though they would be able to delay for a finite period before it is reintroduced to the Legislative Assembly.

I stress to Honourable Members that this Assembly would be the prevailing House and would be supreme in law making matters; the majority in the Legislative Assembly would have the final say on legislation. The Senate would be comprised of nine appointed Members, or it could be comprised of nine appointed Members by the Opposition as well as by the Government. Senators would be appointed after each general election and could serve for that legislative term with party affiliations or without party affiliations.

The Senate, once appointed, would represent or would elect a presiding officer from among its ranks and a leader of the majority would be selected to become the chief government's spokesman. They would be responsible for leading and directing the business of the Senate. There would be no limits on the number of terms that could be served by Senators. Senators could be removed in the event of criminal behaviour or gross misconduct or by their appointing party.

Membership of the Senate would be restricted to citizens of the Cayman Islands only. Senators would have limited contact with civil servants, with the right only to request information and they would not hold cabinet posts. Senators could be appointed to the newly created position of Parliamentary Secretary and could be invited to the Cabinet to discuss a specific issue on a non-voting basis when their expertise would be valuable and they could contribute to decision making in that way.

A senate would provide an opportunity for professions and industry sectors to be engaged further in decision making. The chamber would also allow young Caymanians to become involved in public life without getting involved in electoral politics, if they so choose. The cost of the Senate would be limited. The Senate would be housed in the existing Legislative Assembly facilities and would use the building when the Legislative Assembly is not in session. Furthermore, Senators would not be expected to rely on their legislative role for their primary source of income and only an attendance allowance would be paid. This proposal, we believe, would cost no more than creating two new Legislative Assembly seats and in a best case scenario, could cost less.

I am sure Honourable Members will agree with me that a strong and effective opposition is essential to the successful working of a parliamentary democracy. Oppositions have a responsibility to question and challenge Government on matters of substance. The electorate expects the official opposition to engage the Government in issues of policy. Its primary role has to be to offer an alternative program to the one offered by Government. As is expected of Government Ministers and Backbench Members, it is incumbent on elected members and Officials of the

Opposition Party to commit to widely accepted principles of public life including selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

We recommend that the post of Deputy Leader of the Opposition should be formally established to further create proper constitutional protocols. This will in turn foster greater political maturity and organisation amongst the principal Opposition Party.

### Elections

The Constitutional Review Commission examined our electoral system and recommended in a draft constitution that the existing six electoral areas would become seventeen single member constituencies. After much consideration we believe that there needs to be further extensive research and dialogue on the principle of single member constituencies before any decision is taken as there was very little support for this methodology of voting and representation. In fact in some districts there was absolutely no support for this methodology of voting and representation. We recommend that the current electoral system is maintained until there is widespread support for an alternative.

### The Governor

I want to turn now to the constitutional role of the Governor.

The position of Governor in the Cayman Islands is long established and represents the connection to the United Kingdom. The Governor in Cabinet is also an important constitutional convention. In a modern democracy however, the role of Governor needs to be clearly defined. The Government believes that the Governor plays an important ceremonial role, but the Governor's day to day position in some matters of Government is outdated.

The United Democratic Party does not want independence. The United Democratic Party, like the vast majority of the people of the Cayman Islands, greatly values our ties with the United Kingdom and the mutual benefits that flow from this relationship. However, it is important that we examine this relationship to ensure that the Cayman Islands are not disadvantaged.

We are content for the Governor to continue to have responsibility, working closely with the Public Service Commission, for appointing the Attorney General, the Auditor General, the Police Commissioner and the Judiciary. In the appointment of the Attorney General the Cabinet must be consulted and consensus sought. The Governor following advice from the Chief Minister and Cabinet on a vote of no confidence in the Legislative Assembly would be able to dissolve the Legislative Assembly and require a general election. That is as it is right now, however while we are told, it is not discussed amongst us.

We believe that he or she, should continue as an important channel of communication between the Cayman Islands and the United Kingdom, and should maintain a role in monitoring governance and providing advice. However, the Governor's role in Cabinet should be advisory and non-voting. Governors should not be able to override democratically elected leaders or retain total control over any area of domestic policy. In addition, the Chief Minister should preside over the Governing Council in place of the Governor. In most cases however, the Governor should act only after consulting with various governmental bodies which would *de facto* mean receiving the recommendations and obtaining their approval.

Her Majesty the Queen would continue to appoint the Governor on the advice of the Foreign and Commonwealth Office. However, the preferred candidate put forward by the Crown should be selected jointly by the Foreign and Commonwealth Office and elected representatives of the Cayman Islands Government. The Governor currently has the right to refuse to sign Bills passed by the Legislative Assembly. The power to block the wishes of the people's democratic representatives is considerable and must be kept in check. It is essential that measures are put in place to ensure that it is not abused and to protect the democratic rights of the people of the Cayman Islands. We cannot have the Governor decide to stop legislation that is in the best interests of the Cayman Islands.

Personally, I cannot continue to stand by and allow anything to happen which will threaten the long term viability of these Islands. If the Governor twice refuses to sign a significant Bill, one that impacts greatly on the economic well-being, human rights, religious rights and livelihoods of the Cayman Islands passed by the Legislative Assembly, the Bill will be sent back to Parliament for a third time.

If the Legislative Assembly passes the same Bill the third time with two thirds of those Members voting in support of the Bill the Governor would be required to sign the Bill into law or he or she should resign. This will ensure that the Governor will have greater accountability and responsibility to the people of the Cayman Islands while providing the United Kingdom with a level of control.

The issue of telephone tapping is a blatant reminder to the people of these Islands that the current situation cannot continue. The United Kingdom's approach to phone tapping legislation is exactly what the elected officials of these Islands requested. Yet, the United Kingdom has refused to grant us the same rights that they enjoy.

The Eurobank fiasco is a clear example of where the Rule of Law was abused. We must find a mechanism to ensure that this is not repeated and the Rule of Law is protected and individuals' rights are not violated at any time.

Matters of revenue and expenditure in particular, will continue to be the sole responsibility of the peoples elected representatives. The Governor's cur-

rent power to authorise public expenditure without the consent of the elected Government should no longer exist. The Governor should not be able to decide on public expenditure such as was done in January 2003 during the Eurobank case. In this instance the Governor decided to approve expenditure, which cost the country million of dollars, against the wishes and recommendations of the elected representatives.

### **The Cabinet**

We have decided not to increase the size of the Cabinet. However, the Cabinet in a new constitutional arrangement, where there is a Chief Minister and that Chief Minister is the political head of the Government, together with his or her party would select the elected members of the Cabinet from the Legislative Assembly. The Chief Minister will be the leader of the majority party in the Legislative Assembly and would be formally appointed by the Governor. There would be no term limits restricting the number of times that any Member of the Legislative Assembly could serve as Chief Minister. Through their support of a political party the electorate should have the right to choose the number of times that any one individual may serve as Chief Minister, very much like the situation in Bermuda.

The post of Deputy Chief Minister should also be established in the Constitution to assist the proper functioning of the Cabinet. This position should be formalised and officially appointed by the Governor. Cabinet Ministers would be appointed by the Chief Minister and his party.

We believe that the Cabinet should consist of the Chief Minister, four elected Ministers, one of whom should be the Deputy Chief Minister, the Attorney-General and the Governor or in his absence the Deputy Governor, the Chief Secretary and the Financial Secretary. The Governor, the Chief Secretary and the Financial Secretary should be non-voting members.

### **Parliamentary Secretaries**

The Constitutional Review Commission recognised the large workload currently managed by Cabinet Ministers. Along with limiting the Legislative Assembly to fifteen members, and the number of Cabinet Ministers to four, excluding the Chief Minister, additional measures or resources will be required to provide assistance. This will be achieved by the appointment of Parliamentary Secretaries. In order to lessen the burden on Cabinet Ministers the Chief Minister together with Cabinet would be able to appoint Parliamentary Secretaries from either the Legislative Assembly or the Senate to lead on a number of policy issues within the Ministers department. The Parliamentary Secretaries would be answerable to their respective Ministers and the Minister would be account-

able to the Legislative Assembly and through it, the people.

### **Cabinet Meetings**

It is crucial that Ministers have the ability to bring forward whatever business they see fit, to conduct their role in Government effectively. Therefore, the Governor will not have the right to refuse a question by a Member of the Cabinet as he does now. The Governor will no longer have the power to stop a Minister from adding items to the Cabinet's agenda.

The Cabinet's Secretary and the Cabinet's Office should have responsibility under the authority of the Governor and the Chief Minister for the co-ordination and implementation of government policy. That is as it is presently.

### **Constitutional Relationship with the U.K.**

The Cayman Islands' Government applauds the commitment of the British Government to support overseas territories in respect of self-determination, mutual obligations and responsibilities, freedom of the territories to run their own affairs to the greatest degree possible and assistance in promoting economic development. At the most recent meeting of the Overseas Territories Consultative Council in December 2003, I delivered a joint statement in which the overseas territories all recognised the responsibilities incumbent upon them as a consequence of their relationship with the United Kingdom. This affirmed the objective also held by the United Kingdom Government of delivering high standard of governance on behalf of our citizens.

The priority therefore, is improving accountability in our relationship with the United Kingdom's democratic accountability so that our people can run their own affairs. This Government and the United Democratic Party do not want independence. We, like the vast majority of the people of the Cayman Islands greatly value our ties with the United Kingdom and the mutual benefits that flow from this relationship. However, in line with International Standards and the requirements of the twenty first century it is now time to review the details of this relationship.

### **Foreign Policy**

The Cayman Islands Government, any Government of the Cayman Islands, should take a greater role in foreign affairs. This would become increasingly important in relation to various international organisations whose standards impinge directly on the Cayman Islands.

The Cayman Islands Government represented by a senior member or senior members of the Cabinet should engage in those international bodies and groupings that affect the Cayman Islands. We have some strong objections to the way in which the British Government approaches the application of In-

ternational Treaties to its Overseas Territories. We believe that the United Kingdom is still not paying enough attention to the views of the elected representatives of the Overseas Territories and would hope to ensure that in future the United Kingdom's Government will undertake considerably more consultation with ourselves over both the formation and implementation of Treaties.

In order to protect our interests it is imperative that we maintain a strong presence in all organisations and groups that could potentially implement policies which could have a direct impact on our economy. Without our participation we will leave the future of our Islands in the hands of others; this is not acceptable and we will ensure that we maintain our presence in all the international forums to protect the interests and wellbeing of our Islands.

### **The Role of Britain**

It is right that the United Kingdom should continue to play a role to ensure good governance in the Cayman Islands as an overseas territory. However, there must be a constitutional mechanism which would prevent the United Kingdom from imposing legislation on the Cayman Islands without the consent of the people. Britain could therefore maintain powers in the following distinct areas.

Firstly, with external affairs the United Kingdom Government should continue to represent the Cayman Islands before foreign governments through the Foreign and Commonwealth Office and Britain's diplomatic missions abroad. There must, however, be greater consultation and consent between the United Kingdom Government and the Cayman Islands on diplomatic issues.

Furthermore, external affairs must exclude fiscal and tax policies, which must remain within the control of Cayman Islands politicians and officials.

Secondly, defence matters should remain the responsibility of the United Kingdom Government through the Governor. In addition, the Cayman Islands continue to appreciate the security guaranteed provided by the U.K. Government through its armed forces.

Finally, Britain could maintain powers in relation to law enforcement including the maintenance of domestic order and the role of the police, the Governor would have powers of appointment over the police.

The Governor and the Cayman Islands Government; on these three reserved matters an advisory council chaired by the Governor, comprising the Chief Minister, the Finance Minister, the Chief Secretary and the Attorney General should, after consultation with Cabinet, advise the Governor on policy. This Advisory Council must be consulted by the Governor in advance of any matters relevant to the Cayman Islands being discussed or determined by the U.K. Government.

Furthermore, the Governor should be able to delegate certain powers to the Cayman Islands' Government such as matters relating to police. Powers should be retained by the Cayman Islands and in all other respects the Cayman Islands should be self-governing with executive powers vested in the Cabinet. Key aspects of the economy including laws and taxation, rights of property, environmental law, business law, regulation of shipping and civil aviation, the regulation of the tourist industry, social policy, monetary policy, financial sovereignty and insurance industry policy should be the sole preserve of the Cayman Islands Legislative Assembly and would therefore be protected by constitutional provision. Furthermore, the free market heritage of the Cayman Islands should be protected by constitutional provision preferring the current capitalist model over a socialist system. The Cayman Islands should continue to control its own fiscal policy with the Government being entirely responsible for its own budget. Law enforcement should be financed by the Cayman Islands as should the office of the Governor itself. That is, Mr. Speaker, as it is currently.

### **Legislation and the Role of the United Kingdom**

As a free market democratic country the Cayman Islands should have the power to pass legislation as it sees fit for the benefit of the people of the Islands. Therefore, the Constitution should not, as a matter of principle, contain a clause which would allow the United Kingdom to refuse to grant assent to legislation due to an inconsistency with a United Kingdom treaty obligation.

### **Modern rights - A Caymanian Bill of rights**

There are a great many benefits to enshrining the civil liberties enjoyed by the people of the Cayman Islands in a Bill of Rights, which would in turn be part of the Constitution or separate law. These would include entrenching the enviable rights of all Caymanian citizens; enhancing the Cayman Islands' reputation as a jurisdiction, which respects and defends the rights of individuals in line with the Internationally Recognised Standards and consolidating the Cayman Islands' reputation as a business friendly jurisdiction where property rights are respected and protected by the full force of law.

The United Kingdom has expressed its desire that the Overseas Territories including the Cayman Islands sign up to a model charter and fundamental rights. The Government will work with the British Government to ensure that fundamental human rights and civil liberties are enshrined in law following the implementation of the new Constitution.

### **Improving Community Engagement**

We will also consider the most appropriate ways to improve community consultation. The United



Democratic Party is keen to ensure that local communities are consulted in advance of any policy change and that the views of people in districts are taken into account by policy makers. We would also wish to establish a series of district councils aligned with one legislative assembly constituency, that is, one in each district, or a collection of constituencies, as the case may be.

Voluntary and unpaid counsellors would be appointed by the Cabinet in consultation with local elected representatives; that includes the Government and the Opposition. Counsellors who would be well connected and respected figures in their communities would meet regularly to discuss issues of interest in the local community. Their deliberations would be channelled into Government decision making by the Members of the Legislative Assembly for that particular district. This is all part of our strategy to ensure that our people at a district level are afforded an opportunity in governance which affects their lives.

In conclusion, Mr. Speaker, we are a proud and historic people. Our Islands still contain to be the fifth largest financial centre in the world and we are the envy of our neighbours. We must now move forward from the Constitution signed in 1972 that is outdated and cannot deal with the many challenges we are facing today. Essentially, we need a constitution more suitable for the twenty-first century. To get that, Mr. Speaker, we need to be innovative.

We believe that the strategy I have outlined to you today will provide such a system. We propose that we will open discussion for feedback and input with all stakeholders, which includes the Chamber of Commerce and other Non-Governmental Organisations (NGOs). After full and frank discussion with all relevant parties and stakeholders in every district we will make this a key aspect of our election manifesto.

Thank you Mr. Speaker, and of course it will be distributed as it usually is.

**The Speaker:** Honourable Leader of Government Business may I just clarify with you that this statement is being done under Standing Order 30, which is a statement and not under a Presentation of Paper.

**Hon. W. McKeeva Bush:** That is correct Mr. Speaker, thank you kindly.

**The Speaker:** The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. Under Standing Order 30 subsection (2), I crave your permission to ask two short questions on the statement that was just made, Sir.

**The Speaker:** Before granting such permission may I read into the *Hansard* and for the benefit of Members and the listening public precisely what Standing Order

30 (1) and (2) states. It has to do with statements made by Members of Government.

Standing order 31 states: “**A Member of the Government who intends to make a statement on a public matter for which the Government is responsible shall inform the Presiding Officer of his intention before the beginning of the sitting at which he wishes to make the statement**” Just to inform Members that this provision was complied with.

In regards to 30(2) it states: “**No debate . . .**” and may I underscore- “**No debate may arise on such a statement but the Presiding Officer may, in his discretion, allow short questions to be put to the Member making the statement for the purpose of clarification**”.

Accordingly, I grant permission to the Leader of the Opposition to ask two short questions.

### Short Questions

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

Mr. Speaker, this is simply for purposes of clarity. In listening carefully to the Minister's statement, I just wish to understand from this side whether the statement is a statement made on behalf of Cabinet; whether it is made on behalf of the Government or whether it is made on behalf of the United Democratic Party, or both, and if it reflects the position of all of the above.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, it is a statement made by the United Democratic Party.

**The Speaker:** Second question please.

The Honourable Minister for Health Services.

**Hon. Gilbert A. McLean:** Thank you Mr. Speaker.

As a Member of Government and Cabinet, I need to clarify that the statement which was just read by the Leader of Government Business, is one which was not dealt with in the Cabinet nor does this bind me in any way to the proposals put forward in this document. In fact . . .

**The Speaker:** Honourable Minister, would you turn that into a question? No debate shall be entertained on the statement.

**Hon. Gilbert A. McLean:** Mr. Speaker, in fact, I received it this morning in my office. I wonder at what point the Leader of Government Business decided for it to be presented today, as I was unaware that this would be presented to the House this morning.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, this paper was put to a general meeting of the United Democratic Party and it was then agreed to be sent to the United Democratic Party Executive. That was done, and, as I said, this is not made on behalf of Cabinet. I think you have made that absolutely clear when you said it was not a paper, it was a statement I was making, and I think that was the answer I gave to the Leader of the Opposition. That is what I can say about it.

Since the Minister is asking questions, let me clarify. As I said, when I opened the Statement that we pulled out of the talks in London, we said that we would come back to this House; we said that we would come back to the people; we said that we would make it an election campaign issue. Through this medium we are making it available after we have gone through the party process for those who wanted to be involved.

Through this medium we now put in on the Table for the public. We intend to talk to NGO's or at least let me put it this way, I intend, which I feel is a duty that I have, to talk to the Chamber of Commerce, the Bankers Association, People for Referendum and any other NGO that might wish to be talked to in regards to what is before the House or what I have laid on the table.

**The Speaker:** Are there any other questions? I will entertain one question from the Second Elected Member for George Town and three other questions from individual Members, but no more than one question from each Member.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. Perhaps we could be guided by you Sir, in relation to this matter. This seems to me to be highly irregular.

I have had a look at the Standing Orders and the Standing Order that you referred to Sir; Standing Order 30 sub-order (1) speaks about a Member of the Government making a statement on a public matter for which the Government is responsible. I also have had a look at the document which the Honourable Leader of Government Business has passed out and it is not presented in the way that Statements are normally presented in this Honourable House. It is captioned 'Draft; A Policy Paper; Protecting, Enhancing and Promoting the Cayman Islands; A Cayman Islands Constitution for the Future.'

The guidance I am seeking is whether or not it is appropriate for a statement to be presented here by a Minister, given what the Honourable Minister for Health has now indicated, which is clearly not a position of the Government's, Sir. I seek your guidance on that point.

**The Speaker:** Honourable Members, to clarify the point raised by the Second Elected Member for George Town. I indeed satisfied myself that the Hon-

ourable Minister and Leader of Government Business had cleared this matter with His Excellency the Acting Governor and I was satisfied on this.

When a statement comes to me to be read here, if you read Standing Order 30 (1), and I will read it again:- "**A Member of the Government who intends to make a statement on a public matter for which the Government is responsible shall inform the Presiding Officer of his intention before the beginning of the sitting at which he wishes to make the statement.**" By the time this statement reaches the Presiding Officer it is assumed that all of these procedures have already been met.

Do I have another question? The Honourable Minister for Education.

**Hon. Roy Boddin:** Thank you, Mr. Speaker.

Could the Leader say when this document was discussed yesterday if there were Members or Ministers who expressed reservation about its public airing and tabling at this time?

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Yes, Mr. Speaker, but that is no more than normal with the Ministers who have raised the question. I explained to them that we expected the House to close its business today, and, this being July, we needed to get this matter aired if we are going to discuss it.

Mr. Speaker, where the Member considers it irregular . . . I am glad you have explained the position. I spoke to His Excellency, the Acting Governor, and I will just say that this matter went through the United Democratic Party Executive and that this was the medium we sought to put it out.

Thank you, Mr. Speaker.

**Mr. Speaker:** I will allow one more, short question from the Opposition, and one from the Government side. The Elected Member for East End.

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

I wonder if the Minister can tell us in view of his explaining that this is not from a government position – and obviously since the other Ministers seem to have some disagreement with it, it is not—if this really is the appropriate place to make a position of a party be known? Is it not more appropriate to have this as a platform subject during a campaign?

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I am a Minister of the Government. The United Democratic Party makes up the majority of the Government. It went through the processes of the United Democratic Party and we are responsible for the Constitution whether

some people agree or not. We are the Government and while it did not come as a Paper as such, but came as a statement from me and there are disagreements, the people will decide when this goes out for discussion and all Members will have their say, as it is their democratic right, whether it is the Party, or whether it is Government mixed. I do not see how we can shift the two; we are the United Democratic Party; we are the Government.

I thought that this was the best medium since I had promised to come back to the House and explain where we were going. This is formally where we intend to go and now the public of this country can have a discussion and they can say to us, 'We do not believe A, B, or 1, 2, or 3 items are right, we should do it this way.' They will now discourse upon it, discuss on it and then we can then take input from there. I think this is the best place to have done it, and of course when I put the matter as to whether it should be a Paper, I discussed it with His Excellency, the Acting Governor and told him that we had disagreements on it and he thought the best thing to do was to make a statement on it. Thank you, Mr. Speaker.

**The Speaker:** As I said earlier, there is one more, short question and I see this is coming from the Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. I noticed that the paper circulated is captioned as a 'Draft Paper'. I am hoping that the Honourable Leader can provide whether this would indicate that he would be receptive to changes as a result of public input.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. That is correct.

This is a Draft Paper and that is what I just explained. I thank the Member for raising that. It is a Draft Paper because we do not have closed minds; we want this to be as much as a democratic process as it can be. I just said that we intend to go the full gamut of civil society to get the necessary feedback so that we can know what we are campaigning on.

Perhaps people want to be nebulous, but I am not going to be nebulous in this campaign. I am going to say, "1. This is the fact. 2. This is the fact. Here is what we are trying to do about it."

**The Speaker:** Madam Clerk, please call Item 4 on the Order Paper.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### Private Member's Motion No. 2/04

##### Consider Strengthening Legislation Related to Crimes (Deferred)

**The Speaker:** The Fourth Elected Member for West Bay who has been authorised in writing by the Second Elected Member from West Bay to deputise for him in his absence.

##### Motion to Defer Private Member's Motion No. 2/04

**Mr. Cline A Glidden, Jr.:** Mr. Speaker, in the interest of time and in consultation with my colleague the Second Elected Member from West Bay, I ask for the leave of this Honourable House to defer this Motion No. 2/04 to another sitting of this Honourable House.

**The Speaker:** Honourable Member, I understand that you are moving a motion for the deferral of Motion No. 2/04. Do I have a second to that Motion?

**Capt. A. Eugene Ebanks:** Mr. Speaker, I beg to second the Motion.

**The Speaker:** It has been moved and seconded that Private Member's Motion No. 2/04 be deferred. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed: Private Member's Motion No. 2/04 deferred until a later sitting.**

#### Private Member's Motion No. 3/04

##### Standardisation of Consumer Loan Documentation

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

**Mr. Cline A. Glidden, Jr.:** Thank you Mr. Speaker. On behalf of my colleague the Second Elected Member from the District of West Bay, I move Private Member's Motion No. 3/04, Standardisation of Consumer Loan Documentation which reads as follows:

**"BE IT RESOLVED THAT the Government, through consultation with lending institutions, develop a framework that seeks to standardise the loan documentation to consumers; and**

**"BE IT FURTHER RESOLVED THAT such documentation would include a projected amortisation schedule."**

**The Speaker:** Is there a seconder?

**Capt. A. Eugene Ebanks:** Mr. Speaker I beg to second the Motion.

**The Speaker:** The question is, 'BE IT RESOLVED THAT the Government, through consultation with lending institutions, develop a framework that seeks to standardise the loan documentation to consumers; and 'BE IT FURTHER RESOLVED THAT such documentation would include a projected amortisation schedule.'

The Motion is open for debate. Does the Honourable Mover wish to speak thereto?

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

Again, on behalf of my colleague, the Second Elected Member from the District of West Bay, I am pleased to bring forward a motion on his behalf, in his absence due to him being overseas on official business. When consideration was being given to the long time that we spent in this Honourable House during this sitting, it was discussed as to whether this Motion as well, should have been deferred, but due to the fact that there has been so much representation made to us as representatives over our last three and three quarter years, we felt that it was imperative that the request of the nature this Motion seeks was made at this time.

We have been besieged by requests for assistance from so many of our constituents who have run into difficulties with that area of life that is so universal to all of us. That is lending and borrowing to try to secure a better future. So many of our people have come forward and the main complaint has been from people who have gone out to get mortgages for homes whereby entering into agreements for whatever reasons which are not clear to them at the time of them entering into the agreements. They get involved in the agreement; live in their homes, five, ten, twenty years down the road and then find that what they agreed to was not exactly what they understood it to be. Through no intentional fault of the lending institution or the individual involved with the financial arrangement, in most cases being a mortgage or some type of loan, that through to a lack of understanding at that stage, difficulties are encountered that cause significant harm and grief to our citizens.

This is not a situation that is unique to the Cayman Islands and for that reason, in other countries of the world there are significant acts and legislation which ensures that whatever possible protections, without being too cumbersome, are provided. Because of these acts and legislation when borrowings are encountered there is certain disclosure and agreements legislated that would ensure a certain amount of protection for the consumers.

As responsible representatives we fully recognise the important role that the financial institutions of the country do provide, both internationally and nationally, and we feel that with some dialogue, and if we look at the text of the Motion it says: "**BE IT RE-**

**SOLVED THAT the Government, through consultation with lending institutions, develop a framework that seeks to standardise the loan documentation to consumers."**

The intent of the Motion would be to give some examples of the documentation and legislation that is in place in other countries to provide for, in some cases, truth and lending practices that if the Government could enter consultation with the lending institutions it would be in the best interest of Cayman as a whole, both on the part of the lending institution as well as the consumers, that it was stipulated as to what information was actually presented to the consumers prior to entering into these long term and in most cases life changing agreements, and every attempt is made to make these agreements a positive life change.

With that short introduction as to the reasons for the Motion, I just want to use some examples taken of information received from other countries of legislation that is in place for the benefits of providing what I refer to, as much as possible, the required information to ensure that these agreements are done in such a fashion that will not negatively impact anyone unnecessarily.

Mr. Speaker, I refer first to the Equal Credit Opportunity Act. The Equal Credit Opportunity Act says that lenders cannot discriminate. This Act has been enacted in the United States. It says that this federal legislation ensures that all consumers are given an equal opportunity to obtain credit. The Law says that a creditor may not discriminate against you because of your sex, age, marital status, race, colour, national origin, the receipt of public assistance or because you may have exercised your rights under consumer protection laws. Lenders cannot, by law, say or write anything in advertising or other documents that would discourage a responsible person from applying for credit.

It gives a list as to what creditors cannot do. It says creditors cannot ask for the sex, race, colour, religion or national origin of an applicant. They can however, ask about your permanent residency or immigration status. They cannot ask about your plans for raising or having children. The creditor can however ask about the number of dependants and dependant related financial obligations. They cannot ask whether you receive alimony, child support or separate maintenance payments unless you rely on that income to pay back credit but the lender must first explain that the income from these sources need not be revealed unless the applicant wishes to rely on it to establish creditworthiness. They cannot discount or refuse to consider income because it comes from part-time work, pension, or retirement benefits. They cannot discount income because of your sex or marital status.

It says, for example, that a creditor cannot count a man's salary at 100 per cent and a woman's

at 75 per cent. A lender may not assume that a woman will stop working to raise children.

What creditors can do: Creditors can ask about your marital status if you are applying for a joint account or one secured by property, or if you live in a community property state. They can request information about a spouse if any of the following apply: If you live in a community property state, the spouse is a co-applicant; the spouse will share use of the account; if you rely on your spouse's income; or if you rely on child support or alimony from your former spouse. They can ask whether you pay alimony, child support or separate maintenance payments. They can ask the names under which you have previously received credit. They can ask an applicant to list any account upon which the applicant is liable and ask him to provide the name and address of that account.

The Equal Credit Opportunity Act obviously is to ensure that there is no discrimination. We see specifically, no discrimination as to gender, in the event that there may be been the possibility for discrimination if a woman was to seek credit and the lender may have felt that being a young woman the plans were that she may stop working at some stage during the period of repayment of that credit, and there could have been some form of discrimination and the Equal Credit Opportunity Act is designed to ensure that such discrimination does not exist.

I can honestly say that there has not been too much representation made to me concerning discriminations, but we have had more examples of information where the interest rates that were agreed to in the early stages of the mortgage may not have been adequately explained as to how those rates may change. Or, in specific instances, people have said that while the bank has agreed to lend them money as well as to pay for things like insurance, it was not clear to them how that additional expense would be amortised and which would either increase their payments or increase the period of time. In many cases it was only after long intervals had expired and the individual expected that his debt would have been reduced significantly more that it was that they have actually realised the outcome of that addition to the initial premium that was borrowed.

'The Truth and Lending Act' is designed to ensure that certain information that is deemed to be critically important when the decisions are being made that that information is clearly defined so that there would not be any surprises at any given point during the period of the agreement.

'The Truth and Lending Act' says that you need to be able to compare the cost of borrowing to paying cash and compare the cost of borrowing from different lenders. To ensure that consumers can do that the Federal Government mandates that lenders disclose certain costs and terms. You usually get these Truth and Lending Act disclosures when you receive an application for a loan and you will get additional disclosures before the plan is open. This would

go a long way if the Government through consultation with the lending institutions could define or design something similar to the Truth and Lending Act that has been implemented. We feel that this would go a long way to helping ease the pain and considerations that many of our constituents have represented to us with the difficulty they have found themselves in after entering into these agreements.

I will go into the details of the 'Truth and Lending Act' just to use as an example of some of the legislation that is used in other areas of the world and things that the Government can consider if the Motion is accepted during their consultations with the lending institutions. 'The Truth and Lending Act' requires lenders to disclose the terms and costs of all loan plans, including the annual percentage rate, points and fees, the total of the principal amount being financed, payment due date and terms including any balloon payment where applicable, late payment fees, features of variable rate loans including the highest rate the lender would charge, how it is calculated and the resulting monthly payments, total finance charges, whether the loan is assumable, the application fee, any annual or one time service fees, pre-payment penalties and where applicable, confirm for you the address of the property securing the loan.

It says that in general neither the lender nor anyone else may charge a fee until you have received this information. Lenders who advertise must meet Truth and Lending Act disclosure requirements with respect to the loan rate and terms. These include specific credit terms in the advertisement must be made available to applicants. If an advertisement includes a rate it must state the rate as an annual percentage rate using that term. This rate takes into account additional costs incurred such as fees and points in the first year of the loan. If the annual percentage rate may be increased after the loan is closed the advertisement must state that fact. The only other rate allowed in the ad is a simple annual rate or periodic rate that is applied to an unpaid balance. It may be stated in conjunction with, but not more conspicuously than the annual percentage rate.

It says where the Truth and Lending Act applies: In general this regulation applies to each individual or business that offers or extends credit when the credit is offered or extended to consumers. The credit is subject to a finance charge or is payable by written agreement in more than four instalments where the credit is primarily for personal, family or household purposes if the loan balance equals or exceeds \$25,000, or is secured by an interest in real property or a dwelling.

Obviously they have taken into consideration it only applies to significant loans. When we look at the ceiling of \$25,000 it is not meant to be overly cumbersome for small personal loans, but for more significant loans, for example, mortgages where you are looking at the effect of twenty or twenty-five years. It is specifically catering to those longer term agree-

ments and loans where there is the chance of significant changes occurring to the agreed practices or interest rates during that period.

It says the Truth and Lending Act also provides consumers with substantive rights in connection with certain types of credit transactions. Those include the right to cancel certain real estate lending transactions within three days, the regulation of certain credit card practices and a means for fair and timely resolution. It ends by saying the Truth and Lending Act is something that can help you every time you apply for credit, no matter what sort.

When we talk about the Truth and Lending Act it requires meaningful disclosure of credit terms and reflects a shift in emphasis from the traditional 'Let the buyer beware' to more 'Let the seller disclose' and it is designed to protect consumers against inaccurate and unfair credit billing and credit card practices.

The purpose of the Truth and Lending Act is that economic stabilisation and competition is strengthened by the informed use of credit by consumers. It applies to each individual or business that offers or extends credit to individuals and some of the statements required is that disclosure must be made clearly and conspicuously in meaningful sequence, in writing and in a form the consumer may keep.

This specific Motion, as can be seen by the Acts that have been established in other areas recognises that lending, being such a significant part of everyday life, which affects just about all of us, it is important to ensure that when agreements are entered into with the intent to better our lives, it is important that full disclosure is made at those times and that when entering into those agreements you have full knowledge of what you are entering into.

Many times entering into your first home mortgage or even a car loan one has to be careful; for example when an individual gets out of school and they have no experience or expertise in that particular field and because of the excitement involved with the achievement that you have obviously made into either buying your apartment or your house when getting the documentation finalised and obtaining ownership, it is only after the excitement wears off and you have been making those payments that you sometimes then realise that what you understood when you were signing that agreement is not what has actually transpired.

Mr. Speaker, as a growing country it is important that we learn from mistakes that have been made. Other more developed and older countries have recognised the need for such legislation and where practical we should apply those in the best interest of the people of the Cayman Islands. Obviously we cannot take legislation word for word and apply it in the Cayman Islands because we are unique in many ways. However, if we recognise that other countries have seen the need for protection for both sides, not only for the consumer but for the business as well, and that they have been able to address that through

the various Acts, some of which, I have mentioned, we feel that the time has come that as a country we should also ensure that our consumers have those same benefits as well.

Mr. Speaker, that is the reason for the Motion. I spoke to some folks who heard we were trying to mandate interest rates and there were various assumptions made as to the intent of this Motion was. Hopefully, now that I have explained all of what we are attempting to do, which is to ensure that the disclosure given at the time of entering into loan agreements or credit agreements between consumers and the lending institutions that there is a certain standard set to ensure that all institutions provide relevant information whereas the choice that is made, the choice as to which institution, as to the period of time, whether it is a fifteen, twenty or thirty year loan, the choice as to interest rates, whether it is fixed or floating; all those choices will be up front and clearly defined in agreed format with the individual so that the experience of lending can be as beneficial and pleasant as possible for all involved.

We hope this will be one of those motions that will receive the support of the whole House; that will not be seen as being as too controversial, and I will be able to gladly relay to my colleague, the Second Elected Member from West Bay that the Motion has received safe passage through this Honourable House. Thank you, Mr. Speaker, and I look forward to the comments and contributions from other Members.

**The Speaker:** Does any other Member wish to speak?

The Honourable Leader of the Opposition

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

Mr. Speaker, I listened carefully to the Fourth Elected Member of West Bay in presenting the Motion on behalf of his colleague and I hear the intent of the Motion and certainly we on this side do not have any problems at all with the intent of the Motion. However, in hearing the intent of the Motion and in reading the Motion I see a major problem and I am going to explain why.

In reading the Motion, Private Member's Motion No.03/04 entitled 'Standardisation of Consumer Loan Documentation'. So we are speaking to consumer loans and it reads: **"BE IT RESOLVED THAT the Government, through consultation with lending institutions, develop a framework that seeks to standardise the loan documentation to consumers; and**

**"BE IT FURTHER RESOLVED THAT such documentation would include a projected amortisation schedule."**

Mr. Speaker, the institutions that the Motion refers to are institutions that are all in competition. It might be said by some of us that in certain areas they may actually collude. While it may be seen by some to be such a thing as collusion the fact is, in this day and

age for any one of us who engage in borrowing at various institutions, it is easily seen that it is a very competitive market in all areas, consumer loans being no exception. With the intent of the Motion, as I understand it being, to ensure that the borrower before signing the dotted line and actually engaging in the loan has full knowledge of all terms and conditions of such loan. We certainly agree that we want to make that happen.

In wanting to make that happen, I believe that when the Mover or the Presenter spoke to the 'Truth and Lending Act', that type of situation would better ensure the intent as espoused by the Fourth Elected Member from West Bay. I do not believe that you could sit with these institutions and simply develop a framework which seeks to standardise the documentation to consumers. Because all of the information that is being spoken about, it is almost impossible to say that you are going to 'standardise' the documentation to have that information. To me, it would be better seen if one were to say that you would create legislative framework if it is so desired that you would actually create legislation, which would simply call for the various listings of facts that are to be presented to the borrower, to be included in that documentation.

There mere fact that there is the competition, there are all types of gimmicks that are used nowadays. If you are going to get a consumer loan, there is a 'special' on, and it is not far fetched to hear if you engage in a certain type of loan that is being offered that you receive a gift certificate to get something at a hardware store for \$500.00. There are all kinds of activities going on in that competitive field. It is not going to be a practical and easy task, in my view, to get these people together who are in competition as long as they are open. I do not mean like how it used to be in the 1970's; it is real now, because each of those institutions are competing for the individuals to get these loans.

So, to get them together and say that you are going to 'standardise' a form is one thing, but the intent as I understand the Motion, is to be able to ensure that your consumer is with full knowledge and making a decision about a loan from a totally informed position, which tells them all of the ramifications of the loan. As I see it, the intent is perhaps what we want to agree with but I cannot understand, as to how the Motion itself is worded, is going to achieve its intent the way it is worded.

Mr. Speaker, the presenter is perfectly right. In many, many instances because the individuals are so happy if they know that the loan that they desire is approved they are not even interested for one minute until long after they get the proceeds to find out what is the interest rate. Perhaps the furthest they would go at the beginning is how much you paying a month to make sure that they figure they can pay that, while the institution will ask all of these questions. It is true! The Presenter made mention of a first vehicle or a first home, and all of us who are in here if not experiencing

it ourselves have experienced our constituents who find themselves in such instances. So, we fully understand and it would be real good to know that there is a mechanism in place, which ensures that these individuals, before they go as far as to collect proceeds and engage in the actual loan, are with full knowledge of the ramifications.

Mr. Speaker, lest it be misunderstood, I believe personally that in the vast majority of cases the people at these institutions do explain all of these ramifications to the individuals, but in the heat of the moment to get the money they are not listening; it does not matter to them then, it is after they get the money. So, we understand where the problem lies, but standardising the documentation I do not see how that is going to achieve the end that you are seeking.

The second part of the Motion resolves that such documentation would include a projected amortization schedule. Lest there be any arguments about my qualifications today, I never professed to be an accountant like your goodly self or the Mover but I know what I know, and I have worked in such institutions in another life. When you have a consumer loan there is absolutely no way under the sun that you could have an amortization schedule attached to it. Ninety nine times out of a hundred it is pegged as a floating interest rate. Sometimes depending on the institution and the relationship with the customer and depending on the advantage the customer will receive where London Interbank Offered Rate (LIBOR) is used. On most occasions it is what we all commonly call prime as the base rate. If it is prime plus two or if it is prime plus three or with consumer loans in most instances, the minimum is prime plus four; lots of time it is more than that depending on how the institution feels they have the customer, whether they have them by the 'short and curlies' or not. Now I am not pulling that one back because I know that that is a fact.

[Laughter]

**Hon. D. Kurt Tibbetts:** That was not meant to be disrespectful; that was just the quickest way to explain it. When that happens, an amortisation schedule would have to be set out that you have four or five different scenarios. Whatever the prime rate is today because it is very low if the loan is for five years, what kind of projections could anyone make to say what the rate is going to be in the fifth year, meaning you set a certain payment level. The point I make is not to decry the Motion. If there is some way for us to find an answer to assist the consumer, the ordinary person who works hard for a living has to use a lending institution to get along in life because their disposable income does not allow them to purchase all the things and the creature comforts that they want or need, we certainly want for them to be totally informed of what they are getting into and I think that is the intent of the Motion and we accept that.

However, I am throwing the arguments out in this manner because what the Opposition does not want to do is participate in a motion of this nature and it gets passed, and everybody feels good about it and it ends right there. When we look at what the Motion itself is calling for we just cannot grab on to the Motion itself and seeing that achieving what the objective is. The Fourth Elected Member for West Bay has quite eloquently spoken as to what that objective is and we do agree with that.

So, I do not know how it can be looked at as to whether there is a way to word it differently to achieve the same means or whether the Government will speak to it as to accepting its intent and saying what they are going to do, but you see it has some specifics in it, which are little bit worrisome because it calls for the Government through consultation with the lending institutions to develop a framework that seeks to standardise the documentation. We say standardising the documentation is not necessarily going to achieve what the Mover spoke to.

If you standardise the documentation and you fill in the blanks as you go along and everyone has the same thing, and just pop in what the rates are, what the schedule is; it still does not make the consumer leave the institution engaging in the loan with more knowledge than before. We have accepted and I see the heads shaking when I say, and I heard the Mover mention, many of the individuals who go to get a loan, because they are so excited about trying to get that loan they really do not listen to all of the terms and conditions of the loan and it is after the fact that they realise certain things.

What the mover would speak to about years later with a loan, the most common cause of that is because the loan is pegged at a floating interest rate, in today's world when prime for instance is, I think, 4.25 per cent at present and its prime plus three or four, so in today's world the interest rate 8.25 per cent, lets say for instance of the loan and then three years from now prime is 7 per cent. Then because of the way it is structured the interest rate three years from now on the loan is going to be 11.25 per cent and there can be a serious difference when it comes to how much that is. What they usually do is not put a ceiling on your payment, they tell you what the payment is now, but because of how much has to go on the principle and how much the interest is because the rate has increased, you might find three years from now that the payment increases from what it was today and you will wonder why saying: *'well I was always paying this, why am I paying more?'* When it is explained to you, you will realise that it was pegged at prime with a floating interest rate and because interest rates rose then your payments increased accordingly. This is really a difficult one for us but to simply agree to the Motion as it is worded, in our view is not in the spirit of the intent of the Motion.

Perhaps it is a situation that it would be in order for the Honourable Third Official Member who

may, once, as I am certain he has listened to the motion in understanding the technical expertise, may be able to perhaps give guidance as to the type of methodology that may be employed to achieve what the Motion wants and maybe that would make everybody at ease.

I found it very necessary to throw out the issues that I have thrown out because again, as I said, it is something that we would very much like to take on board and not argue about why we did not bring it, but to say that understanding the spirit of the Motion and its intent we would like to be able to participate and support the Motion. However, we wanted to point these things out because I believe we need to get to a type of understanding with the intent of the Motion that we would be able to come up with what we really think is something that is workable.

It may be argued that in standardising the documentation the intent of the Motion could be achieved, but physically I just do not see how. Because it does not matter what you have in a set of documentation, it does not change the fact that unless the consumer is 'educated', and that is quote, unquote, Mr. Speaker, enough to be discerning enough to make sure that he or she understands all of these ramifications before rather than afterwards. Then it does not really matter what we do.

So, understanding the potential difficulties in how we arrive at it, Mr. Speaker, I believe the Mover is clear on the points that I am trying to make. Let us hope that as we sit and listen that we will find a way to move forward with the Motion and get it in a practical way that we believe when we take the vote that everyone is convinced it could actually make a difference and give some direction towards alleviating the problems that the Motion itself brings to light with regards to the consumers, which in the majority of instances will be the constituents.

I do trust that the replies we hear and the Mover in winding up will be able to look to the arguments that have been put forward and will be able to put the matter to bed in such a manner that all of us can be satisfied in the way forward. Thank You.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker.

We believe there is a need for the Motion before us. We believe there is need to enhance the efficiency of financial markets in the Cayman Islands, so as to promote lower spreads between savings and lending rates. As you know the rate on bank deposits has fallen well below 1 per cent. The rates on commercial bank loans have proven much stickier downwards, with the prime rate as high as 4 per cent on mortgages at 7 per cent. We hope this measure can help us do something.



There has been a high level of liquidity in the commercial banking system in recent times. Indeed the supply of deposits to commercial banks far exceeds the demand for loans from them. In the jargon of economists the demand and supply for loanable funds are certainly not in balance; are not in equilibrium. Largely responsible for this situation has been the extremely low rates of interest prevailing in the United States making it difficult for Cayman Islands banks to significantly enhance earnings by moving their funds into the U.S.A financial markets and they have therefore tried to sustain their profitability by keeping interest rates on loans high. This situation is likely to occur from time to time in a small and wealthy open economy like ours, with a high per capita income but with a small domestic economy. As it is now, the Cayman Islands boast about per capita income of US\$35,000, one of the highest in the New World.

It is not surprising that our citizens should build up such a high level of savings deposits in the commercial banking systems. At the same time since services account for 95 per cent of the Gross Domestic Produce (GDP) and is financed primarily through large scale foreign investments, the scope for domestic business investment is therefore quite limited. Moreover, the small size of the population, less than 50,000 people, also limits the extent of consumer finance operations. The spread between bank deposits and bank loans is determined by the efficiency by these markets and the spread in highly efficient markets are narrower than they are in less efficient markets.

In the U.S.A. where the number of commercial banks is about 12,000 and where there are a large number of powerful corporations with considerable bargaining power, financial markets are highly competitive and the spread between the cost of funds and return on loanable funds are correspondingly very narrow.

In the Cayman Islands however, there are only six commercial banks actively participating in the domestic market. On the other hand the vast majority of potential domestic borrowers are households with little bargaining power and hardly any ability to shop around for better bargains. It is well established in economic theory that a monopolist, if you want to call it that, or those six, are able to obtain higher market prices than firms operating in highly competitive and efficient markets. I am not saying by any means that our commercial banks wickedly collude in the setting of interest rates, but economic textbooks do tell us that firms naturally earn higher profits in these markets than in highly competitive markets.

Commercial banks will be pleased to hear that the proposal is not the thin edge of the wedge, leading to government regulation of interest rates in the Cayman Islands; that is not what we are saying. Government understands only too well that the establishment of the bureaucracy for such regulation would not only lead to an increase in public expenditure but also to

increase cost of commercial bank operation, and eventually to even wider spreads between deposits and loan rates. Government also fully understands that reduced opportunities for making lucrative business loans domestically and for the laying off of surplus funds abroad has put pressure on commercial bank profitability making even break-even results difficult. Moreover, we fully understand that the fixed costs of remaining in business, that is, salaries utilities, license fees and so on do not fall *pari passu* with the decline in lucrative business loans opportunity. That is why the proposal approaches the problem of excessive market spreads from an entirely different angle.

We noted that the more efficient the market, the narrower the spread between deposit rates and lending rates. For example where the spread between saving deposit rates and the prime rate is over 7 per cent in Cayman, corresponding spreads in the U.S.A. are just over 3 percentage points and even less in the case of mortgages. Indeed millions of Americans were able to refinance their mortgages cashing out large sums because large financial markets like those of the United States are naturally more efficient than small ones; for example, the Cayman Islands. We cannot hope to achieve the spreads as narrow as those in the U.S.A. but we should be able to do a lot better than we are doing at present.

We can assign great importance to the reliable flow of information to consumers of financial products, mortgages, consumer loans and to the transparency of financial transactions. It is important that would-be borrowers obtain full and clear information about financial products and that those financial transactions are borrower friendly. Too often on financial documents the most important information is to be found in the fine print; that is why this standardisation of loan documentation to consumers is important.

Borrowers who have available full disclosure of costs, maturities and a variety of loan options may be able to shop around and sometimes maybe even bargain for lower rates or even refuse certain terms. The intention of Government is to try to level the playing field for financial institutions and those who consume these products, the borrowers. In the United States the borrower making a mortgage loan has before him a range of options, fixed rates, for ten, fifteen, twenty or thirty years even, adjustable rates with various features rates and maturities and so on and he or she is then able to select the one that suits him best.

The United States Government through the division of finance and corporate securities of the Department of Consumer and Business Services expends great effort and resources to ensure accurate information flows to consumers of financial services and on their general education. There is for example, 'Truth in Lending Legislation' to ensure that the quoted interest rates on loans are in fact the true rates; that is in the United States. In 2002, the Consumer Information Program was established to pro-

vide education and information to consumers who are in the process of purchasing or refinancing their homes. The coordinator works closely with first-time and low-income borrowers who are seeking to obtain a mortgage loan. The United States authorities obviously understand that the more informed the participant the more efficient their market. So, the purpose of this proposal may then be described as the education of the public and the simplification and transparency of financial transactions.

The more available the financial information and the more simplified and transparent the transaction the more efficient the financial market of the Cayman Islands will be and in time the spread between savings and loan rates will be narrower. This goal cannot be achieved overnight, and we must recognise that the longest journey begins with a single step. We believe this can be a cooperative effort.

The program that this Motion seeks to initiate is much more challenging. For one thing, the technical resources for such an exercise will have to be developed, they are not readily available. Moreover, it is the policy of Government to involve affected parties in any program in which their interests are at stake and therefore it is the intention of the Government to invite lending institutions to participate in the development of a framework that seeks to standardise the loan documentation to consumers and which would include a projected amortization schedule.

We are not mandating interest rates but I tell you that we need to ensure at some time, if a person has borrowed \$60,000 after ten years of payment, it could not, it would not be still \$60,000! I have seen where sometime ago a newspaper, running for about three or four months, sometimes double pages, full of homes taken away for sale. We, in this Legislative Assembly have talked about it long enough and now have to try to find a way forward. We believe in the discussion of this framework; we can come to grips of framework for the standardisation with a course of action that can remedy the situation.

Mr. Speaker, I have seen it. People have come to me and said that they have been paying for nine, 10, sometimes 12 years; it is a serious problem with a lot of people and I know other MLA's have been talked to as well. I have heard people say: *'I have been paying my loan for these past 12 years and I borrowed \$65,000 and it is only now down to \$60,000'*. I have had to go to court with people to plead with the Court not to take their home and to not just take the institutions situation and say after this non-payment you now have to go this route through the Court. I have had to go and plead for persons and say do not take away this from the person; just look at the other side, take a chance Court and look over time and at what the person is saying, how much they have paid. There has to be something radically wrong here, and that has happened in this country many, many times. As I said, I have newspapers that have double pages of advertisements of homes; that can do our

country no good, not in a time when we say we are prosperous and have such a high per capita income. Of course, we know that all income is relative.

For one, we will support the Motion as it is because we believe that we need this framework, and that from that framework we can get a measure or a course of action to deal with some of these problems. It think it is worthy, Mr. Speaker.

**The Speaker:** Honourable Members I propose to take the luncheon suspension at this time, and we will return at 2:30 p.m.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, I have the honour of delivering the obituary for the late Capt. Carl Bush this afternoon at three o'clock, and I can see the way that the way this debate is going this is likely to conclude shortly after the lunch is over and we resume. There is also an Order Paper, some government business, the Parliamentary Pensions (Amendment) Bill, and the Public Service Pensions (Amendment) Bill.

**The Speaker:** Honourable Member, not to cut you, but I think I see the drift of your discussion and it would only have been necessary to come and I would have tried to rearrange the items on the agenda. What I think we can do in your case, because I think this arose yesterday, and it is only reasonable that we should try to accommodate your situation. I am not sure what time the funeral starts; is it at three o'clock? At three o'clock we could rearrange the Order Paper so that we take your two Private Member's Motions after the Government Motions on the Paper and that should certainly give you sufficient time to be able to be back and take your Motion. If this is satisfactory we will go until the Order Paper is completed.

**The Speaker:** Honourable Leader of the Government Business.

**Hon. W. McKeeva Bush:** Yes, Mr. Speaker. Mr. Speaker, I think that your proposal is acceptable. We certainly would agree with the Member. I would have liked to be able to attend and if I can I certainly will be. Even if we will go on with other business and when the Member returns we will then go on to his business because as we said from yesterday we want to try to finish up tonight. So, we will work with him on that.

**The Speaker:** As most of us know, any Member of Government can rearrange the order of items. The Leader of Government Business has stated that he is quite happy to rearrange the items on the Order Paper. So, we will take the luncheon suspension at this time.

**Proceedings suspended at 12.58 pm****Proceedings resumed at 2.59 pm**

**The Speaker:** Please be seated. Continuation of the debate on Private Member's Motion, No. 3/04— Standardisation of Consumer Loan Documentation. Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Third Official Member.

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

Mr. Speaker, the Honourable Leader of Government Business has already indicated that the Government will be supporting this Motion. However, I will just offer a few comments in addition to those that he shared with this Honourable House.

The Motion reads: **“BE IT RESOLVED THAT the Government through consultation with lending institutions develop a framework that seeks to standardise the loan documentation to consumers; and**

**“BE IT FURTHER RESOLVED THAT such documentation would include a projected amortisation schedule.”**

Mr. Speaker, at times we are all aware that borrowers may find themselves in difficulties after obtaining a mortgage loan for defined duration and at fixed repayment sums. Oftentimes, if a loan is given or obtained for a period of 15 or 20 years it is not unusual to hear some borrowers saying that at a point midway through the loan, if it is a 15 year loan after a period of 10 years, if they borrow, let us say for example, \$100,000 and would have expected that the balance would have been reduced significantly, they are very much surprised that it is almost at the same level of the amount that was originally borrowed.

Oftentimes various actions are ascribed to the lending institutions to say that there could be things that are wrong or incorrect actions on the part of the lending institution that would have contributed to this and this oftentimes, or most times is not necessarily the case. What is absent from the process is the education exercise that should have been gone through to assist the borrower in coming to an understanding as to the circumstances that can bring about the situations that they often experience. Oftentimes we know that loans or mortgages that are granted to borrowers are not at fixed interest rates, and the rates fluctuate because oftentimes we are being guided by what takes place within the United States of America. We do find for example, when the interest rates were quite low or are quite low at this time, a borrower may obtain a mortgage and a given amount is stated to be the sum that will constitute the amount to be repaid on a monthly basis. If the interest rate is set at 'X' percentage it will then be worked out by the lending institution to say that 'Y' amount out of the sum to be paid will be applied to interest and the remainder will be applied to the reduction of the principle.

We do know that in circumstances like this, we find that at the beginning of the mortgage period, we know that the bulk of the money paid out normally goes towards interest with a small amount towards the principle reduction. There are certain events that can occur during this time that can have an adverse impact upon a borrower's mortgage balance. As I mentioned earlier, and the Fourth Elected Member from West Bay made reference to this point, we could have fluctuation in interest rates and we could also have a requirement for the property to be kept fully insured. Oftentimes if the borrower does not cover this insurance himself or herself, the lending institution will normally go ahead and cover the cost of the insurance premium and this is added onto the mortgage balance.

There is another situation that can arise and this is where borrowers are not often punctual with the making of their monthly repayments and a number of them miss repayments, and this in itself results in the interest that would otherwise be payable being added on to the mortgage balance. What is important Mr. Speaker, and all Honourable Members, the Fourth Elected Member from West Bay together with the Honourable Leader of Government Business and The Honourable Leader of the Opposition have all made reference to the point as to a need for lending institutions to ensure that borrowers are properly informed as to the risk associated with obtaining a mortgage.

The point made by the Fourth Elected Member for West Bay in respect of the legislation which exists in the United States, which is the 'Truth and Lending Act', in my opinion, I cannot see the local financial institutions having a difficulty in terms of looking at this piece of legislation and the requirements for borrowers to be informed. I am prepared on behalf of the Portfolio of Finance and Economics acting on behalf of the Government, to also give an undertaking that I will contact, or the Portfolio of Finance of Economics will contact the clearing banks to invite them to look at this piece of legislation and to see if certain aspects of it can be adopted and if need be, if they would be prepared at the end of the dialogue to see whether it would be useful for legislation to be introduced making this a requirement. Because at the end of the day, as the Honourable Leader of the Opposition pointed out in his remarks, oftentimes these individuals are so enthused in terms of getting access to the funds that they do not take into account the risk associated, or let us say, asking for all of the information that would be useful in terms of assisting them in avoiding some of the pitfalls that they encounter later on.

The Honourable Leader of Government Business made reference to the point earlier that we always find that deposits in local institutions oftentimes exceeds amounts that are being loaned out to the public. However, we know that given the size of the Cayman Islands market and the various economic reports that have been tabled in the Honourable

House in the past; given an indication in terms of the amount of funds that have been loaned out to the public and we know that that is quite substantial relative to the indigenous currency in circulation. As a consequence we know that the amount, the monies that are being loaned out oftentimes are denominated in US dollars. These are funds where certain amount of the deposits will be generated locally as well as others which will arise from elsewhere making their way into the local institutions. As a result of that we do find that when loans are made, although these loans are given in Cayman Islands dollars the documentation often makes reference to the fact that the monies can be called upon to be repaid in a foreign currency, for example, United States Dollars. That in itself aligns itself to the movement that takes place with the interest rate factor in the United States.

We know that in large countries such as the United States we do find that oftentimes loans can be made available with fixed interest rates for a defined period of time. Oftentimes this is not the case within the Cayman Islands. What is important is that financial institutions should point out to borrowers that fluctuation in interest rates will have an impact in terms of how much of the monies that they are being repaid will be applied to a principle reduction and to point out the add-ons that can occur that will keep the balance much higher than what it should be. Wherever significant changes are coming about in interest rates where the bulk of the funds that are being repaid on a monthly basis will be used up in terms of meeting the interest cost, I think it would be useful for institutions to inform their borrowers that this is taking place so that if the borrowers are in a position to increase their monthly repayments that that can be done.

Again, I think there has to be some responsibility taken as well, on the part of the borrowers to ensure that they keep themselves apprised in terms of what is happening with their mortgages. Because to get a loan, say for example, in year one but not to find out that very little movement is taking place in the principle balance until year five or year seven suggests that this person may not be as attentive as he or she should be.

I think what this debate is proposing here today, is one where dialogue should commence, to inform the public in terms of the process; inform the public in terms of the risk involved of borrowing from any source, any local financial institutions and also to invite the institutions as well to engage in greater dialogue so that borrowers are apprised in terms of the events that are likely to occur that when an amortisation schedule is given to say that if you repay 'X' amount of dollars over a period of 15 years with this being fixed on a monthly basis that your loan will be repaid. However, they should go on to point out that this will be subject to all of these factors remaining constant but if not and these variations were to occur it would mean that certain adjustments would have to be made to the monthly repayments.

So, Mr. Speaker, with those remarks I endorse the position indicated earlier as to the Government's support for this Motion, Mr. Speaker. 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, would the Mover of the Motion, the Fourth Elected Member for West Bay wish to exercise his right of reply?

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

Mr. Speaker, I first want to thank the Members of this House who have spoken in favour and added their support to the Motion. The Third Official Member just addressed I think, some of the concerns of the Honourable Leader of the Opposition who expressed support but who also had some concerns and questions exactly as to the operation. I also want to thank the Leader of Government Business for his acceptance of the Motion.

In winding up, in reference to the point the Leader of the Opposition made concerning the lending institutions being in competition with one another, which we are quite happy to have, we would never want to remove any of that individuality or competition that exists amongst the institutions. What we meant when we said to do in consultation with the lending institutions was—and I think the Leader of Government Business made the point—that since they are going to be the affected parties to ensure that they have a say and are comfortable with whatever changes or proposed legislation comes forward. I fully understand where the Leader of the Opposition was going when he said that to try and get a standard, to get them all to agree to standardised documentation would remove some of the advantages; some of the incentives that the institutions may give to try and encourage business. The intent was never to standardise and say that basically everyone had to offer the same thing.

An example that was used again is information from the Truth and Lending Act. It says that the typical disclosures that would standardised would be to ensure that in all cases the identity of the creditor is disclosed, the amount financed, the itemisation of the amount financed, the annual percentage rate including applicable variable rate disclosures, the finance charge, the total of payments, the payment schedule, if there is pre-payment or late payment penalties, and if applicable to the transaction total sale costs, demand feature, security interest insurance, required deposit and reference to contract. The idea was just to standardise that all the institutions would give at least consistently that information. There is nothing to stop certain institutions from offering more information; there is no intent to stop the institutions from offering additional incentives or additional information to that. We just wanted to make sure that as a minimum there

was a standardised minimum that all institutions would agree that as a minimum this would be what was given as far as information and disclosure.

Again, I understand fully when the Leader of the Opposition said that being in competition, we do not want to take away their ability to be able to aggressively pursue the business by giving incentives or even giving lower rates or whatever they may do. However, I think we could agree on some minimum standards of information that would be disclosed.

The other point that the Leader of the Opposition made was concerning the amortisation schedule and he is right in saying that there could be a fluctuation, and depending on what rate is used, whether it is prime or whether it is LIBOR the idea was that the amortisation schedule be given as a projection. However, as the Third Official Member just said, given the possibilities and information there were variables that could make a change to that if there was some schedule as to when amortisation schedules would be given, possibly on an annual basis of four or five years. What could be given as well is a range, they could say this is the amortisation schedule at the current rate in using historical trends and this is the amount of variance we expect for the period of time.

He is right the rates do change; they do fluctuate. What we were attempting to get is some indication so that the consumers would have an idea taking into account what we could have with a minimum change and with what the maximum has been in the last 10 or 15 years. So, we could give two amortisation schedules, saying what a best and worst case scenario would be.

Those schedules would obviously go a long way to assist consumers in knowing at any given point in time or having a good idea at any given point in time as to the position of the individual in relation to their payments. In addition, the amortisation schedule on short term loan would have less variance because of the amount of fluctuation and changing of interest rates for that period; let us say a three or five year car loan would be much less susceptible to the changes and variation.

Mr. Speaker, I think the Leader of Government Business made the point that we have seen in the recent past that so many foreclosures on homes have been done and homes that have been repossessed by financial institutions. In many cases those individuals may, for whatever reason, have not been able to meet, because of changes in their circumstance, but in some cases regrettably those foreclosures came about because of a lack of planning or lack of information, which caused a lack of planning on the individuals' behalf. So, the hope would be that with the support of this Honourable House, the undertaking that was given by the Third Official Member and what I expect to be the support of the private sector and those lending institutions, that working together we could standardise the process to the extent that would allow for a bit more information and disclo-

sure for those consumers who are seeking credit and mortgage assistance.

Mr. Speaker, it is all an attempt to make life here, in the Cayman Islands, as good as we can make it. I hope that this Motion which obviously has the support of the Government and the Opposition will hopefully assist the residents of this beautiful island. Mr. Speaker, I thank all the Members that have spoken for their support and for those that have not spoken for their tacit support. Thanks again.

**The Speaker:** The question is that 'BE IT RESOLVED THAT the Government through consultation with lending institutions, develop a framework that seeks to standardise the loan documentation to consumers, and BE IT FURTHER RESOLVED THAT such documentation would include a projected amortisation schedule.' All those in favour please say Aye. Those against, No.

**Ayes**

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

**Agreed. Private Member's Motion No. 3/04 passed.**

**The Speaker:** Honourable Members, as was agreed prior to taking the luncheon suspension, Private Member's Motion No. 4/04 and 5/04 would be deferred until later on in today's Sitting when the Honourable Mover of the Motion has returned from an unavoidable engagement. I call on Madam Clerk to read item five.

## GOVERNMENT BUSINESS

### BILLS

#### **Suspension of Standing Orders 45, 46(1),(2) and (4)**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush, OBE, JP:** Thank you, Mr. Speaker.

I move for the suspension of Standing Orders 45, 46(1), (2) and (4) to allow the Parliamentary Pension (Amendment) Bill, 2004 to be read a first and second time. And also Mr. Speaker, we believe that we should take it through all its stages inclusive of the Third Reading, that particular Bill.

**The Speaker:** So, we will have a Third Reading on the Parliamentary Pensions Bill.

**Hon. W. McKeever Bush:** I am going to ask that Standing Order 47 also be suspended in order to have that Third Reading of the Parliamentary Pensions (Amendment) Bill 2004.

**The Speaker:** The question is that Standing Orders 45, 46(1), (2) and (4) and Standing Orders 47 be suspended to allow the Parliamentary Pension (Amendment) Bill, 2004 to be read a first, second and third time. All those in favour please say Aye. Those against No.

**Ayes.**

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

**Agreed. Standing Orders suspended.**

## FIRST READINGS

### Parliamentary Pension Bill, 2004

**The Clerk:** The Parliamentary Pensions Bill, 2004.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

## SECOND READINGS

### Public Service Pensions (Amendment) Bill, 2004

**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, 2004.

**The Speaker:** The Bill has been duly moved, does the Honourable Member wish to speak thereto?

**Hon. George A. McCarthy:** Mr. Speaker the purpose of this Bill is to bring greater clarity to the rule of the Public Service Pensions Board and Cabinet as it relates to the administration of the Public Service Pensions Law (2004 Revision), hereinafter referred to as the principal Law. Mr. Speaker, clause 2, sub-clause (1) the Bill amends section 3 of the principal Law, firstly by repealing and replacing the current definitions of "contracted officers supplement", "employers", and "other public service" in order to cover the participation of the government companies in the plan.

The new definition of "contracted officer's supplement" provides for the requisite exemption of employees of these entities who are paid contracted officer's supplement. Whereas the definition of "employer" and "Other Public Service" replaces the "approval of the Board" with the "approval of the Governor in Cabinet". Clause 3 amends section 5 of the principal Law to make it clear that the responsibility of the Board of Directors is also to include the establishment of policies for the general administration of the Board. Additionally, the Board is to ensure compli-

ance with provisions of the Public Management and Finance Law.

Clause 4 makes a minor transitional amendment to section 6 of the principal Law by substitution the word "persons" for the "participants" to cover those persons who are former employees of the government, and who are recently granted pension entitlement under the Public Service Pensions (Amendment) Law 2002.

Honourable Members should note that Clause 5 of the Bill amends section 11 of the principal Law to change the financial year end, from the 31<sup>st</sup> December to the 30<sup>th</sup> of June to align the Public Service Pensions Board fiscal year end with that of the Government. In addition, it shortens the period for the preparation, certification and tabling of the financial statements of the Board to this Honourable House. This will result in the financial statements being tabled in this Honourable House in a shorter period of time after the close of the Board's financial year end.

Clause 6 amends the principal Law in section 12 by repealing and replacing subsection (3) to bring balance to the powers of the Board of Directors. This amendment seeks to allow the Board of Directors to recommend to the Financial Secretary changes to the current contribution rates structure after the appropriate actuarial valuation has been carried out. This clause further provides that the Financial Secretary, after considering the Report shall submit it to Cabinet, at which time the Cabinet can accept the Board's Actuarial Report or approve the recommended changes to the contribution rate structure, or require that a separate actuarial valuation be carried out.

After the acceptance of the actuarial report and contribution rate by Cabinet the Financial Secretary is required to immediately lay the Report on the Table of the Legislative Assembly for twenty-one days and then the Actuarial Report will be Gazetted.

Clause 7 amends section 17 of the Law to require that contributions be paid into the fund within 15 days after the requisite pay period, so that the contributions can be invested in a timely manner.

Clause 8 amends the principal Law in section 27 to provide that persons who were employed in a pensionable post for a period of 10 years or more be paid a pension of not less than \$400 per month or not less than the minimum ex-gratia pension payable under the Public Service Pensions (Ex-Gratia Pensions) Regulations, 2002; whichever is the greater. Clause 10, amends the law in section 38 to provide for circumstances in which an employee upon reaching maximum pension eligibility in the defined benefit part of the plan, prior to normal retirement age, can have his or her defined benefit calculated and frozen, and immediately commence participation in the defined contribution part of the plan until he or she retires. At retirement, the retired employee will receive both benefits accrued under the defined benefit and the defined contribution part of the pension plan.

Clause 11 makes minor amendments to section 39 of the Law, to widen the category of persons who are entitled to a minimum pension. This is to ensure that more equitable benefits are paid, specifically, to include the deferred vested participants and permanently disabled pensioners.

Clause 13 amends the First Schedule of the principal Law to allow the Board to appoint a secretary. The secretary will not be a Director Board.

Clauses 14, 12 and 9 are simply transitional clauses.

Mr. Speaker, I have submitted to the Clerk of the Legislative Assembly notice of a committee stage amendment to the Bill. This, Mr. Speaker, with your approval has been circulated. The main purpose of the amendment is to redefine 'participants contribution account' to recognise benefits accrued under the defined benefit part of the plan for service rendered prior to the commencement of contributions into the fund on the 1<sup>st</sup> of January, 1990. This, Mr. Speaker, in essence is the substance of the amending Bill before this Honourable House and I would invite Honourable Members to give their support to this Bill.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Leader of the Opposition.

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

Mr. Speaker, in looking through the Bill and comparing it with the existing legislation and improvements which are being proposed, I just want to speak shortly to the comments made by the presenter, the Honourable Third Official Member, to say that generally the Opposition certainly has no problems with what is being proposed, and it certainly, in most instances, brings clarity and clearer definition to various existing sections.

I note for instance, that Clause 9 of this Bill proposes an amendment to section 29(3), which in the principal Law reads as present, with your permission Mr. Speaker . . .

**The Speaker:** Please continue.

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

It reads: **"An active defined benefit participant who transfers from the service to a non-participating Statutory Authority may, with the approval of the Board and the employing Statutory Authority, continue as an active defined benefit participant."**

That is somebody in core government who was under the defined benefit scheme and who may, for one reason or another, be transferred to a government owned company. The principal Law only refers to statutory authority and the amendment in the Bill simply states that the principal Law is amended in section 29(3) as I just read it, by inserting after the words "Statutory Authority" wherever they appear the

words "or Government company." It is certainly a necessary amendment because you would not want someone who was under the defined benefits scheme moving over into a government company, which is not necessarily a statutory authority, but could be moving from one department to another agency of government, which is not an authority but is still a government owned company. You would not want that person to be deprived of being into the same scheme of things as was his or her original terms of employment. I just use that example to say that it is matters like these that certainly do need clearing up, because you would not want individuals to get caught. We will notice that as is called for by the times, you have more authorities being formed and you will have more government companies, not just being formed but operating and with the advent of the Public Management and Finance Law, which brings all of the Governments' statutory authorities and the companies under the one umbrella especially with the reporting through the legislative process with the financial reporting.

You may well from time to time find individuals who are in core government now as time goes on; you will have had some examples but probably not many. However, as time goes on we will find that employment opportunities may well occur within these government companies and people in core government who may well be qualified for these positions would wish to transfer over into these companies. You certainly would not want their pensionable benefits and arrangements to differ and for that to have an adverse affect on them desiring to seek the opportunity of either upward mobility through moving to a government owned company, or for instance, during the period of time of their employment with core government they may have had some specific training, which is more relevant to the government owned company than the actual job description which they hold at present. It is instances like these where we see good sense in the amendments.

If we go through the Memorandum and Objects of Reasons, we also see where Clause 6 amends section 13 of the principal Law, to amend the process relating to changes in contribution rates. The principal Law speaks to, and with your permission, Sir . . . section 13(1) reads: **On the coming into force of this Law and such other times thereafter as it deems appropriate, but in no event later than the three-year anniversary of the last review, the Board shall cause a review to be carried out to assess and evaluate the assets and liabilities of the fund in order-**

- (a) **to determine whether it remains capable of meeting its liabilities for the following period of at least 40 years at the rate or rates of contribution then in force;**
- (b) **if it is not so capable, to ascertain what rate or rates of contribution would be required to reinstate that capability; and**

**(c) to determine the amount to be reflected on the balance sheet, and the first of such reviews shall assess the assets and liabilities of the Fund as at 1<sup>st</sup> January, 1999.**

The amendment specifies the type of review which has to take place as it speaks to in the marginal notes. Where the principal Law only now has "actuarial valuation", this amendment will cause the marginal note to read "actuarial valuation and contribution rates". Without reading all of the specifics in the proposed amendment to section 12, what this does is clearly set out the process, not in generic terms as obtains in the present Law but with specific time lines, not just a three year period. As I understand it, Sir, the experience that we now have with the actuarial reviews that have taken place, lead us to be able to be much more pointed in specifying the process and that is how you would wish for it to be. For years we have continually been plagued with past service liability and the public service pension fund being underfunded tremendously causes for a contingent liability of several million dollars. I do not even wish to quote the figure at this point in time.

If we reflect on the past, by continually not addressing it over extended periods of time, we find that when you do go to address it the amount of actual money that you have to deal with and the rates of contribution that gets proposed, in order to bring it back in line, are rates that the Government does not even wish to have entertain because the money comes out of general revenue. If I am not mistaken, at present the government has to consider an actuarial review which might propose prohibitive contribution rates.

I remember a question being asked very recently in the Legislative Assembly and the Honourable Third Official Member referred to the question by saying that the review was being considered by Cabinet at that point in time, and the answer alone told us that obviously it is not an easy one, the way the answer was given to us. I do not know what has happened since then with regards to Cabinet's consideration.

I only bring that as a point to say that it is good for us to be looking at making these amendments to the Law so that for future generations by pinpointing exactly the process that has to take place you will not get into extended periods, and for Cabinet to be considering actuarial reviews for two or three years hence. It has a tendency to happen; not because you do not want to address it, but because when you look at the actual monies that you speak to; when you speak of an entire public service, it can be a very serious drag on government's revenue, and I know that I am correct in speaking to that.

The only true answer as you fight that uphill battle is to not put it aside at any one time but to grab it like you grab the bull by the horns and deal with it. Otherwise it is going to get to where you will have another untenable circumstance, which prevailed probably some ten or twelve years ago, when what is con-

sidered now to be the past service liability; ten or twelve years ago the figure was probably more than what it is now and in relative terms that was a tremendous amount. That was when we had the readjustment in short order, when the contribution was four plus four and it moved fairly quickly, as a result, to six plus six.

There is no sense of us not dealing with the matter. The fact of the matter is how the Government has had to handle the situation is, while not being able to physically give civil servants the type of raise in salary that they would wish, but the salaries are calculated and worked out so that the entire contribution, which is now 12 per cent comes out of general revenue and is calculated in that manner so that it did not adversely affect the actual take home pay of the civil servants. That is as I understand it. The point that I make with that is that if we do not address that in short order we might find ourselves in untenable circumstances and it is only the civil servants who will feel the negative effects. So, in saying all of that, section 2 especially, is in order to be amended.

There are several other sections calling for some minor amendments and perhaps having listened to the Honourable Third Official Member, I need not make any specific reference to any one of these sections because we find all of them to be reasonable amendments and amendments which will tidy up the Law, for the Law to be much more workable, not only for the contributors to the fund but also to the Board who administers the fund.

Mr. Speaker, by just citing those few examples I just wish to point out specifically the reasons why the Opposition finds itself able to support the proposed amending legislation, and certainly, we look forward to seeing the amending legislation to the passed and the necessary adjustments, physical and otherwise made to accommodate and comply with the new legislation. Thank you, Sir.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? If not, would the Mover of the Bill, the 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 support and for the points that have been made by the Honourable Leader of the Opposition. He, like other Members of this Honourable House recognise that we have come a long way since 1990, with what has been done by the Government with the establishment of a pension fund. Not only for the public service as such, but we have also got for the Parliamentarian and for the Judiciary. That is very useful because where other countries have gone ahead and have decided to look to meeting their annualised cost from their budget on an annual basis the Government has been quite prudent in establishing this fund and com-



mitting itself in addition to the payment of salaries to making significant contributions into the fund.

At this point in time the contribution rate across the board equals 22 per cent, 6 per cent by the employee, 6 per cent by the employer and 10 per cent going into the past services liability account fund. That is quite a substantial sum of money when that is added on to the salaries that are being paid by the Government. By no means can I indicate today that the piece of legislation even with the amendments that are in front of us will make it as perfect as it should be, but it gets it closer to being a more workable and acceptable piece of legislation. What is very good is the responsiveness of the House that when changes are required to be made we will have such response as we have had today and Members having a very good understanding at what is being attempted to be achieved.

I would like to say thanks, Mr. Speaker, to all Honourable Members.

**The Speaker:** The question is that a Bill shortly entitled The Public Service Pensions (Amendment) Bill 2004 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 Service Pensions (Amendment) Bill, 2004 was given a Second Reading.**

**The Speaker:** The Honourable Third Official Member.

#### **Parliamentary Pensions Bill 2004**

**Hon. George A. McCarthy:** Mr. Speaker, I beg to move the Second Reading of the Parliamentary Pensions Bill.

**The Speaker:** The Bill has been duly moved. Does the Honourable Mover wish to speak thereto?

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

Mr. Speaker, Honourable Members should note that the purpose of this Bill that is in front of them today, is to provide pension benefits for parliamentarians that are equitable and in line with best practice.

I am very much conscious of the fact that this is an election year and Honourable Members are somewhat reluctant in terms of wanting to deal with this very important piece of legislation that may be seen as accruing benefits to Honourable Members. I will not treat their contribution lightly because I have been in this House and in Cabinet, and seen what is required of them. They have given of their best and I think it is only reasonable and equitable that the Parliamentary Pensions Bill Law that has been so archaic

and out of date for quite some time be dealt with today.

Mr. Speaker, Honourable Members should note that this Bill seeks to repeal and replace the Parliamentary Pensions Law (1995 Revision), which as I mentioned is quite an archaic piece of legislation. In order to develop an entirely new framework, the language and structure of the Public Service Pensions Law was used as a model for more effective administration of the Parliamentary Pensions Plan. The proposed new legislation introduces provisions to the Parliamentary Pensions Plan that are modern, equitable and more in line with the defined benefit part of the Public Service Pensions Plan. Please note that a full alignment with the Public Service Pensions Plan was not desirable nor was it practicable that this could be achieved recognising the differences in the category of membership. The provisions are being laid out more clearly in such a way that the legislation will not be subject to varying interpretations.

After successful revision of the law governing the public service pensions, the need for the update of the Parliamentary Pensions Law was highlighted by the managing director of the Public Service Pensions Board. The Managing Director is Mrs. Jewel Evans-Lindsey. Mrs. Lindsey identified the need for this revision for quite some time. The parliamentarians have now recognised that the Parliamentary Pensions Law contains provisions that do not allow for a secure means of financing or proper administration of the Parliamentary Pensions Plan. Hence the commencement of a comprehensive review of the pension benefit provisions under the current Law.

It should be noted that the principle legislation dates back to 1984. There have been no major revisions to this legislation since that date. There are numerous changes being made through the Bill that are vital to the conversion of the principle legislation into a modern practice model ensuring that different provisions are not subject to differing interpretations. Further, there is a need to formalise the financing and administrative arrangements. These required enhancements make the need to repeal and replace the principle legislation imperative.

The changes to the Parliamentary Pensions Plan put to Honourable Members by way of this Bill are as a result of collaboration between the Pensions Board and its consultants Watson Wyatt Worldwide Organisation. I wish to outline the major improvements to the Parliamentary Pensions Plan. These are: early retirement at age 50 with actuarial adjustments as shown in Clause 28; the reinstatement of the commutation option for participants in Clause 34 as well as the extension of this same option to surviving spouses under Clause 38; the Plan has been enhanced by the removal of the provision in the previous law, which prevented continuation of spousal benefits after remarriage.

The Plan has also been enhanced by the removal of the provision of the previous law, which pre-

vented a retired parliamentarian in receipt of his or her own pension to also receive a pension arising from the death of a spouse who was also a parliamentarian. Clause 2 under the definition of a child, provides for the continuation of children's pension after the attainment of age 18; provision of more equitable pension benefits for children in the case of no surviving spouse is set out in Clause 37(5); provision of benefits for designated beneficiaries is set out in Clause 21; Clause 25 provides for the protection of participant rights; minimum pension benefits of \$1,000 per month are provided in Clause 33; provision is made in Clause 27(2)(c) for participants who attain maximum pension entitlement, that is two-thirds of salary to be paid such pension and thereafter continue as a defined contribution participant until he or she ceases to be a parliamentarian subject to the pension eligibility provision of Clause 20.

Provision is made in Clause 30 for disability retirement benefits to commence upon certification by the Chief Medical Officer. Provision is made in Clause 27(2) (a) and (b) for participants who have attained pension eligibility, who are age 55 and at least one full parliamentary term to elect for the commencement of their pension benefits to be paid and for participation in the defined contribution part of the plan.

It is generally accepted and agreed that the Public Service Pensions Board is in the best position to administer the Parliamentary Pensions Plan and the Board is indeed currently carrying out the necessary administration although there is no provision in the Law that provides for that to be done. There is a need now for this to be formalised in the proposed new legislation. In addition, this proposed new legislation clearly establishes the Public Service Pensions Board as the governing authority for the Parliamentary Pensions Plan and this is set out in Clause 4.

The Bill in Clause 17(2) allows for the Parliamentary Pensions fund to be pooled with the Public Service Pensions fund for investment purposes in order to maximise asset returns. Please note however, Mr. Speaker, Clause 9 of the Bill also requires that separate financial statements for Parliamentary Pension funds are maintained for submission to the Honourable Cabinet and subsequent tabling in this Honourable House.

Members of this House should also note that over the past decade, active participants of the Parliamentary Pensions Plan have been paying a contribution of 6 per cent of salary and the Government has been matching it with a 16 per cent contribution, that is, the other 6 per cent plus the 10 per cent for the past services liability to cover the employer and unfunded past service liabilities.

Clause 10 of the Bill formalises the requisite financing arrangements of the Parliamentary Pensions Law. Clause 10 further requires that an actuarial valuation be carried out on the 1<sup>st</sup> July, 2005 and for further actuarial valuations to be carried out periodically to determine the adequate employee and em-

ployer contribution rates. This Bill, although it is a re-vamping of the existing legislation, again will by no means be error free or perfect, but it will mark a significant improvement over the existing piece of legislation. I have pointed out the salient points of this Bill and I would invite Honourable Members to give this Bill their support, because their support in putting forward this Bill is one that should in no doubt be questioned as one that is very deserving.

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

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbets:** Thank you very much, Mr. Speaker.

Mr. Speaker, the Honourable Third Official Member is very correct in his early statement when he was presenting this Bill, that it is certainly not a good time for us to be having to deal with it because it is the Parliamentary Pensions Bill of 2004 and it is all to do with those of us who are elected to this Legislative Assembly; all to do with those who will be elected in future and those who have been elected presently receiving some type of parliamentary pension, and those who in future will receive some type of parliamentary pension.

Most of us were familiar with the legislation which obtains presently and in making some of the comparison with the legislation that is proposed, we on this side were very careful in making the assessments with the changes that have been proposed to ensure that what was being proposed in the various sections could not be interpreted as those of us in this Legislative Assembly seeking any advantage for ourselves, simply because we are the individuals collectively dealing with the Bill. Certainly there were some glaring inadequacies in the present legislation, some of which the Honourable Third Official Member has pointed out as part of the proposed amendments. There was even what was obviously a gender discrimination in the Legislation, which is being corrected and it is also being proposed in the, I think, new section 20, where prior to this, one could not physically name a beneficiary to the pension benefits that one might receive; one could not name a beneficiary on ones passing. The truth of the matter is that there are certain circumstances which, I think it is section 21, not section 20. There are certain circumstances which should allow for a beneficiary or beneficiaries to be named. The new section 21 speaks to each participant being given the opportunity to designate a beneficiary or beneficiaries who shall be entitled to receive benefits pursuant to this Law in the event of a participant's death.

In the existing legislation Mr. Speaker, without physically looking at it but just going by memory, I think what the existing legislation allows is for individuals to be entitled to benefits who are the spouse

of a beneficiary or the children under the age of majority of the beneficiary, and there was a designated amount and proportions which each of these were able to receive. However, there are individuals who may not be married and you would not want the legislation to dictate that if you want for someone to be a beneficiary you would have to marry that person. It is quite as simple as that, and that is the way it was prior to this. So, those are matters which we believe are not only fair but that should be addressed.

If we also look at section 17, the Honourable Third Official Member addressed this area also, and I really want to question this because it is not that I do not appreciate the purpose but I want clarity in how it is being done. The new section 17 speaks to the fund investments and with your permission, Sir I forgot the last time, but I will not forget again, if I may . . .

**The Speaker:** Please continue.

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

Section 17(1) and (2) reads: **“17(1) The Fund shall be invested by the Board in approved investments as set out in Schedule 2 of the Public Service Pensions Law (2004 Revision) and for the purposes of this section, subsections (2) to (4) of section 16 of the Public Service Pensions Law (2004 Revision) shall apply.”**

**“17(2) The Board may, with the approval of the Financial Secretary, pool the monies of the Fund with the monies of the fund under the Public Service Pensions Law (2004 Revision) and invest such monies in accordance with the provisions of that Law.”**

As the Honourable Third Official Member said when he was presenting the Bill Mr. Speaker, the purpose of pooling these funds would be to maximize the benefits from the investments. I really have not carefully looked at the various sections and subsections of the Public Service Pensions Law (2004 Revision) which are referred to in section 17(1) and (2), so I am not quite sure what they say. However, we would like to be very clear as to what type of accounting would be done with regards to when such funds are being pooled. I am certain that it would be a method that is clear, but I would just like to hear from the Honourable Third Official Member exactly how it would be done.

Second question that comes to mind is while we appreciate the thought of pooling funds to maximize returns, if those funds are being invested in, what I would want to term as ‘safe investments’ meaning investments that are less risky, which naturally, the less the risk the less the returns that are expected; then there is certainly is no question, but one would want to hear a little about how the funds are being invested. If we speak to simple certificates of deposit, which we know because of interest rates being very low now, term deposits do not really attract any reasonable interest rates and your rate of return is very poor at present. While that is considered a safe in-

vestment, especially during this period of time, those who administer the Fund may well be looking to other types of investment and I am certain that they are with more knowledge than we are of what is and is not safe; what is volatile and what is less risky. I want to hear some more about that so that we can have a better idea of exactly how that will work, seeing as how the Law, which we operate under presently, does not allow for all of this to happen.

In section 18, again with your permission, section 18(1) and (2) states: **“Participants shall contribute to the Fund at the rate of 6% of their pensionable earnings and any change in such rate shall be prescribed by the most recent actuarial valuation pursuant to section 10(1).”**

**“The Government shall contribute to the Fund at the rate prescribed by the most recent actuarial valuation...”**

How this actually reads is: **“Government shall contribute to the Fund at the rate prescribed by the most recent actuarial valuation pursuant to section 10(1).”** Section 10(1) reads, and again with your permission. Before I actually read that let me say, as I dealt with the actuarial assessment in the previous amending legislation I bring to bear the discussion on the actuarial assessment here too because it is extremely important that we get it right when we speak to these actuarial assessments and the reasoning behind them being done within the third anniversary of the previous one, and the reason why you want to follow the recommendations once they are prudent. Mr. Speaker, again with your permission, and referring to section 10, subsection (1) reads: **“On the commencement of this Law, and at such other times thereafter as it deems appropriate, but in no event later than the three-year anniversary of the latest review, the Board shall cause a review to be carried out to assess and evaluate the assets and liabilities of the Fund in order-**

- (a) to determine whether the fund remains capable of meeting its long term liabilities at the rate or rates of contribution then in force;**
- (b) if it is not so capable, to ascertain what rate or rates of contribution should be required to meet its long term liabilities; and**
- (c) to determine the amount to be reflected on the balance sheet and the first of such reviews shall assess the assets and liabilities of the Fund as at 1<sup>st</sup> July, 2005.”**

If memory serves me right without referring directly to the Public Service Pensions Law and the amending Legislation, this is very similar. The observation that I wish to make about this is that this legislation under section 18 tells me nothing about Cabinet approving anything. What this says is that the Government shall contribute to the Fund at the rate prescribed by the most recent actuarial valuation pursuant to section 10(1), which I just read, that only speaks to a timeline.

I would really like for the Honourable Third Official Member to take the opportunity to reply to this and while I know that I may be outside the ambit I would also wish for him to do that because I did not realise it until I was standing here reading this. I need to understand the relationship between Cabinet and the decision making process with the actuarial assessment both for the Public Service Pensions Fund and for the Parliamentary Pensions Fund. I would wish to have that clarified. I am certain there is logic to the reasoning behind it but the way the legislation is drafted does not clearly outline the process and whether it is a policy decision or not, it is a matter that should be cleared up. The proposed section 19 of this Law, again with your permission reads: "The Board shall determine the financial impact of all amendments to this Law and the regulations and shall advise the Governor in Cabinet of its findings prior to such amendment being considered by the Governor in Cabinet or laid before the Legislative Assembly."

Now one may have said that I just answered the question that I asked. However, I am not satisfied that this section 19 really should refer to the actuarial assessment, because as I have just read, the Board shall determine the financial impact of all amendments to this Law and the actuarial assessment each time it is completed does not call for an amendment for the Law. The Law simply states that the Government shall adhere to the findings. So, I do not believe that this section 19 refers to that and I quoted section 19 because as I understand section 19, what that will mean is if the formula which determines the pensionable benefits to Members is changed from the one that obtains in the Law or if it is proposed to be changed, then naturally that would have a financial implication, and I think that is what section 19 would refer to. So, therefore at that point in time the Governor in Cabinet would have to be advised before bringing that to the Legislative Assembly.

However, I do not see where an actuarial assessment would fall into the same category. I bring the point out to say that when I referred earlier on to the Honourable Third Official Member in answer to a recent question, saying that Cabinet was considering the actuarial assessment, I want to know the relationship between what this legislation is proposing and Cabinet having to consider actuarial assessment. Because while one is under the Public Service Pension and this is the Parliamentary Pension, I want to understand clearly whether there is a difference. When an actuarial assessment is done of the Public Service Pensions Fund, does . . . [Pause]

Pardon me, Mr. Speaker, but I am being shown the Public Service Pensions Law which outlines the difference, but it does not change my argument because the question that I want to ask is: Is there a specific reason why the actuarial assessments for each of these funds is handled differently? I understand that the ramifications would be different because the Parliamentary Pension Fund involves fewer

individuals than the Public Service Pension Fund and the beneficiaries thereof. So, I would like very much for the Honourable Third Official Member to show us the reasoning.

My good friend, the Lady Member from North Side, has just pointed out to me the section in the Public Service Pensions Law; section 12 and the various subsections of that section, which outlines how that actuarial assessment is treated. My question is why are both treated in a different manner? Because what is proposed to us is really telling us that if an actuarial assessment is completed and it tells us that the contribution rate has to rise from 6 per cent plus 6 per cent to 15 per cent plus 15 per cent, the Government simply has to do it. That is how I understand the legislation. Now if that is the case, then I want to know that that is the case, and if it is the case why is it the case and it is different from the public service pension fund actuarial assessment.

Mr. Speaker, with your permission, to show the relevance in referring to the Public Service Pensions Law, what it calls for, for the actuarial assessment to the Public Service Pension Fund is a report of the actuarial review carried out under the subsection relevant shall be made to the Board, which shall send a copy to the Financial Secretary and the Governor may cause his own actuarial valuation to be carried out if he determines that there is good reason to do so. Then the Financial Secretary shall immediately after he receives it lay the actuarial report on the Table of the Legislative Assembly for 21 days and such report shall be gazzeted.

Even when I look at the sub-sections down below, which are similar, that is the sub-sections for the Parliamentary Pensions Bill, which says to me . . . I am just looking to see exactly which one it is, if you would permit me a minute. [Pause]

If we look at the Parliamentary Pensions Bill with all of these subsections and we compare it to the Public Service Pensions Law we will see that while there are many similarities to the process . . . Let me try to tighten up my argument so that it is not misunderstood. While there are many similarities to the process the fact is that the final part of the process, which is called for in the Parliamentary Pensions Bill, is a bit different from the procedure in the Public Service Pensions Bill and if I am not with clarity in it then all I would like to happen is for the Honourable Third Official Member, when he is winding up, to clear the matter up. I do not have a problem with that, but in reading both of them my interpretation shows a few differences and I would wish it ensure that both of them are in entrain because the comparisons between the two with most of the other amendments that have come certainly would more likely fall in line than the way I see this one.

**The Speaker:** Honourable Members, we have now reached the hour of 4:30 pm and it is my understanding that it is indeed the wish of Members that we should continue with the proceedings until the Order Paper has been completed. I would therefore ask the Honourable Leader of Government Business to move Standing Order 10(2) accordingly.

**Hon W. McKeeva Bush:** Mr. Speaker, I move the suspension of Standing Order 10(2) in order to take business after 4:30 pm. We expect, as we said earlier, to complete business today as soon as the Second Elected Member from George Town gets back so that he can move with his business, so we expect to complete and hopefully Members will be in agreement and we will try to finish as quickly as possible.

**The Speaker:** The question is that Standing Order 10(2) be suspended in order that the proceedings of the House may continue beyond the hour 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:** The Honourable Leader of the Opposition.

After his contribution we will take 10 minutes suspension, the afternoon break.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, just to cap off this point, where there is a difference and the Honourable Third Official Member has seemingly pointed it out. Where it refers to section 10, where section 18(1) speaks to: **“Participants shall contribute to the Fund at the rate of 6% of their pensionable earnings and any change in such rate shall be prescribed at the most recent actuarial valuation pursuant to section 10(1). (2) The Government shall contribute to the Fund at the rate prescribed by the most recent actuarial valuation to section 10 (1)”**. Seemingly, the subsection may be incorrect and there may be an amendment to be made, but the Honourable Third Official Member can clear that up Mr. Speaker, because it just appears how it is that one is directly saying that this is what shall be done and the other one outlines an entire process. I want to be very clear because I really do not see any reason why there should be any difference between the process with the actuarial review and how the final decision is made when it comes to any change in the contribution rates being made. I do not see why there should be any difference in the process between either one of the funds, whether it is the Public Service Pension Fund or the Parliamentary Pension Fund.

Mr. Speaker, there is perhaps the only controversial point that may have come forward where there

may be varying views. I am not going to refer to the section yet, someone is looking it up for me rather than waste time. The way it obtains now as I understand it, Mr. Speaker, and I am speaking to Members of the Legislative Assembly—I found it Mr. Speaker, so I can be very specific. What is proposed with your permission, Mr. Speaker, in section 27(1) on page 22 of the amending legislation: **“A retired participant who is receiving a pension and who is subsequently re-elected to the Legislative Assembly or re-employed as Speaker shall continue to receive that pension without interruption upon such re-election or re-employment and he shall continue as an active defined contribution participant upon his return.”** What I understand that to mean, Mr. Speaker, is that if anyone has met the requirements where he or she shall receive a benefit and has reached the age of retirement, and is no longer a serving Member or a Speaker, it means then that the calculation will be made by the length of time the person was a Member; what the salary was and all of the different ingredients to the formula. Once it is two months after an election takes place, then that individual will begin receiving whatever the amount is, pension benefit-wise on a monthly basis.

If that person who is receiving that pension seeks to be re-elected at a later time, when and if that person is re-elected and becomes a Member of the Legislative Assembly again, regardless of what position it is, then that person will continue to receive the same pension benefit and the person of course, will receive the salary, whatever it is, whether it is as a ordinary Member or a Member of Cabinet.

Mr. Speaker, it does not specify an age now; it says that person then, once he begins to serve again as a member in whatever capacity, will then become party to the defined contribution scheme and will begin to make contributions to that. At that point in time I do not see exactly where it says when those benefits will trip in, whether it is when that person retires again or whether the people do not return that person again or at what age. Obviously, I do not remember exactly, but it is a little bit, not really complicated, but perhaps convoluted.

I believe in the private sector people cease to make pension contributions at sixty, if I am correct. I am not 100 per cent sure, but I think that is how it is. I am not sure whether that is mandatory or not or whether it is by choice. As I understand it. Mr. Speaker, an individual could be 55 years old; could be receiving a pension; could then begin to serve again and if the people so elect that individual, that person could serve for another 10, 12, 16 or 20 years, and at that point in time, the same pension benefits accrue that he was receiving from the very beginning and he now during that time of his next stint, as a member, he is then contributing to the defined contribution scheme. I do not know when those benefits will trip in after that.

Mr. Speaker, the point I wish to make is that we have to not get lost in the valley here, because the truth of the matter is, if one wished to argue the contrary point to that, it could be seen to be a disadvantage to the individual of the fact that his or her pension is calculated at the rate of his first stint when he becomes eligible. Whereas if he was not collecting a pension during his second stint and he so desired to wait until that stint was over and the entire period was calculated together, when he does begin to get a pension it would be certainly be a pension that is noticeably more because for every term that one serves the formula and the equation changes noticeably when it comes, until you are fully vested. I believe the way the law is now would be five terms of service, which would equate to 20 years.

So, you see Mr. Speaker, if somebody served for 8 years first and became eligible for pension and either did not seek re-election at that point in time or lost an election and the pension tripped in, the pension would be calculated on the 8 years of service at whatever the highest salary was that point in time. The person might come back and serve 12 more years and if the pension were to trip in at 12 more years rather than what the 8 year stint was, it would be certainly more than twice. Of course, we would have to factor in that is 12 more years gone, which means 12 years less of life for the individual when they start collecting so there are varying ways to truly look at it, Mr. Speaker.

If we make comparisons, because I did a little check Mr. Speaker; for instance, in the United Kingdom if civil servants are pensionable and they start to collect a pension and are rehired into the civil service, while they are collecting a salary the pension stops. However, how it works, while they are not collecting the pension, the fact of the matter is that they are not drawing it, it accrues more benefits and they do contribute again. So, unless they stay there under normal circumstances, it is more beneficial to the individual at the end of the day using that formula.

So, Mr. Speaker, on the surface one might quickly say that it certainly does not seem to be right if someone came back in as an elected member collecting a pension to be getting the salary and the pension also. Frankly, Mr. Speaker, for us, it does not matter which way it is, I am only trying to lay it on to show that in actual fact the benefits that could or would be received can vary depending on the individual, the person's actual age, the length of service, because if the person serves 8 years and then serves another 4 or another 8 he is going to be at a disadvantage. If he has served 16 and served another 4 and he is collecting, then it is going to be to his advantage. It just depends on how many years of service before the person is eligible for pension. Some of us are elected under age 30; some of us are elected over 50; some of us do not leave here until we are 60 big odd. Some of us leave and have to wait a few years until we are able to collect because we are not quite 55. So, it is

one of those things that you cannot make any assessment based on any other but the individual. Of course, you cannot cater to any individual either one way or the other, neither can you spite an individual one way or another. So, you have to look to do it in such a way that however it is, it is and the actuarial assessment has to be able to be done on a formula not on an individual basis.

So, Mr. Speaker, this is one of the slight difficulties that we have here but maybe the Honourable Third Official Member might want to comment on the varying scenarios. Truthfully Sir, to simply lay it on the line, I for one am not 100 per cent sure exactly how is the best way to deal with that. As I said, who gets the benefit of it more, whether it is the fund that benefits more or the individual that benefits more, depends on the individual, his or her age and the length of time the person serves, it is just one of those funny ones.

It also refers to the Speaker, Mr. Speaker. For instance, in the amending legislation it speaks to the fact that on the dissolution of the Legislative Assembly that is not the date on which a Speaker's term ends. It is obvious there is a reason for that, because when a new election takes place and a new Speaker may be elected and appointed, you certainly do not want the Legislative Assembly to be without a Speaker during that interim. So, you would not want to say that the Speaker only holds office until the dissolution of the Legislative Assembly. So, there is reason and rationale behind the thoughts of the amendments.

As I said, Mr. Speaker, the other amendment that I want to speak to is the amendment which allows for the parliamentary pension benefits to fall in line or parallel to the public service pension benefits where individuals can opt for a lump sum on the beginning of receipt of the benefits and a lesser monthly pension benefit, or to leave it at just a monthly sum, which would be a larger amount. The fact is that it is done in such a way at the end of the day it is fair to do it like that because in the scheme of things and in the long run it balances itself out when it comes to any impact on the fund itself. All it means is that at some interim and it is not going to happen every day. At some interim whenever somebody becomes eligible they might choose to take the lump sum and receive less on a monthly basis. In the whole big scheme of things that really is not detrimental to the fund itself. What it does, it gives the individual the option depending on his or her age or his or her state of affairs to choose. If the person is older it is quite likely the person is going to look for the lump sum. If the person is just eligible, it is very likely under normal circumstances if the person is healthy he or she might not desire the lump sum but rather the increased amount on a monthly basis over an extended period of time.

So, with all of these varying options, Mr. Speaker, the Honourable Third Official Member has generally outlined the amending legislation for the parliamentary pensions, which would repeal the existing Law and put a new law in force. As I pointed out, the

only one that we see a bit of difficulty with, simply because of so many different configurations, is the one where an individual might come back to the Legislative Assembly and still continue to receive the pension. Mr. Speaker, by and large the other parts of the proposed amending legislation are not ones which will have any noticeable negative impact on the fund itself and would give clearer definition to how beneficiaries can operate. It would also in my view, take care of many of the question marks that individuals might have because the former legislation, or the legislation that exists at present, in several instances, is not very clear and one really has to make a judgment call as to if you were in this situation what would it be, or how would it be and I think this gives clarity to that.

So, Mr. Speaker, I look forward to reaching the point where the Honourable Third Official Member would wind up and the questions that I have asked of him I would seek clarity to those. If the answers are satisfactory then perhaps there will be no problem when the vote comes. We shall listen and wait and see. Thank you.

**The Speaker:** Honourable Members, as mentioned, I propose to take the afternoon break at this time. Fifteen minutes but I would ask that all Honourable Members make every effort to be back here in fifteen minutes, we still have a lot of work before us, before the Order Paper is completed today. Fifteen minutes break.

#### Proceedings suspended at 4.49 pm

#### Proceedings resumed at 5.22 pm

**The Speaker:** Please be seated. Proceedings are resumed. Debate continuing on the Parliamentary Pensions Bill 2004. Does any other Member wish to speak?

The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, just to be very brief on this.

Mr. Speaker, this amendment will address some inequities and matters that are long outstanding and should have been dealt with long time ago; one is the aspect of widows. Mr. Speaker, it will better improve their widow's pension and a Member would be recognised for one full term, while not a full pension, nevertheless he would still be recognised. Mr. Speaker, that is as it should be. If a person is here for four years and pays their parliamentary pension then they should have an opportunity to get whatever levels of pension that is offered. That is not the way it is, but that is as it should be.

So, I am content that this Bill addresses those concerns and many of the issues that have been pointed out by the Leader of the Opposition Mr.

Speaker, deserved attention, as I said, and the Bill covers them.

This was a matter where members were in a committee on this and sat down and walked through it, and I believe that the House should pay due deference to such aspects as widows and the other aspects as named earlier. Thank you, Sir.

**The Speaker:** Does any other Member wish to speak? The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, just briefly to make one or two observations, which do not deal with the specifics of the Bill I think, though the Honourable Leader of the Opposition has dealt with those very extensively, comprehensively and very ably. It is an observation about the appropriateness of this Honourable House actually passing legislation, which deals with pensions or benefits that relates to Honourable Members of this House. That is always a ticklish subject, Mr. Speaker, and one that is open to great criticism from the general public for it may be perceived that Members are looking after themselves, so to speak.

Mr. Speaker, I know that in some other jurisdictions they have created committees or boards or some statutory creature which actually examines things like parliamentary pensions and makes recommendations as to what changes ought to be made to the relevant legislation. It then becomes simply a case of almost, I hate to use the express 'rubber stamp', but it becomes almost simply a formality for those recommendations to actually be put into effect.

I think that this Honourable House and the Government ought to consider the creation of that sort of a committee or board or whatever, to have things like the Parliamentary Pensions Law examined from time to time and to make recommendations. As we continue to grow up as a democracy, I believe, Mr. Speaker, that it is important that not just the transparency aspect of these matters are looked into, but the overall fairness of what is being proposed. I do think it puts an undue burden and opens the Legislative Assembly up to undue criticism, or I hope it is undue criticism anyhow, in relation to these matters when we are expected to vote funds for what are essentially benefits for Members of the Legislative Assembly or former Members of the Legislative Assembly.

Certainly, Mr. Speaker, I know this term is winding down, but if I am around following the elections it would be one of the things that I would like to see and to advocate that we seek to do to distance ourselves from such matters. I know all Members of this Honourable House share that concern, the general nervousness about dealing with these matters, particularly so close to the elections, and it ought not to be that way, these things out to be dealt with in a manner and by virtue of a system which does not

open us up to concern and criticism in relation to these matters.

So, as I said I do not have anything specific to say about the Bill itself but just to make that general observation. I am not even urging this Government at this time to deal with it; I know they are in their last days so it will be a matter I believe, Mr. Speaker, that this Honourable House should consider following the next general elections in November. I thank you, Sir.

**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, would the Honourable Third Official Member wish to exercise his right of reply?

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

I will be addressing some of the observations that have been made by the Honourable Leader of the Opposition, but I would just like to comment on the observations by the Honourable Second Elected Member for George Town on the comments he has just made. Mr. Speaker, the comments of that Honourable Member, I think, would mirror the thinking of all other Honourable Members of this House, in that often times, like most persons who are quite altruistic in their thinking, always think in terms of dealing with benefits that would accrue to them but they are reluctant to do so.

Mr. Speaker, as I mentioned earlier, this is not a Bill that has been spearheaded by the Members of the Legislative Assembly, it is one that I would say the catalyst for this would be the ever vigilant Managing Director of the Public Service Pensions Boards, Mrs. Jewel Evans-Lindsey who has recognised that moving forward with the amendments to the Public Service Pensions Law would be quite a disparity for something not to be done to deal with the need to address the parliamentary pensions legislation and the archaic provisions of that legislation. I will say that I am quite happy to be bringing forward this Bill at this time.

For example Mr. Speaker, I know that you are a very modest individual, but I remember the many years that you have served in your capacity as a member of the civil service, subsequently as a Member of this Honourable House, currently in your position as Speaker and there are other Members here in this position as well, Mr. Speaker. At the end of the day I know the sacrifices that have been made by persons such as yourself and Honourable Members, and I think it is only fitting that adequate provisions be made for the payment of pensions to persons such as yourself and Honourable Members when the time comes for that to be done. So, what we are now doing, Mr. Speaker, is to address the requirements of the Parliamentary Pensions Law in order to make it more up to date; make it more equitable in its provisions and to address the inequities and, as one Hon-

ourable Member mentioned earlier, certain discriminatory practices as set out in the legislation.

The Leader of the Opposition, Mr. Speaker, raised the question as to wanting to get clarity on the investment provision or the investment funds and how such will be dealt with as provided for under section 17 of Parliamentary Pensions Law. Section 17(1) reads: **“The Fund shall be invested by the Board in approved investments as Schedule 2 of the Public Service Pensions Law (2004 Revision) and for purposes of this section subsections (2) to (4) of section 16 of the Public Service Pensions Law (2004 Revision) shall apply.”** That, Mr. Speaker, is a very good observation, because with monies being paid out and set aside to accumulate a fund to defray the cost of pension, I think it is only wise to find out what the rules and procedures are governing the investment activities of that Fund.

The reference to section 16 of the Public Service Pensions Law I will just read at this time for the benefit of Honourable Members. These are procedures and rules governing the investment of the Fund. Section 16 of the Public Service Pensions Law states: **“The Fund shall be invested by the Board in approved investments as set out in the Second Schedule”**; that is 16(1). Section 16(2) says: **“The Board may appoint one or more investment managers to whom the Board may delegate any of its investment duties hereunder.”**

Section 16(3) reads: **“The Board shall invest the Fund in such a manner to ensure that there is no undue risk of loss or impairment to the Fund and pursuant to the advice of any investment managers appointed by the Board under sub-section (2).** Sub-section (3) Mr. Speaker, I would say should be the pivotal and focal point, because what it does is impose an obligation on the Board of Trustees to be ever vigilant and alert recognising that the duties imposed upon board members are quite onerous and it is a responsibility that they should take quite seriously.

For the benefit of Honourable Members I will read it again. **“The Board shall invest the Fund in such a manner to ensure that there is no undue risk of loss or impairment to the Fund and pursuant to the advice of any investment managers appointed by the Board under sub-section (2).”** So rather than relying on the limited expertise that board members may have, again, this sets out a requirement that the Investment Manager should be appointed and this has been the direction in which the Board has moved.

Subsection (4) **“the Board shall exercise the care, diligence and skill in the investment of the Fund that persons of ordinary prudence would exercise in dealing with the property of another.”** So, it means Mr. Speaker that this should not be taken for granted and I will just go to section 16(3) Mr. Speaker, the sub-section (2) that is referred to in terms of the . . . The Schedule that has been referred



to Mr. Speaker, in section 17(1) of the Parliamentary Pensions Bill, sets out the approved investments into which the assets of the Parliamentary Pensions Fund should be invested in, like the Public Service Pensions Fund.

Schedule 2 itemizes the following investments:

- (1) Cash, including Certificates of Deposit.
- (2) Treasury bills.
- (3) Foreign government issued bonds.
- (4) Investment grade corporate bonds.

The policy of the Board has been to support investment in double A investment schemes and upward.

(5) Equities and debt securities of companies that are traded publicly.

The policy of the Board is to ensure that equities and debt securities of companies that are traded publicly are those that are so traded on recognised stock exchanges.

Mr. Speaker, turning now to section 18, I would like to say thanks to the Honourable Leader of the Opposition in making the observation in terms of the cross reference to section 10 because had it remained as is, it would have created a disparity between the provisions in the Public Service Pensions Law and the Parliamentary Pensions Law when it is introduced. So, there is an amendment now that removes the restrictive reference to section 10(1) and the reference now, as Honourable Members will note from the amendment that has been circulated, it is pursuant to section 10. If that Honourable Member will now look at section 10, which starts on page 15, it mirrors identically the provisions in the Public Service Pensions Law as amended.

In respect of section 27, which deals with a Member who retires from the Legislative Assembly and at that point in time, a pension is determined and if this person is subsequently re-elected as a member to be able to enjoy the benefit of their pension while at the same time receiving a salary, Mr. Speaker, this is a matter that there are various views that have been advanced on this. The Honourable Member has pointed out that in comparison with the United Kingdom whenever such occurs the pension would cease and then the person would receive a salary and after the end of the person's parliamentary term then the pension would be re computed.

Mr. Speaker, this would lead oftentimes to a more enhanced pension but this is an option that a Member who is so re-elected may seek for. However, what it does is that if a parliamentarian's pension is determined, rather than having the pension continuing to vest under the defined benefit scheme, the person when upon being re-elected while receiving a salary and a pension for the new period in the parliament would in effect be accruing pension rights under the defined contribution scheme. This means that the parliamentarian would have had his or her pension assessed based on the previous parliamentary term and would also be enjoying the benefit of the salary, but

rather than having that pension's provision enhanced at the expiration of the parliamentary period, would in effect be receiving a pension for the period that this person was just re-elected for, and based solely on the contribution that that pensioner would have been made during that period. To the extent that the person's pension will be enhanced it will be by the additional contribution that this individual would be making into the defined contribution scheme.

Mr. Speaker, the Honourable Leader of the Opposition will recall there was quite an extensive debate on this and there is no easy way of addressing it, because at the end of the day it would mean having to derive certain assumptions. I am sure that the actuaries would be able to do so in the case of, lets say, members had elected that their pension would cease and they would only be receiving a salary and at the expiration of the new parliamentary period that they pension be recomputed. That in itself could be accompanied by certain difficulties, but bearing in mind the suggestion by the Honourable Second Elected Member for George Town, that there may be a need to look at a different arrangement to address the requirements of parliamentary pensions; that there could be a committee or board established. At a future point in time this can be looked at and addressed but I would ask Honourable Members to support the Bill notwithstanding the fact that there may not be absolute acceptance at this time of this provision under section 27.

The committee stage amendment that has been circulated, Mr. Speaker, has also looked at section 39, which was somewhat limited in scope and the new provision reads: Section 39(a) **"Where a participant dies with no spouse and no children surviving him, the amount payable under section 35 and 37 shall be paid in a single lump sum to the participant's designated beneficiary or if his designated beneficiary has predeceased him the amount shall be paid in a single lump sum to his estate."** This is only equitable, Mr. Speaker, and I think it corrects the defect as it now stands in that section.

As the Honourable Leader of Government Business pointed out, there are certain inequities in the existing Bill that are now being addressed with the Bill that is presently before this Honourable House. I think his comments do not need to be expanded on because I agree with them entirely and I am sure all Honourable Members will agree with the comments that he has offered.

Mr. Speaker, I think I have covered all of the points of substance that have raised by the Honourable Leader of Government Business, the Honourable Leader of the Opposition and the Honourable Second Elected Member for George Town. I would like to say thanks to all other Honourable Members for their support.

**The Speaker:** The question is that a Bill shortly entitled the Parliamentary Pensions Bill 2004 be given a second reading. All those in favour please say Aye. All those against, No.

**Ayes.**

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

**Agreed. The Parliamentary Pensions Bill, 2004 was given a second reading.**

**The Speaker:** The House will now go into committee to consider the Bills.

**House in Committee 5.49 pm**

## 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 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?

### Public Service Pensions (Amendment) Bill, 2004

**The Clerk:** A Bill for the Law to amend the Public Service Pensions Law 2004 (Revision) and for incidental and connected purposes.

#### Clause 1

**The Clerk:** Clause 1 Short Title.

**The Chairman:** The question is that clause 1 stands 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 3 of the Public Service Pensions Law 2004 - definitions.

**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 the Third Official Member give notice that I intend to move the following committee stage amendments to the Public Service Pensions (Amendment) Bill 2004. That the Bill be amended in

Clause 2(1) by inserting the following paragraph after paragraph (c)- "(cc)-by repealing the definition of "participant contribution account" and substituting the following- "participant contribution account" means-

- (a) in relation to a defined contribution participant, the book-keeping account documenting total participant contributions made by a participant under the Plan, or transferred from an approved plan pursuant to section 49, plus the interest credited in accordance with rules prescribed by regulation; and
- (b) in relation to a defined benefit participant, the book-keeping account documenting the following-
  - (i) the total participant contribution made by a participant under the Plan; and
  - (ii) the participant's account opening balance-
    - (A) established as at 1 January, 1990 and representing the benefit accrued from the date of the participant's employment in the Service or from the date he reached the age of 19 while employed in the Service, whichever date is alter, until 31<sup>st</sup> December, 1989; and
    - (B) specified in a schedule maintained by the Board pursuant to section 6(1) (hh); and
  - (iii) the interest credited in accordance with the rules prescribed by regulations."

**The Chairman:** The question is that the amendments stand part of the clause. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the clause as amended, stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 2 as amended passed.**

#### Clause 3

**The Clerk:** Clause 3 amendment of section 5, Public Service Pensions Board.

**The Chairman:** The question is that Clause 3 stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 3 passed.**

#### Clause 4

**The Clerk:** Clause 4 amendment of section 6 - Powers and Duties of the Board.

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Chairman the amendment to Clause 4 reads as follows:-

“That the Bill be amended in clause 4(a) by inserting after sub-paragraph (ii) the following sub-paragraph- (iii) by inserting after paragraph (h) the following:- “(hh) adopting and marinating a schedule setting out the participant account opening balances relating to defined benefit participants.”

**The Chairman:** The question is that the amendment stands part of the Clause. All those in favour, please say Aye. All those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The Ayes have it. The amendment stands part of the Clause.

The question now is that the Clause as amended stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed: Clause 4 as amended passed.**

#### Clauses 5 through 12

Clause 5	Amendment of section 11, Accounts, Bookkeeping and Reporting.
Clause 6	Amendment of section 12, Actuarial Evaluation.
Clause 7	Amendment of section 17, Contributions to Fund.
Clause 8	Amendment of section 27 Applicability.
Clause 9	Amendment of section 28, Defined Benefit Eligibility.
Clause 10	Amendment of section 38, Maximum Pensions.
Clause 11	Amendment of section 39, Minimum Pension Payments.

Clause 12 Amendment of section 46, Defined Contribution.

**The Chairman:** The question is that Clauses 5 through 12 stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 5 through 12 passed.**

#### Clause 13

**The Clerk:** Clause 13 Amendment of the First Schedule.

**The Chairman:** The question is that Clause 13 stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 13 passed.**

#### Clause 14

**The Clerk:** Clause 14 Transitional Provisions.

**The Chairman:** The question is that Clause 14 stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed: Clause 14 passed.**

**The Clerk:** A Bill for a law to amend the Public Service Pensions Law 2004 (Revision) and for incidental and connected purposes.

**The Chairman:** The question is that the Title stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: The title passed.**

#### Parliamentary Pensions Bill 2004

**The Clerk:** A Bill for a law to reform the Law relating to the payment of parliamentary pensions and for incidental and connected purposes.

Part 1 - preliminary

### Clause 1

**The Clerk:** Clause 1 Short Title.

**The Chairman:** The question is that clause 1 stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 1 passed.**

### Clause 2

**The Clerk:** Clause 2 Definitions.

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Thank you, Mr. Chairman. In accordance with the provisions of Standing Orders 52 (1) and (2), I the Third Official Member give notice that I intend to move the following committee stage amendment to the Parliamentary Pensions Bill 2004. That the Bill be amended in clause 2 by repealing the definition of 'full parliamentary term' and substituting the following:- "full parliamentary term' means the period commencing on the date a member is sworn in as a member of the Legislation Assembly immediately after a general election and expiring at the date of the next ensuing dissolution of the Legislative Assembly."

**The Chairman:** The question is that the amendment stands part of the Clause. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: The amendment passed.**

**The Chairman:** The question now is that the Clause as amended stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed: Clause 2 as amended passed.**

### Clause 3

**The Clerk:** Clause 3 Pensions rights to be determined under this Law.

**The Chairman:** The question is that Clause 3 stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed: Clause 3 passed.**

**The Clerk:** Part 2 - Role of the Public Service Pensions Board.

### Clauses 4 through 10

Clause 4	Powers and duties of the Board.
Clause 5	Custody of fund assets.
Clause 6	Calculation of benefits.
Clause 7	Correction of mistakes in administering pensions.
Clause 8	Communications to participants.
Clause 9	Account, bookkeeping and reporting.
Clause 10	Actuarial valuation and contribution rates.

**The Chairman:** The question is that Clauses 4 through 10 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed: Clauses 4 through 10 passed.**

**The Clerk:** Part 3 - Account Adjustments.

### Clauses 11 through 14

Clause 11	Participation contribution account.
Clause 12	Participation contribution account adjustments- credits.
Clause 13	Participation contribution account- adjustment- debits.
Clause 14	Accounts adjustment date.

**The Chairman:** The question is that Clauses 11 through 14 stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed: Clauses 11 through 14 passed.**

**The Clerk:** Part 4 - Funding and Investments.

**Clauses 15 through 17**

Clause 15	The Parliamentary Pensions Fund and payments into the Fund.
Clause 16	Disbursements from the Fund.
Clause 17	Fund investments.

**The Chairman:** The question is that Clauses 15, 16 and 17 stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 15, 16 and 17 passed.**

**Clause 18**

**The Clerk:** Clause 18 Contributions to the Fund.

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Chairman, the amendment to clause 18 reads as follows:-That the Bill be amended in clause 18 in sub-clauses (1) and (2) by deleting the words "pursuant to section 10(1)" and substitution the words "accepted by the Governor pursuant to section 10."

**The Chairman:** 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.

**Agreed: The amendment passed.**

**The Chairman:** The question now is that the Clause as amended stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The clause as amended stands part of the Bill.

**Clause 19**

**The Clerk:** Clause 19 Planned Amendments Financial Impact.

**The Chairman:** The question is that Clause 19 stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 19 passed.**

**The Clerk:** Part 5 - Pension Benefits.

**Clause 20**

Clause 20 Eligibility parliamentary pension.

**The Chairman:** The question is that clause 20 stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 20 passed.**

**The Clerk:** Miscellaneous.

**Clauses 21 through 25**

Clause 21	Designation of beneficiary.
Clause 22	Payments and administration of children's pensions.
Clause 23	Cessation of payments of children's pensions.
Clause 24	Inflation protection.
Clause 25	Participant rights.

**The Chairman:** The question is that clauses 21 through 25 stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 21 through 25 passed.**

**The Clerk:** Retirement Benefits.

**Clauses 26 through 34**

Clause 26	Normal retirement benefit.
Clause 27	Participation upon re-election to the Legislative Assembly, to Cabinet, etc.
Clause 28	Early retirement.
Clause 29	Resignation prior to retirement.
Clause 30	Disability retirement.
Clause 31	Disability benefit.
Clause 32	Maximum pension.
Clause 33	Minimum pension.
Clause 34	Forms of Benefit Payment.

**The Chairman:** The question is that Clauses 26 through 34 stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 26 through 34 passed.**

**The Clerk:** Death Benefits.

**Clauses 35 through 38**

Clause 35	Surviving spouses and children's pensions.
Clause 36	In-service death benefit.
Clause 37	Pensions to beneficiaries where a participant is killed while on Duty.
Clause 38	Payment of commutation to surviving spouse.

**The Chairman:** The question is that clauses 35 through 38 stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 35 through 38 passed.**

**Clause 39**

**The Clerk:** Clause 39 Recalculation of Children's Pensions.

**The Chairman:** The question is that clause 39 stands part of the Bill. All those...

**Hon. George A. McCarthy:** Mr. Chairman there is an amendment to clause...

**The Chairman:** That is a new clause.

**Hon. George A. McCarthy:** My apology, Mr. Speaker.

**The Chairman:** The question is that clause 39 stand part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 39 passed.**

**The Chairman:** In accordance with Standing Order 52(8) I propose to take clause 39(a) after I have taken clause 43 at the end.

**The Clerk:** Part 6. Special rules regarding Pensions Payments.

**Clause 40**

Clause 40 Payments under the Plan, conditioned on periodic certification.

**The Chairman:** The question is that Clause 40 stands part of the . . . The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr:** Mr. Speaker, just a little clarification on Clause 40(2). Where it refers to the signature on the certificate, we are talking about the Parliamentary Pensions Bill and it still includes a Member of the Legislative Assembly. Is that intentional or is that a . . . .

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Chairman, I am going to ask if that Honourable Member would repeat the question again, as I was . . .

**Mr. Cline A. Glidden, Jr:** On page 29 section 40(2) where it speaks to: "**The signature on the certificate shall be witnessed by a Justice of the Peace, a Notary Public, a Minister of Religion, an attorney licensed to practice law in the Islands, a Member of the Legislative Assembly . . .**" Seeing that we are talking about parliamentary pensions, I know that is a standard section in most certifications, but if consideration might want to be given since it is going to be the parliamentarians that you are considering, you may want to not have a member of the Legislative Assembly.

**The Chairman:** The Honourable Third Official Member.

*[inaudible mumbling]*

**Hon. George A. McCarthy:** Mr. Chairman, this is merely a signature to witness a certificate and that is in order. The Honourable Attorney General has taken a look at it and he thinks that..

**Hon. D. Kurt Tibbetts:** Mr. Chairman, if I may when he is through, Sir.

**The Chairman:** The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, just to say I hear the concern and (1) the person who is receiving the benefits, who has to provide the certificate is a retired person and is no longer serving in the Legislative Assembly. The Member of the Legislative Assembly who would be allowed, by this section, of the Law to be a signatory verifying the retiree's signature, would be one who is serving as a legislator at that time. So, there is a vast difference, and a serving legislator certainly would not put signature to someone

who has not been a legislator and is receiving the benefits. So, while I hear the point I think it would more questionable to exclude a legislator rather than to exclude from the list of names who could attest to the signature for the certificate.

**The Chairman:** Fourth Elected Member for West Bay is that satisfactory? If so, I put the question. The question that clause 40 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 40 stands part of the Bill.**

**The Clerk:** Part 7 - General.

### Clauses 41 through 43

Clause 41	Regulations.
Clause 42	Repeal.
Clause 43	Conflict of laws.

**The Chairman:** The question is that clauses 41, 42 and 43 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 41 and 42 passed.**

**Hon. D. Kurt Tibbetts:** Mr. Chairman.

**The Chairman:** The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, I truly forgot in my debate and I did not catch you before you actually said that 41, 42 and 43 form part of the Bill. I was wondering if you would allow Sir, just for a clearer understanding, if they Honourable Third Official Member could simply clarify what would be the need for section 43. Just so that we might clearly understand what might conflict with this Law and the Public Management and Finance Law.

**The Chairman:** Since there is a question raised on 43, I will put the question on 41 and 42 that clauses 41 and 42 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 41 and 42 passed.**

**The Chairman:** Honourable Third Official Member there is a question on Clause 43.

**Hon. George A. McCarthy:** Mr. Chairman, the advice that has been given me is that this provision is made that in the event there is a conflict in the administration of public funds then there is no question in terms of which law will prevail and that will be the Public Management and Finance Law and this is specifically allowed for because we are dealing with public funds.

**The Chairman:** Honourable Leader of the Opposition is that a satisfactory answer? Do you have any further supplementary?

**Hon. D. Kurt Tibbetts:** Mr. Chairman, perhaps by the time I think about it tonight I will have a clearer understanding so I will not question it any further.

**The Chairman:** If there are no further supplementaries I will put the question on clause 43. The question is that clause 43 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 43 passed.**

**The Chairman:** I will now take the new clause, clause 39A. Would the Honourable Third Official Member please move that Motion.

**Hon. George A. McCarthy:** Mr. Chairman the new clause reads that the Bill be amended by inserting the following clause after clause 39: "Benefit paid to designated beneficiary or estate if no surviving spouse or children."

39A Where a participant dies with no spouse and no children surviving him, the amount payable under section 35 and 37 shall be paid in a single lump sum to the participant's designated beneficiary, or if his designated beneficiary has predeceased him, the amount shall be paid in a single lump sum to his estate."

**The Chairman:** The question is that clause 39A stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 39A passed.**

**The Clerk:** A Bill for a law to reform the law relating to the payment of parliamentary pensions and for incidental and connected purposes.

**The Chairman:** The question is that the Title stands 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:** This brings us to the end of the Bills on Committee and I will move that the Bills be reported and the House will now resume.

**House resumed at 6.15 pm**

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

## REPORT ON BILLS

### **The Public Service Pensions (Amendment) Bill, 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I am to report that a Bill soon entitled The Public Service Pensions (Amendment) Bill, 2004 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 Third Reading.

### **The Parliamentary Pensions Bill, 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I am to report that a Bill shortly entitled The Parliamentary Pensions Bill, 2004 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 Third Reading.

## THIRD READINGS

### **The Public Service Pensions (Amendment) Bill, 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I beg to move that The Public Service Pensions (Amendment) Bill, 2004 as amended, be given a Third Reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Public Service Pensions (Amendment) Bill, 2004 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 Public Service (Amendment) Bill, 2004 was given a Third Reading and passed.**

### **The Parliamentary Pensions Bill, 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker I beg to move that the Parliamentary Pensions Bill, 2004 as amended, be given a Third Reading and Passed.

**The Speaker:** The question is that a Bill shortly entitled the Parliamentary Pensions Bill, 2004 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 Parliamentary Pensions Bill, 2004 was given a Third Reading and passed.**

## GOVERNMENT BUSINESS

### MOTIONS

#### **Government Motion No. 4/04**

##### **Amendment to the Development Plan 1997 Proposed rezoning- Vista Norte**

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Speaker. I beg to move Government Motion No. 4/04, an Amendment to the Development Plan 1997.

**The Speaker:** So ordered. Would you like to move the. . .

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Just to say, Sir, that in October of 2002, the Central Planning Authority received an application for the rezoning of several parcels of land namely, Block 10A Parcel 49 REM1, Parcels 50 through 55, 57, 58, 46, 47, 192 and 226, and also Block 9A - Parcels 130, 270, 272 and finally Block 10A - Parcels 38 and 39



which was currently low density residential neighbourhood commercial and Mangrove Buffer. It will now be sought to be rezoned to Hotel Tourism.

At a meeting of the Central Planning Authority, Mr. Speaker, dated the 14<sup>th</sup> May, 2003, the Central Planning Authority resolved to proceed with the amendment of the development plan whereby they would make the said changes. Therefore, Mr. Speaker, in accordance to section 11(2) of the Development and Planning Law, public notices of the Authority's intention to amend the plan were published in the *Caymanian Compass* on the 15<sup>th</sup>, 17<sup>th</sup>, 22<sup>nd</sup> and 24<sup>th</sup> January, 2003. Also in accordance with section 11(3)(a) the proposed amendments were on public display at the Planning Department from the 16<sup>th</sup> January to the 25<sup>th</sup> March, 2003.

One objection was received, Mr. Speaker, within the statutory period of two months but was subsequently withdrawn on the 8<sup>th</sup> day of May, 2003. I would therefore urge Members to support the resolution which says that in accordance with section 10 of the Development and Planning Law (2003 Revision), the Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposals for alteration to the Development Plan 1997. Members would have seen a summary and map which was attached and already circulated to the Legislative Assembly and which would hereby make the following alterations, additions and amendments to the Development Plan 1997 in accordance with the said Summary and Maps, which will come into force seven days from the passing of this said resolution. Thank you, Mr. Speaker.

**The Speaker:** The question is: 'Be IT THEREFORE RESOLVED THAT in accordance with section 10 of the Development and Planning Law, 2003 (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. That Block 10A Parcel 49 REM1, 50 through 55, 57, 58, 66, 67, 192 and 226 and also Block 9A Parcels 130, 270, 272 and Block 10A - Parcels 38, 39 from Low Density Residential Neighbourhood Commercial and Mangrove Buffer to Hotel/Tourism.'

The Motion is open for debate. I know that the Honourable Minister has already made certain comments.

Does any other Member wish to speak on the Motion? Does any other Member wish to speak? Does any other Member wish to speak? If not would the Honourable Minister for Planning wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Just to say that in passing there was an informal inquiry as to what would be happening to the Mangrove buffer if any, and I am happy to say that I am reliably informed that the property in question ranges to a height of 15 feet iron-shore, and although it was so designated, it would not be applicable in this particular circumstance and I thank Members for there tacit support.

**The Speaker:** The question is: 'BE IT THEREFORE RESOLVED THAT in accordance with section 10 of the Development and Planning Law (2003 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. That Block 10A - Parcels 49 REM 1, 50-55, 57, 58, 66, 67, 192, 226, Block 9A - Parcels 130, 270, 272 and Block 10E - Parcels 38, 39 from Low Density Residential, Neighbourhood Commercial and Mangrove Buffer to Hotel/ Tourism.'

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

**Ayes.**

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

**Agreed. Government Motion No. 4/04 passed.**

### **Government Motion No. 5/04**

#### **Amendment to the Development Plan 1997 Godfrey Nixon Subdivision**

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I beg to move Government Motion No. 5/04 Amendment to the Development Plan 1997.

Mr. Speaker, whereas in July, 2003 the Central Planning Authority received an application for the rezoning of registration section George Town Central, Block 13D - Parcels 323, 352 through 360 and 365 through 367 from high density residential to general commercial. At a meeting of the Central Planning Authority dated 6<sup>th</sup> August, 2003 the Authority resolved to proceed with the amendments to the plan to wit; to change the zoning of Block 13D, Parcels 323, 352 through 360 and 365 through 367 from high density residential to general commercial. In accordance with section 7 of the Development and Planning Law public notices of the Authority's intention to amend the plan were published in the Cayman Net News on the

28<sup>th</sup> and 29<sup>th</sup> August, 4<sup>th</sup> and 5<sup>th</sup> September, 2003, and further, the proposed amendments were on public display at the Planning Department from the 5<sup>th</sup> September through 5 November, 2003.

No objections were received within statutory period of two months. On the 12<sup>th</sup> November, 2003 the Central Planning Authority reconsidered the application and resolved to recommend that the rezoning be forwarded to the Legislative Assembly for approval. Now be it therefore resolved that in accordance with section 10(2)(b) of the Development and Planning Law 2003 (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 are 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 will come into force seven days after the passing of this resolution. That registration section George Town Central, Block 13D, Parcels 323, 352 through 360 and 365, through 367 be rezoned from high density residential to general commercial.

**The Speaker:** The question is 'BE IT NOW THEREFORE RESOLVED THAT in accordance with section 10 (2) (b) of the Development and Planning Law (2003 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 of which are 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 FURTHER RESOLVED that Registration section, George Town Central, Block 13D, Parcels 323, 352-360 and 365-367 be rezoned from High Density Residential to General Commercial.'

The Motion is open for debate. Does any Member wish to speak? If not, would the Honourable Minister wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Speaker. Just to thank Members for their support and to perhaps draw the attention of members of the public who may be listening that the subject parcels are part of a 21 lot commercial sub-division on the Eastern Avenue vicinity. Thank You.

**The Speaker:** The question has been put on the Motion. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. Government Motion No. 5/04 is duly passed.

**Agreed. Government Motion No. 5/04 passed.**

**The Speaker:** Madam Clerk we will now revert to Private Members Motion 4 and 5.

## PRIVATE MEMBERS' MOTIONS

### Private Member's Motion No. 04/04

#### Amendment to the Elections Law

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

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, I beg to move Private Members Motion No. 4/04 entitled 'Amendment to the Elections Law'. It reads as follows:-

**"BE IT HEREBY RESOLVED THAT the Elections Law (2000 Revision) be amended to provide for mobile voting units to enable persons who will be present in the Cayman Islands on the day fixed for the upcoming General Elections, but who are unable to attend at a polling station because of infirmity or other good reason to vote prior to the day of the General Elections otherwise than by absentee ballot."**

**The Speaker:** Is there a seconder?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I beg to second the Motion.

**The Speaker:** The question is: 'BE IT HEREBY RESOLVED THAT the Elections Law (2000 Revision) be amended to provide for mobile voting units to enable persons who will be present in the Cayman Islands on the day fixed for the upcoming General Elections, but who are unable to attend at a polling station because of infirmity or other good reason to vote prior to the day of the General Elections otherwise than by absentee ballot.'

The Motion is now open for debate. Does the Honourable Mover wish to speak thereto?

**Mr. Alden M. McLaughlin, Jr:** Yes, thank you, Mr. Speaker.

This Honourable House has recently amended the Elections Law. Mr. Speaker, this Motion which deals with a specific aspect of the elections machinery was filed in this Honourable House prior to the Government bringing the Elections (Amendment) Bill. It is based Mr. Speaker, on not just general concern, which I know members of the public and of this Legislative Assembly have had for some time about

the system of postal or absentee ballots, as they are called. Also, Mr. Speaker, on the Report, which I believe you, Sir, has dubbed 'The Dundas Report' tabled by me during the debate on the Elections Bill earlier last week. Despite the observations, comments and suggestions made by me and other Members of the Opposition during the debate on the Elections Law, the Government did not see fit to include a provision in the Elections Law for the use of Mobile Polling Stations or Mobile Voting Units. This continues to be a matter of great concern to the Opposition and from comments, which we have received from the public at large, I think there is a certain constituency of support among the general populace for such provision as well.

Mr. Speaker, in the Dundas Report, Mr. Dundas had the following observations in relation to Mobile Polling Stations as he termed them. He said, and I quote from the second page of that Report, paragraph 4— **“Mobile Polling Stations. The concept of Mobile Polling Stations is well known and widely used in different jurisdictions for different reasons. It may be for topographical reasons or increasingly to offer better election service to remote dwellers, the disabled or the infirm. The key elements of the successful use of Mobile Polling have been taken into account; in particular, the appointment of teams and team leaders for the purpose of timely publication of the times and places when voters can expect to attend these stations and the voting materials, and supplies necessary for the station’s operation.** Mr. Speaker, Mr. Dundas noted that countries that have used Mobile Polling Stations include India, Malaysia, Guyana, Australia, Namibia and Zambia.” As I indicated in my earlier debate on the Elections Bill, we on this side are aware of its use in the Eastern Caribbean, at least, certainly in Dominica.

During the debate on the Elections (Amendment) Bill I noted in particular, the observations of the Leader of Government Business who raised concerns about the lack of secrecy or anonymity, which, in his view, would tend to be created by this system. Mr. Speaker, I am not certain whether the Honourable Leader of Government Business really understood or if he really understands how this concept will work. It will improve those very aspects, which he is concerned about; that is secrecy and anonymity. The current system of postal ballots or people voting by absentee ballots is neither secret nor does it create anonymity or permit anonymity and that is because of the system requiring witnesses who must sign the various forms to ensure the authenticity of the vote. As I related during that debate Mr. Speaker, I am aware by personal experience that it is possible to determine who has voted for a certain candidate or candidates by virtue of who signs the witness forms.

It occurred in circumstances where I was fully aware who the person was when a certain postal ballot was counted during the last elections, because I

knew the old lady very well, I knew the house in which she lived, I knew who she lived with and I knew who it was that was likely to witness the forms that were necessary when she voted. I knew when her ballot was counted Mr. Speaker. So, aside from all of the inherent difficulties and complexities that are involved with the issuance of postal ballots or absentee ballots the execution of them, the return to the Supervisor of Elections and then the counting following the close of the polls. There is that question, Mr. Speaker, of secrecy, which is a very important aspect of the elections or the electoral process.

Mr. Speaker, we are well aware, as long as I have been around this process which is almost as long as I have been able to understand about it, there have been allegations time and time again about abuse of the system of postal ballots. There have been allegations that postal ballots have been sent to the post box of a certain candidate in one instance. None of these things as far as I know Mr. Speaker have ever been proven, but there is scope, and the fact that there is scope for such abuse must, Mr. Speaker, cause us to think about reducing the use of postal ballots as far as possible.

They really, Mr. Speaker, ought to be used only in circumstances where persons are off the Island. In cases where persons are infirm and unable to leave their home or The Pines, or the hospital, as the case may be, there ought to be provision in our law as there is in other legislation in other jurisdictions, which will enable a team from the Elections Office accompanied by the candidates or agents of the candidates to attend at places like The Pines or the hospital or person’s homes on predetermined days, at predetermined times for the purposes of having the persons who are eligible to vote there to exercise their franchise.

Mr. Speaker, this would be in advance of election day, elections office would keep the boxes safely as they do otherwise they would be properly sealed and they would not be opened, Mr. Speaker, until the count is taken following the close of the Poll on Election Day. I do not understand the reluctance of the Government, the resistance of the Government to such a progressive and useful provision being placed in the Elections Law. Mr. Speaker, you have been around this process, not just around this process, but involved intimately in this process for many, many years. I know you aware, Sir, more so perhaps than even I am, of the length of time that it takes to count postal ballots following the close of the Polls. It takes hours, Mr. Speaker, in the case of George Town— hours to count 300 or 400 ballot. There is absolutely no reason why we should put the officials through that process, the candidates through that process, the agents through that process, when a much better result which would preserve secrecy and anonymity is available by use of Mobile Polling Stations.

I have not yet one good reason proffered as to why this ought not to be part of our Elections Law.

Nor, Mr. Speaker, more to the point, do I understand why the provision contained in one of the early drafts called "The Preliminary Draft" of the Elections Law, which was circulated to Members of March of this year and which makes provision for the use of Mobile Polling Stations, was deleted in the Bill that came down to the Legislative Assembly and which formed the basis for the recent debate.

Mr. Speaker, I am trying to turn up now that particular provision but it is simple, straightforward and eminently sensible. It is, Mr. Speaker, Clause 19 in that preliminary bill and it provides that the principal Law is amended by inserting after section 45 the following section.

"Mobile Polling Stations - 45 (a), subsection:

(1) Mobile Polling Stations may be used to take the poll at a hospital, rest home or other similar institution or in relation to geriatrics at home.

(2) The supervisor subject to the approval of the Governor may appoint persons to be members of a mobile polling team and in respect of each team a person to be a team leader.

(3) Mr. Speaker the supervisor may be notice published in the Gazette specify (a) the places that will be visited by the mobile teams and (b) the time of the visit to each such place.

(4) Each mobile team when it is placed for the purpose of taking votes at an election shall have ballot boxes, ballot papers and such things as are necessary for the votes of electors to be taken.

(5) Every elector listed at the Mobile Station is entitled to have his vote taken.

6) An agent shall be entitled to be present at the taking of the poll at a mobile polling station."

Mr. Speaker, it is simple; it is straightforward; it is not convoluted; it is eminently sensible; it urges itself upon us. There are numerous reasons why the current system ought to be modified. Reduce the number of votes to be counted as postal votes following the close of the polls. Improved secrecy and anonymity reduces the possibility of fraud, suspicion, allegations of fraud; all very powerful and compelling reasons why this provision ought to be part of our Elections Law. It is not too late for it to be included, Mr. Speaker, and to have effect in the upcoming elections. Not at all!

Mr. Speaker, I know that I have had to by necessity to repeat much of the argument that I made during my debate on the Elections (Amendment) Bill, so I am not going to take it further than I absolutely have to in presenting this Motion. However, I am going to ask Mr. Speaker, the Government to please explain to this Honourable House and to this country why there are resisting the inclusion of such a provision in the Elections Law when we have made far

more radical, far-reaching, and from the Opposition's point of view, alarming changes to the Law in relation to election expenses over the course of the past week. So, I am going to sit down now, Mr. Speaker, and hear what they have to say. I do hope that they have thought a bit more about it than they did before they got up to speak in relation to this point during the debate on the Elections Bill.

I thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, as the Member has said, we have taken, I think, probably three days at revising the Elections Law. It was the view of the majority of this House that the Law would not be amended to give effect to mobile voting but rather the provisions in the current Law relating to postal ballots would remain intact.

Mr. Speaker, the Government has already put forth its arguments during the extensive debate both in the House and at committee stage on the Elections Bill, which was just passed here. Members queried why are we resisting the changes—because we feel, Mr. Speaker, that the current Law is sufficient. I will take the time out to read the current legislation, Mr. Speaker, Arrangements for Postal Voting from the Elections Law (2000 Revision), section 46(1): "Subject to this section:

- (a) Where an elector is unable or likely to be unable to go in person to the polling station for one of the following reasons-
  - (i) The general nature of the occupation, service or employment of the person in question;
  - (ii) That person's service as a member of any of Her Majesty's Forces;
  - (iii) The particular circumstances of that person's employment on the date of the poll either as a constable or for a purpose connected with the election by the Supervisor;
  - (iv) At a general election, the candidature in some other electoral district of that person or that person's wife or husband;
  - (v) At a general election, the fact that that person is acting as returning officer for some other electoral district; or
  - (vi) At a general election, the particular circumstances of that person's employment on the date of the poll by a returning officer for some other electoral district for a purpose connected with the election in that electoral district;
- (b) an elector is unable or likely to be unable by reason either of blindness or any other

physical incapacity to go in person to the polling station or, if able to go, to vote unaided;

- (c) an elector is unable or likely to be unable to go in person to the polling station due to his absence for whatever reason outside the Islands;
- (d) an elector is unable or likely to be unable to go in person from his qualifying address to the polling station without making a journey by air or sea; or
- (e) an elector is no longer residing at his qualifying address.

That elector may vote by post if, in the prescribed manner and within the prescribed time, he applies to be treated as an absent elector and furnishes an address in the Island or overseas to which the ballot paper is to be sent for the purpose and if his application is allowed by the registering officer under section 47.

(2) At an election for which a person's application to be treated as an absent elector is allowed he shall not be entitled to vote in person under section 43.

(3) Nothing in this section shall be taken as conferring a right to vote on a person not having the right apart from this section.

47(1) An application to be treated as an absent elector shall be made to the registering officer and shall be allowed by him if he is satisfied that the applicant is, or will, if registered, be entitled under section 46 to vote as an absent elector.

(2) The application shall be for a particular election only, unless it is based on-

- (a) the general nature of the applicant's occupation, service or employment;
- (b) the applicant's physical incapacity;
- (c) the necessity of a journey by sea or air to go from the applicant's qualifying address to his polling station; or
- (d) the ground that the applicant no longer resides at his qualifying address.

(3) An application based on one of the grounds in subsection (2) shall be for an indefinite period, but where such an application is allowed the applicant shall cease to be entitled to be treated as an absent elector in pursuance thereof if-

- (a) he applies to the registering officer to be no longer so treated;
- (b) he ceased to be registered at the same qualifying address; or
- (c) the registering officer gives notice that he has reason to believe there has been a material change of circumstances and the prescribed period elapses after the giving of the notice.

47(4) The registering officer shall keep a record of absent electors and of the addresses furnished by them as the addresses to which their ballot papers are to be sent. "

Mr. Speaker this is all the determination of a right to be treated as an absent elector. Mr. Speaker, the Election Law even provides for spoilt postal ballot voting.

In section 48 it says: "An absent elector who has inadvertently so dealt with his ballot paper that it cannot conveniently be used may restore it or cause it to be restored by hand to the returning officer, who shall cancel it by writing the word "spoiled" across the face of it and forthwith placing it in a sealed packet. The returning officer shall then, unless such ballot paper is restored to him too late, for another ballot paper to be delivered or sent to the absent elector before the close of the poll, deliver or send another ballot paper to him."

Mr. Speaker, the Government believes that these provisions are sufficient and that it sufficiently provides for the handling. I know years ago Mr. Speaker, when you took the count, there was a postal ballot envelope, which was opened and then put into one basket, and there was another envelope that you would put into another basket and then I think the postal ballot went in another basket. There were at least four baskets and that took up so much time, but that was reduced in the last revisions that came before the House and it made the task much easier at the count.

Mr. Speaker, the argument that the Member is proposing I guess, is that he is saying it gives people a better chance and it cuts down the chance for fraud and these sorts of things. The postal ballot system has worked in this country, as it is in other territories. You send it out to the person, either through their box or someone who they have named and so, Mr. Speaker, what happens is, that the person makes the vote as they so please. We know we have had accusations but people will make accusations and, Mr. Speaker, they make accusations sometimes because they do not know what happened; that is, someone may be an aggrieved person, not necessarily the candidate and not necessarily the elector, the person who asked for the absentee ballot.

Mr. Speaker, now the ballot is in private. One of the greatest things is the privacy in all this and it will not be so if we go that route of postal voting. You go there with a mobile machinery ballot box and what happens then, all of the election officials has to go, maybe that is three people. So, to be fair Mr. Speaker, candidates' agents are going to have to go.

*[Background comments]*

**Hon. W. McKeeva Bush:** Yes, to be fair! Yes, but that takes away the privacy, Mr. Speaker.

*[Background comments]*

**Hon. W. McKeeva Bush:** How?

Because presently candidates' agents do not have to go to where a person has asked for a postal ballot, and so you are taking away that privacy from the individual. Now you imagine in a place, Mr. Speaker, like West Bay who could probably end up with 15 candidates, maybe more, last time we had 21! So, if you are going to send your agents there how people is that going to be? They have to be fair and the Mover has acknowledged that to be fair the agents need to be there.

George Town may be another district that has an equal number of candidates and everyone has to go out to every postal ballot; to every person that would seek a postal ballot. I do not think that is necessary on this small Island. I think that the system is much better defined, because even now postal ballots are not sent to candidates' postal boxes, whereas years ago that was the case, but that is not so today. That cannot happen today! It has to be sent somewhere else, but certainly not to the candidate. So, it lessens even the perception of anything untoward, Mr. Speaker. I do not believe that that postal voting is something that will work right for these Islands. As I said, for one the secrecy is going to be taken away from the person, far too many people are going to have to see what happens there. Mr. Speaker I believe today that police officers who are involved can get their postal ballot and vote beforehand; I think I was told that. Also for anyone who knows that they are going to be working and cannot get to the poll, they can get their postal ballot and get it in on time.

The things that concern me about postal votes, Mr. Speaker, are those going overseas and not being able to get in time because it is far too many of them that goes overseas, and because the process is the way it is, we cannot get it back in time and sometimes we get it back days after and all this sorts of things. It never gets back in time for the actual counting procedure. So, those are the things that concern me, but I did not know what you would do with that situation, other than to send the person the ballot and try to get them to send it back as quickly as possible.

I believe that we have provisions and it is fair, and while people may make accusations and so on, Mr. Speaker, I do not think that we just need to up and change the system because some people make accusation and the witness, Mr. Speaker I can only . . . I heard the mention, I think of something about a witness, but the witness, I do not know of any witness, certainly candidates cannot witness anybody's postal ballot, I know that to be a fact. That is in the Law now! For example, Mr. Speaker, if my mother who is in a wheelchair and my stepfather, because both of them would have to get a postal ballot, they would need one witness to their postal ballot, so somebody would have to do that, and I certainly cannot do it. Candidates cannot do it for anyone.

So, I think there is protection already in the system to stop anything untoward. The person who

actually witnesses the postal voting (there is only one witness) cannot go out and say, *'well I saw her mark for a certain person'*. However, if I am correct, Mr. Speaker, I think that you witness the paper because there is a paper that comes with the ballot, but you do not necessarily witness the ballot; you would not know unless that person would show you who they voted for, and then maybe that person might go out and say, *'I saw, or he said they voted for so and so'*. Outside of that it is still completely a secret ballot. I think the process is still one that should not be changed at this time as it would become cumbersome, Mr. Speaker, and certainly, the privacy of the ballot would be taken away.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

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

Mr. Speaker, I listened to the reply from the Government and I am with absolute certainty that my colleague, in his winding up, will deal with some of the issues. I just wish to make some brief comments and I want to set the tone of my short commentary, Mr. Speaker, by referring not to the Dundas Report, but to the Preliminary Draft Bill, with your permission. Just so that it will be clear that the document I read from, Sir, this draft, does not contain any amendments relating to electoral districts/constituencies. It was the Draft Bill Mr. Speaker, which was originally presented to us along with the Dundas Report. My colleague referred to that Report. This . . .

**The Speaker:** Has this Draft Bill that you are referring to been superseded by the Bill that we have just passed?

**Hon. D. Kurt Tibbetts:** Yes, Mr. Speaker, but notwithstanding that, I will show the relevance of my using the document Sir, with the point that I wish to raise.

**The Speaker:** Please continue.

**Hon. D. Kurt Tibbetts:** Thank you very much, Sir.

This Draft Bill, and let me read the Memorandum that was attached to it so we can be clear what it is all about. The Memorandum is to the Permanent Secretary Planning Communications District Administration and Information Technology otherwise known as the Supervisor of Elections. There is a copy to the Honourable Acting Chief Secretary and it is from the First Legislative Council. The subject is the Elections (Amendment) Bill. **"Further to our telephone conversation forwarded herewith is a Preliminary Draft of the above mentioned Bill. This Draft contains no amendments relating to electoral districts or constituencies"**.

Mr. Speaker, this document was the original document, Sir. It was handed out to us when we

started the discussions originally regarding proposed amendments to the Election Law; 'we', meaning the Members of the Legislative Assembly. This was given to us at the very first meeting which the Honourable Chief Secretary chaired. This document was prepared originally after the first legislative council took instructions and input from the Supervisor of Elections and his deputies, Mr. Speaker. I am referring to this because there was a section in this, and with your permission Sir, I would like to read it and what I want to show so that you will see the relevance before you. My question is whether you would allow me to read it.

The point that I want to make is that the elections staff in proposing these amendments were (1) of the view that they were relevant; (2) obviously they had to be convinced that it was workable otherwise they would never have suggested it to us. Mr. Speaker, it is obvious that based on their own convictions they thought this was the route to take. So, I am again seeking your permission simply to read from this new section to prove the point that I am making about it. Thank you very much, Sir.

Section 19 of that original proposed Draft Bill reads: **"The principal Law is amended by inserting after Section 45 the following section with the marginal notes reading Mobile Polling Stations."** That new section would be Section 45(a).

#### Section 45(a)

- (i) Mobile Polling Stations may be used to take the poll at a hospital, rest home or other similar institution or in relation to geriatrics at home.
- (ii) The Supervisor subject to the approval of the Governor may appoint persons to be members of a mobile polling team and in respect of each team a person to be team leader.
- (iii) The supervisor may, by notice published in the Gazette, specify
  - (a) the places that will be visited by the mobile teams
  - (b) the time of the visit to each such place
- (iv) Each mobile team when it is in place for the purpose of taking votes at an election shall have ballot boxes, ballot papers and such things as are necessary for the votes of electors to be taken.
- (v) Every elector listed at the mobile station is entitled to have his vote taken
- (vi) An agent shall be entitled to be present at the taking of a poll at a mobile polling station.

So, Mr. Speaker, in reading from that document, that document as I said, being the very first one we had sight of, was coming mostly from the thoughts and the deliberations of the elections team. I am presuming, and I think fair assumption is, that that would

have been in consultation with the document that has been tabled already and referred to as the Dundas Report. So, I want to get past the point, Mr. Speaker, about the practicality of Mobile Polling Stations. It is obvious that those who are going to work it Sir, were satisfied that it was practical otherwise they would not have recommended it. That was the reason first of all for reading it, Sir; there lies the relevance in that point that I am making. So, I think it is safe to say that we are now beyond whether it is practical or not.

Mr. Speaker, the Leader of Government Business when he was bringing his argument forward on behalf of the Government, and I wish not to take any opportunity for my colleague, the Mover of the Motion, not to reply, but I think there are some tie-ins. When he was speaking to that, Mr. Speaker, to his arguments as to why this should not be, he mentioned privacy. It does not matter if a hundred people are around you because if you are going to vote and you have the ability to personally cast that vote, the methodology that would be employed with a mobile station is that you would have the privacy to cast that vote. You are not going to cast a vote and pass the ballot paper around to people. People are not going to be standing up over your shoulder watching where you mark your 'X'. So, that argument falls through the window Sir, because I am absolutely certain that the elections officials would not operate a mobile polling station in a manner that the elector would not have the privacy or as it is termed the 'privacy' to be able to vote without anyone knowing what the votes were.

The other point, Mr. Speaker is, in some instances there would be individuals who would need help and in any instance they would need that help, whether it was via postal ballot or not. For instance, a blind person or a person who is for some reason or the other, not able to read or write properly and, Mr. Speaker, who would be more neutral than the people that we have appointed as our election officials? So, there cannot be an argument that will hold water or a point that is salient to latch on to, which speaks to privacy.

Mr. Speaker all of the sections that were read by the Leader of Government Business in the exiting Law, section 46, 47 and 48 and all of the subsections outlined by himself, in my view when he read all of those it really proves our point more so. The spirit and intent of those sections originally, Mr. Speaker, when it comes to a postal ballot is just that; a postal ballot for individuals, first of all who for one reason or the other are not going to be on Island with the ability to cast their vote on elections day. The exceptions Sir, for instance with the individuals who may be working the elections, or police or those type of individuals to have the ability to cast their vote otherwise than the normal method on an election day. That is understandable and that is fine.

However, where this section originally brought as a recommendation speaking about mobile polling stations, the mobile polling station in that sub-

section speaks to a hospital, rest home or other similar institutions, or in relation to a geriatric person at home. That is what this Motion is speaking to. This Motion is no very wide in its ambit; it is speaking to those same types of individuals referred to in that. When it comes to an individuals right to vote and right to vote by secret ballot we respect that that is almost sacred, but Mr. Speaker, the way it obtains now there is absolutely no way to even begin to guarantee that, the way it is open now.

*[Background comments]*

**Hon. D. Kurt Tibbetts:** Let me make it very clear, Mr. Speaker, all I am saying is that what obtains in the present Law . . . Let me, for instance read out 47(4) and I am going to read it very clear.

Section 47(4) says: “**The registering officer shall keep a record of absent electors and of the addresses furnished by them as the addresses to which their ballot papers are to be sent.**”

Mr. Speaker, one would assume that things run true in these instances, but there is no guarantee. Some of these people that we speak about may not have the ability to themselves provide these addresses and in many cases I am absolutely certain that they cannot, for one reason or another. Whatever address is provided to the registering officer, the registering officer sends the postal ballot to that address. I am not going to extend the argument into trying to physically point out exactly what can happen, Mr. Speaker, but I know that I have made my point. All I am saying about it is that if we had mobile polling stations and they were able to get to the individuals and allow them to physically cast their ballot in secret, into a ballot box with proper systems and security in place, which does not seem to be insurmountable, the mere fact that the election officials are satisfied it is workable, then there is absolutely no reason, Mr. Speaker, why one would not pursue that method to allow these individuals to vote.

With all that one might say or one might think, the notion behind this Motion; the thought behind it; the objective is simply to take away any perception that the way it works now is possibly methods or ways and means for something untoward to occur with one or more of the postal ballots. That is all it is, nothing else. It is not a big deal.

So, the Government has said that they are satisfied that what obtains now is in order and sufficient, and I think, Sir that the arguments put forth thus far say the opposite. Obviously at this point in time we do not expect the Government to change its mind, but we bring the Motion; my colleagues have, not with the intent just to bring it for bringing its sake, but to prove a point. We believe Sir, that if a point is proven well enough, the Government should reconsider. Whether that happens or not remains to be seen. However, I just wanted to used the reference of that document Sir; first of all to make it clear that obviously this is not

a situation that seems to create any difficulty for the election officials to manage and to operate. Secondly, the point of privacy is not one which holds water, because it could easily occur where the individuals have the ability to vote in private.

There were arguments put forward about candidates and their agents and that is not, well what is proposed in the Law would allow for an agent to attend and in the extreme circumstance you may have quite a few of those depending on how many, because examples were cited and in the larger districts especially, you might have that many. I do not know how many candidates would ensure that there is an agent for that to happen, but even if it did happen, Mr. Speaker, then so let it be. In any other forum they have that same right also when it comes to an individual voting. The way it would work you see, Mr. Speaker, is regardless of who is gathered around it, it does not prevent the individual from voting in secret, which is the object of the exercise. So, Mr. Speaker I reiterate that point so that what was put forward as one of the arguments why it was not practical, should fall away, if we speak to sheer logic.

Mr. Speaker, the Mover of the Motion has made his points very clear. The Government has stated why they do not support the Motion. I think there is ample reason for them to reconsider and I do believe that it would be a safer way to allow electors in the circumstances spoken to in this Motion, to cast their votes and they would feel more comfortable once they get used to doing it in that manner. Like everything else, if it is new it might have a few hiccups but that is not something that should deter you from going that route if you know that it is the best route to go Sir. So, we hold true to our argument and we will see how many more arguments are brought forth and the Mover, I am certain, will be able to deal with whatever other counterpoints may be brought. I really hope that the Government would be mindful to look at this again, Mr. Speaker, because I know that the election officials were keen to get this off the ground because they felt it would bring more creditability to the process that they conduct, Sir. . .

*[Background comments]*

**Hon. D. Kurt Tibbetts:** I am going to leave my arguments there and we will see what else transpires during the debate. Certainly, we will all keenly to hear what else is said. Thank you.

**The Speaker:** Does any other Member wish to speak?

The Honourable Minister for Education.

**Hon. Roy Bodden:** Mr. Speaker, I have listened to the arguments put forth by the Mover and his colleague, the Honourable Leader of the Opposition but I can find within those arguments no convincing reason why we should add mobile voting to what is an al-



ready adequate system. Mr. Speaker, the system we have in place now caters to the spectrum of voters that we would have, for the postal ballots services and serves the students and those persons with the ability to vote, who, for whatever reason, is absent from the jurisdiction on polling day. Now to add a third dimension, mobile voting stations, which I hasten to point out, is an importation from other jurisdictions, jurisdictions which are much larger in geographical scope than what we have. Jurisdictions in which the communication is different for there may be areas which are not as easily accessible on polling day as our polling stations are, and our ability to circulate postal ballots and have them returned by that day.

Above all, Mr. Speaker, it carries with it a dimension of the sacrificing of the privacy of the whole occasion because I concur with what the Leader of Government Business said. You cannot have people in mobile voting stations casting their votes without also having agents and representatives of the various candidates who are contesting the election in that area. So, it is possible to have a whole slew of people and I do not know where the voting is going to take place, whether it is in a wagon, whether you are going to do the voting in somebody's drawing room or living room, or whether you are going to do it in the middle of the yard. There is also the added dimension of the curiosity of neighbours if it is a situation where we have close proximity.

So, what we are doing, Mr. Speaker, is adding a whole new dimension, which is taxing the social control, the secrecy of the exercise and the security of the exercise also. Right now our system, which is the system of voting in person at the polls or postal ballots for all of those not at the polls in whatever category they may be, is an adequate system. To add now, mobile voting is more expensive, it means that the election office are going to hire additional staff and they go through training and then they are going to have to hire security too, either security guards or policemen are going to have to go with those mobile wagons.

The system, Mr. Speaker, while it may be appropriate in other jurisdictions, is not appropriate in our jurisdiction, and I heard allusions and aspersions to the practice of postal ballots not being completely above board. Mr. Speaker, the amendments we have made recently to the Election Law were designed to eliminate this and I am satisfied that we know have in those amendments a foolproof system of postal balloting. Therefore to add this now is going to be an added dimension of confusion, because we would have to define the categories eligible for mobile voting and are not those categories the same categories now covered by postal ballots?

I listened particularly, intently, to the Second Elected Member for George Town saying he was able to identify one—and I noticed he said one. It is possible to be able to identify who one ballot was cast for, but I bet you he could not say that he could identify

who one hundred ballots were cast for because I know the system well having gone through it some six times. I know the system well and it is well nigh impossible unless of course one specializes in some form of snooping and espionage to know exactly who a postal ballot is cast for. This is the most insulated system that I have ever, Mr. Speaker, come across, so just like one swallow does not a summer make, so too does not one knowing the identity of one ballot. It does not mean that the system is fraught with porousness or that the system has no secrecy. I do not believe that, Mr. Speaker.

I want also to say that I know in many cases change is good and change is appropriate but it was never intended for us to import every idea that is recommended to us. Never intended, Mr. Speaker! I agree that we have to make adjustments and keep up with modernity and modern practices but I am saying in our case this is completely and entirely unnecessary, and the Government is right and appropriate to stick by the system we have, which has taken us thus far beyond any significant point of contention.

Mr. Speaker, I would suspect the reason why it was followed through in the preliminary draft and not carried to its finality is because it was just a recommendation and later on the persons who recommended it may have realised and certainly, would have realised that it was entirely unnecessary. That is why it did not come out in the final draft. It is cumbersome; it is expensive; it does not guarantee Mr. Speaker. I know the nature of the beast—pulled up in a neighbourhood with a mobile voting van and that is excitement around the neighbourhood, Mr. Speaker.

*[Inaudible interjection]*

**Hon. Roy Borden:** What are you going to do? It is going to necessitate the police; it is going to necessitate some kind of security and what size is the ballot box going to be? Is it going to be the conventional ballot boxes or is it going to be a special ballot box designed for 10, 15 or 20 votes? That is another problem. What times are these mobile vans going to make their runs? Are we going to have a schedule that they will all be out at 8 o'clock in the morning? Mr. Speaker it is fraught with cumbersomeness, difficulties and sometimes downright danger! Then of course once you run on the road there is always the possibility of accidents. Heaven forbid! Then what happens? Mr. Speaker, we had better be wise and stick with the system that we have. I know that the Opposition is anxious to contribute something constructive, but this Mr. Speaker, cannot pass as that. 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 would the Honourable Second Elected Member wish to exercise his right of reply?

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, I have to confess, that in the nearly four years I have been in this Honourable House, I have never heard such wind. Mr. Speaker, with all of that rhetoric and all of that noise neither the Leader of Government Business nor the Honourable Minister for Education have answered any of the questions that have been put, have raised one good reason why we ought not to employ this very progressive and useful provision, which the government consultant they hired has recommended and is contained in the Draft Bill prepared on the instructions of the Elections Office.

Mr. Speaker, the Honourable Minister of Education stands up on the Floor of this House and says that the recent amendments to the Elections Law will cure all of the perceived and real concerns about the operation of postal ballots. I wonder if he even looked at what the Elections (Amendment) Bill contained. There is not one provision in the, . . .

*[Inaudible interjection]*

**Mr. Alden M. McLaughlin, Jr:** . . . I do not know how many amendments to that Bill, which addresses postal ballots.

**Hon. Roy Bodden:** Mr. Speaker!

**The Speaker:** The Honourable Minister for Education, are you rising on a point of Order?

**Hon. Roy Bodden:** Mr. Speaker, yes Sir. I think that the Honourable Second Elected Member is now misleading because I did not say the immediate recent, I said the recent amendments made to the Elections Law, before this one, covered all of the concerns we had.

*[Inaudible interjection]*

**The Speaker:** Honourable Member we seem to have reverse situation here, because just last week, I overruled the Honourable Second Elected Member for George Town for rising on a point of order under the caption of misleading the House, and similarly there is no such Standing Order pointing to misleading the House as a point of order. However I will ask the Honourable Second Elected Member for George Town to take into account the explanation that the Honourable Minister for Education has given, that he was not referring to the immediate amendments to the Bill, but indeed previous amendments to the Elections Law.

**Mr. Alden M. McLaughlin, Jr:** Thank you, Mr. Speaker. Far be it from me to suggest, the Minister's argument was weak enough as it stood. I would not want to weaken it by ascribing to him things he did not say or mean. So, I will move on, Mr. Speaker, without saying more.

The reality is, Mr. Speaker, and that I believe, would become clear to anyone listening to the Leader of Government Business reading those long, extensive, convoluted, complex, laborious provisions that are contained in Section 45, 46 and 47. That is how many sections are currently required to deal with this whole question of postal ballots; it runs to three pages in the Law. Mr. Speaker, I hesitate to use the term nonsense, but that is the only that I have been able to come up with to describe what has been said in relation to the question of privacy, the question of secrecy in relation to the carrying out of the poll, at a mobile polling station.

Mr. Speaker, there is no question of the candidates or the agents being present and watching the elector mark his or her 'x'. Their function at a mobile polling station will be the same function they carry out at the established polling stations. They are there to ensure that the person who is voting is someone who is qualified and registered to vote; that the person actually marking the 'x' is the person who is entitled to vote. That is their function, pure and simple. All of this nonsense about crowding into people's yards and homes and neighbours seeing what is going, I have not heard such absolute nonsense since I have been in this Honourable House, Mr. Speaker.

*[Inaudible interjection]*

**Mr. Alden M. McLaughlin:** It points, Mr. Speaker, to the weakness, to the lameness of the arguments put forward resisting this, and, Mr. Speaker, one has to ask oneself, why is it that the Government objects so strenuously to such a provision.

*[Inaudible interjection]*

**Mr. Alden M. McLaughlin:** Mr. Speaker, we speak about cumbersome. Let me just ask this Honourable House to be patient as I review the various forms that are necessary before (a) a postal ballot is issued and then what has to be done when it is executed; when it is returned; when it is opened, and we will understand what cumbersomeness is!

Mr. Speaker, in the Law which was just amended, under the Appendix, there are a series of forms. Form B is entitled 'Application to be treated as an Absent Elector', so you first have to make an application to be treated as an absent elector. The declaration by the applicant reads as follows:

**"I, A. B. of \_\_\_\_\_ do solemnly and sincerely declare that the information contained in the above form is correct to the best of my knowledge and belief"** In the form you have to say what is the electoral district for which you are registered, the reasons why you are making the application and the address to which it should be sent. This then has to be signed by the applicant and signed by a witness. Then, the person who assists the absent elector has to sign as well, stating a document in the following

terms: “I \_\_\_\_\_ of \_\_\_\_\_ do solemnly and sincerely declare that I assisted the applicant by filling out and/or signing the above form in the presence of the applicant on behalf of the applicant, and that in doing so I did not influence the applicant in any way, but accurately recorded therein the wishes, information and reasons stated by the applicant, and that the information contained in the above form is correct to the best of my knowledge and belief.”

Form C, which is the ‘Declaration of Identity’ state the following terms: “I hereby declare that I am the person to whom the ballot paper numbered as above and the envelope in which it was enclosed (both of which I now produce) were sent. The abovementioned, who is personally known to me has produced the ballot paper and the envelope referred to and has signed the above declaration in my presence.” You have to sign it, find another witness again and then there is a whole list of instructions to the elector, Mr. Speaker, which takes up an entire page. I will not trouble this Honourable House by reading all of that, but it gives instructions how the form ought to be signed.

You then go to Form D which is called ‘A Declaration of Secrecy’: “I, A. B. of \_\_\_\_\_ being a person attending the proceedings on the issue or receipt of postal ballot papers do solemnly and sincerely declare that I will keep secret all matters coming to my knowledge in the course of such proceedings, and that I will not divulge them to any person in any manner whatever save as required by the due process of law, and I realise that any breach of secrecy under this declaration makes me liable to the penalties prescribed in rule 10(3) of the Elections Rules.” Signed and witnessed again.”

Mr. Speaker, tell me if we can possibly create a system that is more convoluted and more cumbersome than this one. The whole objective of Mobile Polling Stations is that it reduces the number of persons who would have to vote by postal ballot. We say that the only persons who ought to be voting by postal ballot are persons who are not on the Island at the time the elections take place and know sufficiently in advance that they are not going to be here so they can apply for one. In every other instance we ought to be making the effort to give people the opportunity to exercise their franchise personally.

How are we increasing the risk of fraud, of irregularity by letting people mark their own ballot papers and in the presence of the candidates or the agents, and the elections officials who place it in a ballot box themselves? Without the need for all of these forms and declarations of secrecy and certificates; I am the person that this ballot paper has been sent to, et cetera, et cetera, et cetera. So, that the government might finally get the point and it will reduce the number of postal ballots that are counted and the long, laborious, tedious process, which I know

from personal experience have the possibility of persons being able to know who voted for whom.

What is the problem with what is being proposed? I must say that I will draw my own conclusions from the reluctance and downright refusal of the Government to accede to this Motion and I am certain that the general public will also draw their own conclusions, and I can say, the conclusions that I draw are not favourable ones.

**Mr. V. Arden McLean:** ‘Tell ‘em ‘bout it brother’.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, I know the Government will have its way, at least for some little time further. Whether or not we have mobile polling stations this time round, I know that the electorate of this country will shortly have the opportunity to call this Government to account; not just for their attitude in relation to this but to their stewardship generally and all I wish to say in conclusion is, ‘hasten November 17, hasten’.

*[Background comments]*

**The Speaker:** The question is that ‘BE IT HEREBY RESOLVED THAT the Election Law (2000 Revision) be amended to provide for Mobile Voting Units to enable persons who will be present in the Cayman Islands on the day fixed for the upcoming General Elections but who are unable to attend at a polling station because of infirmity or other good reason, to vote prior to the day of the general elections, otherwise then by absentee ballot’. All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

*[Laughter]*

**An Honourable Member:** The Ayes have it.

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

**An Honourable Member:** No the Ayes do not have it, Mr. Speaker

**Hon. Juliana Y. O’Connor-Connolly:** Mr. Speaker, can we have a Division?

**The Speaker:** I have to admit Honourable Members that I intended to say the Noes have it, but I did in fact say the Ayes have it. So, we will have a Division please.

*[Laughter and inaudible interjection]*

#### Division No. 5/04

**Ayes: 5**

Hon. D. Kurt Tibbetts

Mr. Alden M. McLaughlin, Jr.

**Noes: 6**

Hon. W. McKeever Bush

Hon. Gilbert Mclean

Mr. Anthony S. Eden  
Mrs. Edna M. Moyle  
Mr. V. Arden McLean

Hon. Roy Bodden  
Hon. Samuel Bulgin  
Hon. George A. McCarthy  
Hon. Juliana Y. O'Connor-Connolly

**Hon. W. McKeeva Bush:** Mr. Speaker, Members are questioning where some other Members are and we do know, Mr. Speaker...

**The Speaker:** I have already received the explanation for their absence.

**Hon. W. McKeeva Bush:** Yes, the two of them have gone to the police station in West Bay.

**The Speaker:** Madam Clerk would you please read the Division?

**The Clerk:** The results of the Division: 5 Ayes, 6 Noes and 6 Absentees.

**The Speaker:** Private Members Motion No.4/04 has failed.

Madam Clerk, would you call the next item please?

**Negated by Majority: Private Member's Motion 4/04 failed.**

**The Clerk:** Private Member's Motion 05/04

### Private Member's Motion No. 5/04

#### Review and amendment of Maintenance and Affiliation Legislation

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

**Mr. Alden M. McLaughlin, Jr:** Thank you, Mr. Speaker. I beg to move Private Member's Motion 05/04, entitled Review and amendment of Maintenance and Affiliation Legislation.

**"WHEAREAS concern has been expressed recently about the provisions of the Affiliation Law, the Maintenance Law and other companion legislation relating to both financial and other support of and access to children;**

**"BE IT HEREBY RESOLVED THAT the Legislation in the Cayman Islands dealing with the financial and other support of and access to children be reviewed and where necessary amended to provide for:**

- (a) non discrimination between the rights and or entitlement of illegitimate and legitimate children;
- (b) improved enforcement of Maintenance and Affiliation Orders;
- (c) access to children by putative fathers."

**The Speaker:** Is there a Seconder?

**Hon. D Kurt Tibbetts:** Yes Mr. Speaker, I beg to second the Motion.

**The Speaker:** The question is: 'BE IT HEREBY RESOLVED THAT the Legislation in the Cayman Islands dealing with the financial and other support of and access to children be reviewed and where necessary amended to provide for:

- (a) non discrimination between the rights and or entitlement of illegitimate and legitimate children;
- (b) improved enforcement of Maintenance and Affiliation Orders;
- (c) access to children by putative fathers.'

**The Speaker:** The Motion is open for debate. Does the Honourable Mover wish to speak thereto?

**Mr. Alden M. McLaughlin, Jr.:** Yes, thank you, Mr. Speaker.

In recent times there has been a great deal of concern expressed from various quarters about the whole question of child support. The discussion has evolved into a somewhat broader subject which deals generally with the welfare of children and the access to them principally by their fathers.

The Minister for Community Services recently laid on the Table of this Honourable House the National Gender Policy. We also recently, at his bequest, acceded to a motion asking for CEDAW or the Convention in relation to non-discrimination of all types against women for a motion, which would permit the Government to request the United Kingdom to have Convention extended to the Cayman Islands. All of those things are very positive, very good things and the Minister has boasted on more than one occasion about the efforts he has made and the achievements of his Ministry in relation to improving this society and particularly the family.

It is therefore somewhat surprising that notwithstanding the fact that these issues in relation to children have received such prominence recently but the Government has remained completely silent about them. I am also even more surprised and disappointed that the Honourable Minister is not present this evening although, notice that this Motion would be dealt with this evening, I believe, was served on all Members of this Honourable House. Notwithstanding that I do hope there is someone on the Government bench who is equipped and prepared to respond.

The legislation dealing with children in this country has never been in a worse state than it currently is. What we have now are at least five different pieces of legislation which purport to deal with children's issues. You have to search if you are unaware of these, to find which piece of legislation applies to you and in some instances Mr. Speaker, you actually discover that despite the fact that legislation has been

passed for nearly a year it has not been brought into force. So, you may get a bit excited by some of the provisions of the Children Law 2003, for instance which has some very useful provisions and which seeks to deal with the whole question of the welfare of children in a comprehensive manner, and then you discover that despite the fact that the Law was assented to on 4<sup>th</sup> September, 2003 it still has not been brought into effect.

This Law, Mr. Speaker, would repeal a number of pieces of legislation including the Guardianship and Custody of Children Law, the Juveniles Law and a certain section of the Education Law once it came into effect but thus far, it is not in effect. We also have the status of Children Law, 2003 which is a piece of legislation that evolved out of a Private Member's Motion that I brought to this Honourable House back in March of 2001. This has the effect of removing the distinction between legitimate and illegitimate children for all purposes in the Cayman Islands. Indeed, Mr. Speaker, Section 3(1) of that Law provides that subject to subsection (2), for all the purposes of the laws of the Islands a person is a child of his natural parents and his status as their child is independent of whether he is born inside or outside of marriage and all other relationships shall be determined accordingly. This piece of legislation was assented to on the 5<sup>th</sup> of January 2004, and I am pleased to say that following a parliamentary question which I submitted, it has now been brought into effect, with the effect from 1<sup>st</sup> June.

The question now is, Mr. Speaker, what is the impact of those provisions on provisions in other legislations such as the Affiliation Law and the Maintenance Law, which continue to make distinctions based on the legitimacy or otherwise of children and make different provisions in relation to their entitlement to receive financial support based on whether or not the child is a legitimate child or a child born out of wedlock? Mr. Speaker, in the National General Policy which I referred to at some length in another debate recently, it has been identified by the Ministry that the Maintenance and Affiliation legislation needs to be amended and addressed. It is therefore even more surprising that no steps appear to have been taken thus far to deal with these issues to bring the legislation in relation to children, to a point where if it is not a single piece of legislation, at least the provisions are consistent, their provisions are consistent. So Mr. Speaker, when I drafted the Motion I had that particular issue in mind as well.

Now, Mr. Speaker, the Affiliation Law, and for the purposes of those who might be listening and who might not understand the difference; the Affiliation deals with children who are not the product of a marriage and the Maintenance Law deals with a number of issues but for the purposes of my discussion and my debate this evening, it deals with children who are the result of a lawful marriage. Mr. Speaker, to add to the confusion we have got the Guardianship and Custody of Children's Law which also addresses not fi-

nancial support in a specific sense, but addresses matters of custody and generally the upkeep of children and their education.

Now, Mr. Speaker, I am going to turn to specific problems with the two pieces of legislation, the Affiliation Law and the Maintenance Law. Mr. Speaker, the Affiliation Law allows in Section 3 any single woman who is with child or who is delivered of a child to make a complaint for complaining that someone is the father of the child and that he ought to be ordered to pay financial support. Now, Mr. Speaker, there are a number of, this comes from rather ancient legislation and from another time and another era. One of the fundamental problems with this piece of legislation, Mr. Speaker, is that the woman has to be a single woman. Firstly, if a woman has a child and then subsequently marries someone who is not the natural father of the child, she cannot seek support for the child from the natural father of the child.

Secondly, any application must be brought within twelve months of the delivery of the child unless the father has left the Island or he has been paying some sort of maintenance or support in the interim because that is taken as acknowledgment of his responsibility. Therefore, the continued presence of these sort of provisions operate unfairly in relation to the support of children because, Mr. Speaker, as has been acknowledged in the Children Law, the paramount consideration must be the welfare of the child, and a father having the ability to rely on a technical provision that the application has not been made within twelve months of the child's birth is really, Mr. Speaker, not fair to the child. After all, the child cannot make the application itself in all instances.

Mr. Speaker, I can remember something from many years ago, and it is one of those things you have to do professionally that haunts you forever. I represented a man who I would have to say now is a very callous individual and whose instructions to me were that he was not prepared to support his two children and the mother had not made the application within twelve months of their birth. He had not paid her any money and the children were at this point, I think 8 and 6 years old or something. It was my professional duty to represent him in these proceedings and it was a case before the Magistrates Court as these matters generally are, so the magistrate had to agree with my technical argument that there was no jurisdiction for her to entertain the complaint because it had not been made within the time specified in the Law. Now, as I said Mr. Speaker, that is one of those matters that you do because it is your professional duty but many years later and I can say it is more than 10 years ago now, I still feel badly about the result. So, Mr. Speaker, those sorts of provisions must be changed.

Mr. Speaker, the Affiliation Law also provides that the court making the order may direct that the payments be made on a writ in respect of a child to

continue until the child attains the age of 15 years. There is also a proviso which says that in certain circumstances the court can vary that order to direct that the payments be made up to the age of 17. Whereas in the Maintenance Law, which deals with children of a married couple, the provision only relates to the age of 14 although there is provision that in certain circumstance the court may vary the order. I am not certain, Mr. Speaker, whether that variation also relates to the age, in other words not just the terms of the order but that payments may be ordered to be made when the child is beyond the age of 14 years. It is not clear to me from simply looking at the section, I do not know whether there has been any decided cases in relation to it or not. However, even as it stands it is not consistent with the provisions of the Affiliation Law, and as we now have the status of Children Law in effect, which says that all of the Laws of the Islands are to be interpreted in a way in which there is no discrimination between children born within or outside of a marriage. So, clearly we need to address those provisions and those two laws.

Now, Mr. Speaker, having had a look at what I shall call the offending pieces of legislation, I would like to refer to the local circumstances and positions that have been taken by the proponents of reform of this legislation, as well as to have a look at what has been done in some other places. Mr. Speaker, it is interesting to note that the Women's Resource Centre which I believe falls squarely under the responsibility of the Minister of Community Service, recently carried out a poll and if I might have leave, Sir, to refer to that poll which is available on the [www.gov.ky](http://www.gov.ky) website.

**The Speaker:** Please continue.

**Mr. Alden M. McLaughlin, Jr.:** It reads Mr. Speaker, and for good measure it says: "Women's Resource Centre Community Services, Youth Sports and Gender Affairs". This is clearly the Ministers responsibility. The theme of honouring Women's Month this year was "Challenges, Solutions and the way forward". The purpose of the poll was to find out what the public both youth and adult populations feel are the biggest challenges women are experiencing in the Cayman Islands today. The results of the poll were used as guiding information for a panel discussion held on the HWM, Honouring Women Month theme, Challenges, Solutions and the Way Forward, which took place on Thursday, 11<sup>th</sup> March at 6:00 p.m. at the George Town, Town Hall. Now what they did was to vote for issues which posed the biggest challenges to women. Votes—76 persons voted domestic abuse, which included financial, verbal and sexual abuse; 53 persons voted single parenting issues, difficulty collecting maintenance, absent fathers. So, of the 10 issues put forward, second with the most votes as a real issue affecting women was the whole question of single parenting and specifically collecting maintenance and absent fathers.

So, Mr. Speaker, the Honourable Minister has absolutely no excuse in my respectful view Sir, for failing to address this matter. The evidence which his Ministry or agents of his Ministry have collected has told the Government clearly, and his Ministry specifically, that this whole question of collecting maintenance and absent fathers is a critical issue second only to the question of domestic abuse in the eyes of women in this country. Yet, almost three years after he has assumed the mantle of that Ministry nothing has been done by the Government to address this issue, and then Mr. Speaker, they have the nerve to come down here and read off for an hour 13 pages of achievements of the Ministry of Community Services! Sometimes, Mr. Speaker, I almost become sick thinking about I ought not to say that word because it is unparliamentary; thinking about—I better leave that, Mr. Speaker.

Mr. Speaker, the *Caymanian Compass* has carried a number of articles and letters on the efforts that are being made by a very small group headed up by Mrs. Patricia Bryan Rodrigues. This group has been seeking to address this whole question of child support and the difficulties that women are experiencing in this country, principally women in getting fathers to pay for child support. Also, Mr. Speaker, included is the ancillary issue of fathers being part of the child's growing up years; being part of the child's life and having access to the children. With your leave Sir, I would like to read some excerpts from one article and from some of the letters because I believe they are instructive. . .

**The Speaker:** Please continue.

**Mr. Alden M. McLaughlin, Jr.:** . . .and will perhaps, give the Government, which seems to be unaware of this issue a little more insight into what is being experienced by women and the children in this country.

The *Caymanian Compass*, Friday 2<sup>nd</sup> April, 2004 Mr. Speaker, an article entitled 'Child Support, Better Laws, More Staff Needed' by Ms. Carol Winker, who, coincidentally Mr. Speaker, happens to be seated in the gallery. It reads: "**Existing laws need more teeth and the court system needs more staff to deal with the problem of 'deadbeat dads' or parents who do not provide child support.**" These were two of the conclusions reached at a meeting on Wednesday evening at the Mary Miller Hall. Organized by Ms. Patricia Bryan the meeting was attended by 30 women and 5 men. Three of the women had been invited by Ms. Bryan to facilitate discussion. Then, Mr. Speaker, it refers to the women who were there and I think because the effort is so commendable I ought to perhaps mention them, although I will not read the whole article. They were attorney Stacey Park, from Brooks and Brooks, Ms. Sandra Catron, from the Institute of Legal Training, and attorney Margita Facey-Clarke, who has her own law firm.

Mr. Speaker, here are some of the concerns outlined: Different laws that apply to children born in or out of wedlock; persons who are afraid to go to court by themselves even though the Maintenance Courts are not as formal as regular courts. Another problem was the length of time it takes to get a matter to court and dealt with before any support money is received. One reason was said to be the small number of staff dealing with such matters. Women should rally for a few more officers to deal only with support matters so that the system could work more quickly, it was suggested. Former maintenance officer, Ms. Judy Ann Frederick, said that some fathers had told her they were not paying child support because the mother did not let them see their child. She urged mothers to let the dad spend time with the child if he wants to; support is just not financial it is also emotional, she pointed out. These are explanations that were given.

Other suggestions dealt with using the existing law to get support payments deducted from the parent's wages, getting access to his bank account, making failure to pay child support socially unacceptable. Mr. Speaker, a number of those points were points which, certainly in relation to the problems of the current legislation and the fact that it continues to discriminate based on whether or not the child is born within or outside a marriage, were matters that I outlined earlier.

There is also a number of letters and one is a letter dated 15 May 2004 to the *Caymanian Compass* written by Ms. Patricia Bryan Rodrigues. I am not going to read the whole thing again, but I think it is important that I do read some of it so that perhaps the Government might come to understand some of the real concerns and the strength of feeling and frustration experienced by women in this country in their efforts to get support for their children. Quoting from the letter, Mr. Speaker, she says: **"Certainly the issue 'deadbeat dads' has again resurfaced. As a matter of fact it has never subsided nor laid to rest. This just as strongly as domestic violence or incest, child abuse, defilement, which are other detrimental issues that have to be addressed and brought to the surface has always been an underlying condition from the beginning of time. But just as the time arrives in life for each social situation to be addressed, so the time has arrived for this issue to be addressed."**

She then goes on to explain that she has been the organiser of this effort. She says: **"It is a tug of war, this child support issue, and will always be as with all issues in life we will never truly set up a system that will solve each or all of the problems facing mankind, but the Cayman Islands is certainly one of the backward countries of the world, it has taken a stand for protecting children and having them receive what is rightly theirs, receiving support from their parents. . . Whether this is the father or mother. . ."** It is difficult to read, Mr.

Speaker, because the photocopy is not very good and that is why I appear to be struggling here. **"...does not make any difference, at least not one (I think) just as long as it is being received."**—meaning the payments.

Then, Mr. Speaker, there is a letter from another individual who wrote on Thursday, 10<sup>th</sup> June, 2004 and she says: **"These deadbeat parents are prevalent around the world and right here at home, but before we go any further let us ask ourselves who are deadbeat parents and how can they be identified? Is it a person who suddenly disappears or runs off after the birth of the child or after the divorce? Is it the person who occasionally pays child support? Or is it the person we consistently have to remind what the child's needs are to be nourished, to attend school, to be told that they are still loved no matter what the circumstance? The list is endless. I was married and had a child. Not only were we obligated to raise our child in a safe and loving environment, we were to support the child both emotionally and financially. The only difference is the father, the 'ex', who forgot a few things along the way, his financial obligations. So off we went to court and he was ordered to pay a substantial amount for support. I had the judges ruling, the guidance of our attorneys, the support of our families, but it made no difference. He continued to make sporadic payments barely enough to feed, clothe and shelter our child. By the time we attended the third hearing and against the advice of my attorney I was resolved that this would be my last appearance. That was eighteen years ago, and my child is now an adult."**

Mr. Speaker, she goes on and she takes quite a few serious swings at the Legislature I have to say, because she does not make a difference between the Government or the Opposition. She says: **"Everyday we read about the modernisation of telecommunications and our heading into the 21<sup>st</sup> Century, yet some of our laws remain so 18<sup>th</sup> Century, so primitive and outdated for this rapidly developing nation. Whilst we have several supporting units to turn to for temporary assistance we need to find permanent effective solutions. So, here we are today, an election year where there will be ample opportunities for the incumbents and newcomers to spread news of what they have accomplished and what the future plans are for our Islands. So before you promise to pave a hundred roads with miniature roundabouts or issue another 3000 pay as you come status grants, please readdress these issues, stringent legislation for deadbeat parents, domestic violence, child abuse, incest, rape etc. Tell us what other plans are in place to improve and expand our schools, more teachers, teacher aides, better wages for teachers, nurses, etc. and most importantly how can we the UDP and the PPM work together to rejuvenate the val-**

**ues of family life. By addressing some of these issues your voters registration could climb even higher and you may just get that vote you're looking for."** She goes on, Mr. Speaker.

The point, I think, Mr. Speaker, has been made. There is a high level of frustration, anger, disappoint out there principally among women of children who do not feel that the welfare of their children is the paramount consideration of the system. Who do not feel that the system is able to cope adequately with persons, men principally, who do not meet their financial obligations to their children. Now, Mr. Speaker, so that everyone will understand and so that I cannot be properly accused of simply taking the side of women in this matter, we are aware, all of us, and all of the persons to whom I have spoken in relation to this matter who are principally women, understand that there are women who do not utilise the monies which they derive from fathers in the appropriate manner and in the best interest of the children.

There are also instances, Mr. Speaker, where men, fathers, willing fathers, loving fathers are denied access to their children by women; there is no doubt about that. Unfortunately when relations break down and there is anger and resentment, ill-feeling between the parties, oftentimes, even persons that we would consider to be mature and above that, use the children as some sort of leverage, or some sort of pawn in a very, very terrible game trying to either hurt the other individual or get the other individual to do something that they otherwise would not do; that is the reality of life. I have had many men over the course of the years I have been involved as a lawyer, come to me sometimes even in tears because they are prevented access to their children. Mr. Speaker, the Children Law, if it ever does get implemented, will go a long ways to enable the courts to make the requisite orders so that parental responsibility can be properly shared, even in circumstances where the parties are not and have never been married.

However, in the absence of that Mr. Speaker, unless a father who is not married and has never been married to the mother can make an application or is prepared to go through all of the problems to make an application to the court for guardianship or custody, essentially, fathers of children who have never been married to the child's mother do not have a right of access to the child. They have an obligation, once they have been adjudged to be the putative father of the child, to pay the child's financial support, but they do not have a right of access to the child and that, Mr. Speaker, while it is wrong, wrong, wrong, to withhold payment on the basis that you cannot see the child, human nature being the way human nature is men are going to resort to whatever avenue is available and in most cases they feel that is the only way, unless I refuse to pay her, she is not going to make me see the child. I am not speculating about that, nor am I relying on what these individuals have told me. I have had, I cannot tell you how many men,

Mr. Speaker, tell me or say things like that to me in relation to this situation. I have to say that I am generally very unsympathetic to men who come with any reason why they cannot support their child.

My view about children is, they are the innocence. When you were having your fun or whatever you were doing, which has resulted in their being present on this earth, you ought to have given thought to how you were going to assist in raising them. So, do not tell me that you cannot pay your mortgage because it costs too much to raise the child. You should have thought about that before. The welfare of the child is of paramount consideration and ought to be. So, as I say Mr. Speaker, and I know this will not make me, and has never made me popular in certain instances, except I suppose, I have never said it quite so publicly as I am this evening, but I have no sympathy at all for men who do not make an effort to meet their financial obligations to their children; none whatsoever! Whatever this House can do and the Government can do, ought to be done to facilitate children getting what is their just due; that is the financial support of both their parents. Mr. Speaker, that brings me conveniently to really the last aspect of this which is the whole question of enforcement.

Now, Mr. Speaker, I have tried through various sources to identify what really are the problems with the current system. On the face of it the enforcement system seems to be reasonably good, but something seems to be lost between the making of the orders and the actual enforcement. There are provisions in the Law which enables the court to make, what I think are called in Cayman, 'Attachment of Earnings Orders', which (those provisions are contained in the Judicature Law) enables the court to make an order requiring an employer to deduct a certain fixed sum from the employees salary and remit it either to the court funds office or directly to the mother. Mr. Speaker, this is touchy ground because I cannot say that I have the best evidence of this, but what has been indicated to me, by talking with a number of women, is that it is generally felt that many employers resent having to do this exercise. While there is provision in the Judicature Law for the courts to force them to do it or failing that the employer will commit a criminal offence. It seems based on such information as I have, and I have not checked the statistics, Mr. Speaker, so I know I am on somewhat tentative ground here, but it seems, or the perception certainly is that the courts are reluctant to coerce employers into making these deductions which ought to be made. There is also, Mr. Speaker a view, that even that is inadequate and we need more enforcement provisions which actually bite and make the recalcitrant father, principally, a little more willing to meet his obligations.

In the state of Florida, Mr. Speaker, they have adopted some fairly serious provisions. Mr. Speaker, if I can refer to something that I got off of the internet entitled "State of Florida Department of Revenue,



Child Support Enforcement Process". It says, under that heading: **"Non-custodial parents who do not pay child support established by court order are subject to enforcement measures to collect regular and past due payments. The Department has brought authority to collect and enforce the payment of child support although we do not take an enforcement action on a case unless the non-custodial parent is 30 days late in the payment of support. Our remedies include, suspending Florida Driver License, suspending other licenses such as hunting and fishing licenses, occupational and professional licenses"**.

These are fairly radical steps. **"Intercepting IRS tax refunds, intercepting Florida lottery winnings over \$600.00; unemployment compensation and workers compensation; requiring employers to deduct child support from non-custodial parents' wages"**. Well we have that provision here. **"Cooperating with the court in the issuance of writs also known as arrest warrants, placing liens on real property, homes land and personal property such as cars and boats; reporting the child support debt to credit bureaus which can affect the non-custodial parents' credit rating and placing bank account levies and garnishments"**.

Mr. Speaker, in some other jurisdictions they actually make the non-payment, or the non-financial support of children a criminal offence and prosecute the offending person who I am afraid to say is generally the father, for what is called criminal non-support of children. I do have the provision somewhere among my many papers here, but Mr. Speaker, what is notable is that this seems to be a very, very effective measure. It is one thing to come to court and get berated by the judge and threatened with various things if you do not pay; it is another entirely to be prosecuted as a criminal for not supporting your child. The document which I have seen has indicated that this is proving to be a very effective means of coercing fathers into paying child support.

The other point that the document noted was that in the view of that jurisdiction the failure to pay child support is as serious an offence as domestic violence, because in many instances its effect is as grave, the fact that you do not give your children the financial means to be able to live a decent life and to share in the opportunities of their friends and colleagues can have serious and damaging effect on that child on that person for life and the opportunities which they are able to avail themselves of, not just when they are children but as they grow up. So, it is treated as a very, very serious matter.

So, Mr. Speaker, for all those reasons I am asking the Government who I notice have almost completely disappeared, to give careful consideration and thought to what this Motion seeks to achieve and to offer it their support. I will sit down now, Mr. Speaker, and listen to what is said and hopefully this

Motion will fare a bit better than the one which preceded it. I thank you, Sir.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, I cannot help but think of the Member's last remark that the Government disappeared. He knew that we were all here, in fact I had to leave the chamber for a minute and I asked him how long he was going to be and they said I could go outside. (Laughter)

Mr. Speaker, firstly I want to say that the Minister is not here because he could not be here, he had to be at an important meeting at Cayman Against Substance Abuse (CASA) and he asked me to reply for him, because we are supporting the Motion. I wish Mr. Speaker that the Member had thrown out the other motion and dealt with this one, because this one is so productive; the other one was pure politics, I cannot help anybody.

Government is very much aware of the need to reform legislation to safeguard the rights of dependent persons. The throne speech delivered just last month which begins the year, spoke to the Government proposals to develop appropriate legislation, that is the Adoption Law and the review of the Maintenance Law and develop regulations for the Children's Law 2003. This is the throne speech, Mr. Speaker just delivered. So, Mr. Speaker, I cannot really beat up on the Minister in question and second guess what he is trying to do, because to be fair to the Minister and the departments and the Ministry as a whole, they have dealt with a tremendous amount of issues that relates to children, families, and in particular, to women and many more than probably what the Opposition would agree, but nevertheless, Mr. Speaker, they have done it and the truth has to be told.

Mr. Speaker, far, far, far too many men bring children into this world and then forget that the child has to live, has to be fed, has to be housed properly, has to be schooled properly, and they fail to give them love, care and attention, what a little child needs. My position to date has always been and I have never been afraid to speak it, Mr. Speaker, because I am an outside child and I have said that dozens of time here, when I was the Minister; when I was a backbencher, so I know, Mr. Speaker. My position is and I am not scared to speak it, whether it is election year or not or close to an election or not, the facts are the facts. The laws need to be improved to ensure that all those things happen which I have just pointed out. Laws need to be improved to ensure access to children and stop the abuse of the child for the sake of the other parent.

Mr. Speaker, we cannot stop human nature, we know that, but we can make it possible for us to safeguard their little children who did not ask to be brought into this difficult world in which they must ex-

ist. Everyday we are confronted with problems that affect single parents; their family has spilt and the husband goes one way and the wife goes one way. We are confronted with all those things, Mr. Speaker, everyday and it seems that our people are not learning enough. In this day and age it is sometimes asked—why did that person have a child? In this day and age of birth control and all the advice they can get, the various programs. Even after the child comes here, after that happens, after conception, after birth, you would think that people are learning and that they just cannot bring children into the world and then expect to dump them on grandparents or somebody else or worse than that, then come to the state and then the state must take care of them and I have had them tell me that—‘I voted for you and you have to take care of my child’. I have had them to tell me that. So, Mr. Speaker, it is as the Member from George Town has articulated about many, many cases, many instances...Sorry?

*[Inaudible interjection]*

**Hon. W. McKeeva Bush:** Yeah, he is my cousin, I do not know if he will say that publicly, but it is true. *[Laughter]* Mr. Speaker, I better drink some water...

*[Inaudible interjection]*

**Hon. W. McKeeva Bush:** Sorry, Mr. Speaker.

We, as representatives now need to move forward with the necessary legislation. As I said, in the throne speech we have said the direction the Government is headed and the laws that we recognise needs to be amended to clarify, to give the court more authority, more power to deal with fathers or parents who . . . because sometimes it has to be not just the father. Mr. Speaker, I have known cases where a man go pay in the money, the woman gets the money and she goes to buy new clothes; she goes to get a loan, then she got to take that money, \$600.00 that that man pay in for his children and go to buy a new car by getting a loan to buy the new car; I know all that happens. I have seen it. Then they come to me to help pay the loan or go cuss the man, say he not doing nothing, or go tell the world that the man not doing nothing.

So, Mr. Speaker, we are besieged with these kinds of situations and the one thing that I find most disturbing in my after twenty years and seeing that we live in the kind of modern world that we do, our people are still not learning and not grasping. You can talk about parenting and parenting programs and the churches I know preach from the pulpit and they have programs and sometimes you just feel like throwing up your hands and say why in the world are we here anyhow because it does not seem like we are getting anywhere. The people keep doing the same things over and over, even when you try to counsel them and

as I said, all these things that are happening should have taught them, giving them some lesson.

So, Mr. Speaker, we are not only sympathetic to the cause but we are going to do what is necessary. ...Sorry?

*[Inaudible interjection]*

**Hon. W. McKeeva Bush:** I am not getting into that tonight, but anyhow . . .

There have been motions, as the Member from North side is just reminding me, that in the past to address this and practically every government. . . , and you know what if our people do not learn, Mr. Speaker, every successive government is going to have to be doing what the Member from George Town done, because we can bring all the legislation and we can take the action that is necessary, as he has pointed out, but our people need to learn to accept responsibility, man and woman, that is the first. So, the Government is accepting this Motion. As I said, we did say in the throne speech where we were going and I know that the Minister, giving him his right, Mr. Speaker, is hard at work, maybe not as fast as the Second Elected Member for George Town would wish but he is doing and dealing with all the relevant things that will make for better procedures to deal with those problems that we are facing. Thank you, Mr. Speaker.

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

**Hon. Roy Boddin:** Oh no!  
Boy, try not to be long.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.  
Mr. Speaker, the Minister for Education says I should try not to be too long, and I will not be long, Mr. Speaker but . . .

*[Inaudible interjection]*

**Mr. V. Arden McLean:** I rise merely to lend my support to the Motion before us, Mr. Speaker.

Since I have been in this Honourable House there has been a number of occasions when the same matter came before this House, in particular; support of children in this country and the lack thereof by fathers. Mr. Speaker, someplace, somehow, we have to educate the men in this country that they have half of the responsibility for the birth of a child. Until we understand that, we are not going to get anyplace in this country with the responsibility that is required by men to take care of their children. Yes, Mr. Speaker, I hear the Second Elected Member for George Town and the Leader of Government Business talk about women. Women have a responsibility too and there are a number of those that go out there and take the monies that the good men are providing and do things that is not in the interest of the child. Mr. Speaker, I have

been divorced over ten years, and I knock on wood, thank god my two children are by two mothers who take care of them. However, we cannot all say that.

The Leader of Government Business talked about programs that the Minister is putting in place. Mr. Speaker, the only people I see turning up to the programs are the people who are already supporting their children; we need to get people into those programs that are not supporting their children.

Some of these men around here have five, six children by different women all over the place. Mr. Speaker, we really cannot blame the women; they do not even know about the other children, in some instances. They go about their lives driving their nice fancy cars and then they start crying when the writ comes to them to appear in court. Well, they are going to have to go to court. Mr. Speaker, I have a very good friend who right now has changed his residency and his change of residency is right in the middle of Bodden Town, in Northward because of the identical thing that we are talking about, Mr. Speaker, but I cannot go to visit him Sir, because nobody is going to come visit me.

Mr. Speaker, I have seen it, especially in the last four years I have seen women in this country suffer. Maybe, Mr. Speaker, it was there before and I suspect it was there before the last four years, but I have seen more of it; it has become more apparent to me because of my involvement and it is a sorrowful sight, it is a disgraceful sight. You know, Mr. Speaker, the day is long gone where the neighbour would feed those kids; it is long gone, unfortunately. Who has to pay? I heard the Second Elected Member for George Town, the Mover of this Motion speak about the provisions that are in place in Florida. Maybe we need to put some in place here, like selling their properties! Repossessing their cars and selling it off, auctioning it off! Mr. Speaker, even your good self would buy one of those cars—Mercedes Benz, Corvettes. [Laughter]

Mr. Speaker, it is time for radical action to ensure. The same kids that we are talking about are the ones that develop and get into that illegal element in this country. Those adolescents that we have out there who are giving us trouble; check it out, Mr. Speaker. I know where my 12 year old son is at night. I wonder how many fathers who are not supporting their children know where theirs are at. They walk the street. You know why they walk the street? It is because the mothers have to work two, three, four jobs to be able to support those kids in the absence of their father and the father out making more, making more children. Mr. Speaker, we need to stop them. If it means the intervention of the Government, let us do it. Let us pass the Motion and by September, before the Government is not returned, let them do something good for once before they are not returned.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Mr. Speaker, this is such a serious matter in this country. It even transcends on to the portfolio of the Minister for Education, in that he has the problems in the schools, because the kids do not come, truancy! Mr. Speaker, where do we think that comes from? It is the lack of involvement from the parents. The mothers having to work and there is no father. The kid gets on the bus, goes and gets off the bus before it stops at the school and they are gone. If the fathers see them on the road, they probably do not even know that it is their kid. Mr. Speaker, we cannot and no government is going to be the answer for everything, but we can curtail some of what is happening. This 'Attachment of Earnings'—nah! That is a farce. They jump from job to job to avoid it. There are so many of them that do not work. Out there selling their drugs, dress up like pimps all day. Let us pimp them in Northward prison too. Let us see what kind of pimps they are going to be up there for their lack of maintenance of their children.

Mr. Speaker, sometimes you have to say what you have to say and I have never asked anybody to like me; show me the respect that I show you. That is all that is necessary, and I have a right to say it. We have to do something in our country to save our country. That is the generation that is going to destroy this country if we do not arrest the problems now. It will destroy us! It is destroying us! I have no intention of preaching gloom, but Mr. Speaker, these things are necessary to be said. Somebody's head has to be trimmed a little closer to the wind so they will understand the direction this country is going in, the sails have to be trimmed; too much of it is happening. It is no particular district, this is something that is happening throughout the country, and we see it everyday and we turn a blind eye. Every one of us turns a blind eye because we are afraid to approach it. In many instances! My same friend who has changed his address, I have sat him down and talked to him numberless times about it! Mr. Speaker, hands off now, there comes a time when I may have to support some of those children, sure! Not him! Mr. Speaker, I applaud the Second Elected Member for George Town for bringing the Motion.

You can walk over to the Courts Offices and they are listed there for maintenance, and then they go inside and they plead to the Magistrates about the hardships that they are going through and the reasons why they cannot pay to support their children, and as they get outside they jump in the Mercedes Benz and drive off.

**An Hon. Member's comment:** The Baliff should be out there to put locks on the wheels.

**Hon. V. Arden McLean:** We need to arrest the cars and auction them off, and their nice cell phones on the side that they call their friends from and tell them how they outwit the magistrate and the system. Mr. Speaker, it is not fair. Do they think they have won?

They have not won! In their evening of life, those same children that they have neglected will have destroyed this country so bad that they cannot live as older folks, senior citizens in the country that they abused because that is what it is heading for, but they cannot see any further than the top of their noses. One day, one day, Mr. Speaker, just as sure as time passes by and they are alive they are going to get old. I wonder who they are going to depend upon then. I am sure it is not going to be the child who has been successful that they neglected. I hope not! I have hopes that this Government, or when we take over in November, we will put the necessary provisions in place. Draconian they may be, but it is time for draconian measures with these situations, Mr. Speaker. It is time that we put the provisions in place to stop these people and it is time that we stopped calling children illegitimate also. I prefer to say that they were born out of wedlock. The fact is that it is a human being.

I just do not understand how most of these men who neglect their children do not have or cannot embrace that feeling of having created a human being. That is a serious responsibility to have created a human being. The only being I know who has ever done that prior to man, was God! You have created a human being, a live human being that you are responsible to ensure you guide them in a manner in which they will contribute to society, and they will continue that reproductive cycle and pass on principles and responsibilities that was passed on to you.

We have a different generation coming up here now. Maybe I came from the old school where you were required to take up your responsibilities seriously. I do not know how we are going to get back to that point, Mr. Speaker. Having said all that I have said, all is not lost. We as representatives, as politicians can legislate laws that will stop them in their tracks which will ensure that the children in this country are giving their rightful due. Mr. Speaker, it is no longer about tying the hands of the judges. This is a perfect example that we must tie the hands of the judges to ensure that they have to put it on them! They have to administer the Law to ensure these rogues who will not support their children, will be required to do so.

Mr. Speaker, I could go on for the rest of the evening but I notice all the Ministers are looking at me a little cockeyed so I shall take my seat and thank the Government for at least once recognising the validity of this side, and the legitimacy of this side, as the Opposition, and recognising that we too are very capable of bringing motions like their back benchers motions; motions that are worthy, but of course it is up to the Government to accept them, and that is not to say that the Motion that the Second Elected Member for George Town and I brought was not valid, just because they turned it down, that is their opinion that it was not. Mr. Speaker, I thank you, Sir.

**The Speaker:** Does any other Member wish to speak? The Elected Member for North Side.

**Ms. Edna M. Moyle:** Thank you, Mr. Speaker.

Mr. Speaker, I did not intend to join in the debate on this Motion but as I sat here and read the Motion over once again I felt that I had to make a contribution. This Motion deals with the most important section of society and one of the greatest assets of any country when it deals with children. Mr. Speaker, I am glad that the Government has accepted this Motion, and since I have been in this Parliament I have been trying to have the word 'illegitimate' removed from all legislation in the Cayman Islands. I do not know of any other Member within this Parliament who, when they look through a window and see 10 or 20 children playing, do they see legitimate children, do they see illegitimate children, or do they just plainly see children? That is all that I see. So, Mr. Speaker, I am very happy and, I look forward to when that legislation is brought to this Parliament to have that word removed from all legislation.

I agree that we must improve the enforcement of maintenance and affiliation orders and I will go one step further. We hear of the deadbeat fathers of the day, and I agree with the Members who have said we have some deadbeat mothers also. However, Mr. Speaker, is this a stigma that has been passed on through a cycle to these men and women where they have seen within their own families the absence of their fathers and have they now passed this on to their children. So, Mr. Speaker, as I have argued for years, in domestic violence there is a cycle that must be broken and I believe, and maybe I am wrong and maybe I will stand alone, that there is a cycle and it must be broken and we must, Mr. Speaker, I believe, educate our young men and women as to the responsibility of having a child.

Mr. Speaker, this education process must start within our schools. Mr. Speaker, a comment or a referral that really grieves me as a mother is when I hear a young girl refer to 'my baby father'. You know Mr. Speaker, we must put within our school system sex education where we teach not only our young girls the responsibility of having a child before they have become women themselves. We have a situation in this country where children are having children and I know, and I must give credit where credit is due, I think it is the George Hicks High School that has a program for young girls within that school, teaching them how to care for a baby.

I had the opportunity of being at a family's home just before Christmas when they lost a loved one. Three young ladies arrived with these, I actually thought that they were actual babies, and I looked and I said to myself, 'but these young girls cannot be any more than twelve, thirteen maximum'. I then heard the baby cry. I actually went over to the young girl to try and help her sooth this child, because I thought it was actually a baby but apparently it is a program with a

doll that these girls take with them if they go out, which teaches them the responsibility of caring for a child. It cries when it needs a bottle, it cries when it needs to go to sleep. Mr. Speaker, here again we stereotype; it is only the girls that walk with these babies and in my humble opinion we must also teach our young boys the responsibility of having a child, not only our young girls. So, Mr. Speaker, this Motion, with the legislation, it is going to have to be combined with our education system whereby we can deal with these problems and break the cycle. Until we do that we will constantly be facing the same issues.

Mr. Speaker, on the third point in the Honourable Members Motion, 'Access to Children by Putative Fathers'—I believe any man who maintains his child must be given access to that child. We cannot use children against the mother or father, these are children. Mr. Speaker, if a father is responsible enough to maintain his child, certainly, and I am a woman, Mr. Speaker, but I speak the truth, the woman must allow the father access to that child. We constantly preach that the family unit is the most important thing, and we constantly hear that the fathers will not do this and they will do that, but Mr. Speaker, when they do, we as women tend to not want for them to have the proper access to their children. This is wrong and as a woman I say, wrong, wrong, wrong. If we as women want maintenance for these children, certainly the fathers want access to those children and they must be given access to their children.

So, Mr. Speaker, with those few short words I support the Motion 100 per cent and I hope that it is not just being accepted and no action will be taken because it is a very, very important Motion.

**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, would the Honourable Mover of the Motion wish to exercise his right of reply?

**Mr. Alden M McLaughlin, Jr:** Mr. Speaker, non support of children is a crime which causes poverty. It is a crime that is at the root of many of the social problems that exist in any society. We can have as many programs as we want; we can have as many youth programs and sports programs, football leagues and basketball leagues and youth flex and all of those wonderful things that the Minister of Community Services boasts his Ministry has done, but unless we create a system whereby children have access to the financial support that is necessary to get them through daily life, all the rest of it is in vain.

I thank the Government, Mr. Speaker, for having acknowledged the importance of the Motion and I thank the Leader of Government Business for what he has said in relation to this. However, Mr. Speaker, it is going to take more than simply accepting this Motion and passing legislation, because this Government is wont to pass legislation and create the

appearance that things are being done, but the Children's Law stands in mute testimony as an example of passing major, important legislation without having the necessary support institutions in place to be able to give the law effect. Hence, almost a year after that Law has been passed the Law still sits in abeyance, waiting, Mr. Speaker, on I know not what.

So, Mr. Speaker, I am hoping that the Government by agreeing to this is also agreeing that it needs to get on the ball, review the legislation, and decide what measures are going to be implemented to make the current system better and more effective. Put it into legislation, make sure we have the support mechanisms in place and give effect to the Law, not just bring it down here, pass it and hold it up as another example of a wonderful achievement of the Ministry of Community Services, which is the way things, in my view, are generally done.

Mr. Speaker, there is nothing that moves me personally more than children. I have two of my own and it makes me so angry when I understand as I do, more so as an Member of the Legislative Assembly than I did in my other life, how many children in this country do not have the financial support of their parents to enable them to be able to just enjoy what is supposed to be the most precious period of their life, being a child. Mr. Speaker, whatever we have to do as a legislature, as a people, as a community, as a country to make sure that we reduce the instances of financial deprivation of children in this country, we are going to have to do.

Mr. Speaker, other Members have alluded to the need for other support, emotional support of parents in the raising of children; that is critical. I firmly believe that a large part of the problems that this society experiences is because children are deprived of the kind of emotional support of their fathers, in particular. I know that with my two sons I cannot conceive of them growing up without my presence. Therefore when I know of the number of instances in which children never see their father or see him so rarely that he is some sort of stranger, Mr. Speaker it tears my heart apart and we have got to find a way; it is not a perfect world and we cannot pass legislation which is going to make fathers give children the sort of emotional support that they need and I am not suggesting that we can pass legislation which will do that but we have got to find a way, Mr. Speaker, to encourage more of that. We cannot get blood from a stone and I am not trying to pretend that we in these hallowed halls can make that sort of thing happen, but we have got to find a way.

I am not sure what programs there are or whether we need to specifically address these issues in schools and perhaps that is the road we need to go done, but I have not really done the necessary research on that issue. We have to find a way to pick up on the point from the Elected Member for North Side, to make parental responsibility a critical component of the education and I am not talking necessarily about

just in the schools, the education of children and young people in this country. As the Elected Member for East End has said, if we do not find a way to give them what they ought to get as children, as young citizens of this earth, they are going to grow up having been deprived of these things which are so necessary to their overall development. They are going to grow up with voids in their being which are going to contribute to them becoming more antisocial.

Some of us, Mr. Speaker, some people, some children overcome these things and become wonderful citizens and great achievers, overachievers in many instances but I am certain that if we did a survey we would find out that that is the exception rather than the rule, and that children who grow up deprived of financial and emotional support are more likely to fall victim to a whole lot of problems and issues down the road, and to create further strains on the social system; further strains on the community; create all sorts of problems for themselves and their families and society at large.

So, Mr. Speaker, while I am not for one moment easting the Government up about the need for them to do what has to be done to give effect to all of these wonderful words that have been said on both sides of this Honourable House this evening. I do hope that this debate will serve a broader purpose as well, and that it will enlighten the community; that it will make the community at large feel that the legislature is aware of these issues, is concerned about these issues and really, it will help to shape and to mold some of the societal views and perceptions and perhaps, Mr. Speaker, even mores.

So, Mr. Speaker, it has been a long day and this has been, I believe, a very intense and hopefully very profitable debate. I thank all Honourable Members for their support and those who did not speak for their tacit support of this. Mr. Speaker, I commend this Motion to this Honourable House. I thank you Sir.

**The Speaker:** The question is: 'BE IT HEREBY RESOLVED that the legislation in the Cayman Islands dealing with the financial and other support of and access to children be reviewed and where necessary, amended to provide for:

(a) Non-discrimination between the rights and/or entitlement of illegitimate and legitimate children;

(b) Improved enforcement of maintenance and affiliation orders; and

(c) Access to children by putative fathers.'

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

**Ayes.**

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

**Agreed. Private Member's Motion No. 5/04 passed.**

## ADJOURNMENT

**The Speaker:** Honourable Members, I have been informed by the Honourable Leader of Government Business that the Elected Member for East End will want to say a few words on adjournment and the Honourable Leader of Government Business will make a few comments on the remarks made. I now call on the Honourable Leader of Government Business for the adjournment.

**Hon. W. McKeeva Bush:** Mr. Speaker I move the adjournment of this Honourable House to a date to be fixed.

Mr. Speaker, before I sit down, just to say that this has been a long meeting and I would like to thank the staff who have been here late at night with us and yourself, Mr. Speaker, and indeed the media and all the officers and staff of the legislature.

**The Speaker:** Thank you most kindly for those remarks.

The Elected Member for East End.

## PERSONAL STATEMENT

### Development of a Hotel in the District of East End

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. First of all let me thank you for giving me the opportunity to make a short statement on what I think is a relevant subject relating to East End.

Mr. Speaker, as a result of recent media reports surrounding the proposal to build an upscale hotel in the Little Bluff area on the North East coast, I find it necessary to make this statement in order to help dispel some of the controversy which has developed as a result. Mr. Speaker, the location of this proposed hotel is situated in the electoral district of East End. Accordingly, I consider it incumbent upon me as a duly elected representative for East End, to inform this country of my position on this said development. Mr. Speaker, since the media reports containing the mentioned controversy, I have, to the best of my ability, tried to get the feelings of a cross section of the residents of my constituency. As a result I am convinced that there is sufficient support for such a development amongst the residents and by extension that gives me sufficient reason to confirm my support in principle for a tourist related development in the East End electoral district. I say in principle because I am at this stage unfamiliar with the intricacies of the proposed development.

It is important that it be known that my position has been reached not because of any brief that I hold for any individual or individuals, but rather, from my responsibility as a representative, and I stress, 'representative'. My commitment is to ensure that the constituents benefit from any development in that

constituency. There are many benefits to be derived from the introduction of such an upscale development; employment, infrastructural upgrade and business opportunities to name a few. As I understand it, the calibre of clientele that this particular development attracts is much needed in this country to boost our stay over tourists and the economy on a whole.

In closing may I point out that during my efforts to ascertain the feelings of the people, which I mentioned earlier, many indicated that they prefer developments of this nature than, that is, tourists related, over that of a cargo dock in the constituency. I look forward to an overall inspection of the overall proposal in order that, if necessary I will be able to submit input on behalf of the people of East End. I trust that the forgoing adequately sets out my position and also satisfies all those who have questioned my silence thus far. Mr. Speaker, further, I have no intentions of getting into any sabre rattling with anyone particularly those who think they have the authority to decide what development will take place in East End. I thank you, Sir.

**The Speaker:** The Honourable Leader of Government Business in reply.

**Hon. W. McKeever Bush:** Mr. Speaker, the proposal to which the Member speaks is that of the Mandarin Hotel Development in East End, and as I understand it, it is not in North Side but in East End. The Mandarin Hotel is an upscale property, five star, and from what I see this could be counted as six star according to the American registration.

The developers are people who are knowledgeable in good high end development and there are Caymanians involved who are reputable people. There is no question in my mind as to whether they should be allowed to develop this hotel. I have said it is our policy to support sustainable development. I have also said that the country, while even the management policy did speak about no more hotels, we see that there could be a Four Season on the West side and there is still room for a good hotel development in the Eastern districts, and I think there is one that could be done in the Bodden Town area. There have been other proposals and this one has our full backing. I am glad to hear the East End Member say he supports it and that he is not going to get into the sabre rattling either.

The question of the cargo dock I have already elaborated upon, and we believe that it is important for the country. We are studying the ramifications and looking at the necessary and attendant infrastructure to be put in for that dock, and when the time comes I will come forthrightly, as I usually do, to the people of these Islands including the people of the good district of East End to state the position.

I think I said that the development has our full backing and the Government is going to do all that is in our power to see that the development of the Man-

darin Hotel go ahead. We believe that a country that stands still will wither away and die. We cannot do as has been done in the past where good developments were thrown out the door or were given such a hard time that they went elsewhere and then we have seen the need of such development today. While they would have to import people, the fact is that Caymanians will benefit also. We are a small country and the day that we try to stop development that I hear being pushed around, then your standard of living will go down because that is what keeps the standard of living the way it is. Let us not forget that when we are debating measures or talking about general development at any point. The day that you stop development, Mr. Speaker, your standard of living will go down because that is what keeps it at the level it is.

I say one more thing to the Member for East End and to this House, the question about who you are developing for is for the present and future people of these Islands and the needs and welfare of this country can only be met if we have money in government and money in the government comes in a great part from development. All we need to do is make sure that the regulations are in place and that they are paying attention to the rules and regulations that exist and what they need to do to safeguard aspects of the environment and so on.

So, I am glad that the Member for East End raised it. We are in full support of the development. Thank you, Mr. Speaker.

**The Speaker:** The question is that this Honourable House do now adjourn until a date to be fixed. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**At 9.43 pm the House stood adjourned until a date to be fixed.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**20 SEPTEMBER 2004**  
**3.15 PM**  
*First Sitting*

**The Speaker:** I will invite the Honourable Second Elected Member for West Bay to lead us in prayers.

**PRAYERS**

**Mr. Rolston M. 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 Cabinet 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.*

Father we ask thee also in these most trying and challenging times to bless us and keep us as a country. Lord, we thank thee for the blessings that you have bestowed upon us that during the passage of this devastating storm that we did not see the massive loss of life that we would have thought when we look around at the devastation around us. Lord you are our Sovereign Creator and it is only through your guidance and love that such a miracle could have taken place.

Lord, we thank you for your many blessings that you continue to bestow upon the people of the Cayman Islands. We honour you and we lift up our hearts to You for your mercy upon us.

We ask thee Father to bless our people. Give us strength wisdom, patience and endurance. Let us continue to lift our hearts to you and seek thy grace as we continue to build and repair our Island. We thank thee for sparing our Sister Islands, Cayman Brac and Little Cayman. We see how great a refuge they have become for many of the residents of Grand Cayman. We ask thee, Lord, to give us strength.

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 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, unity and strength now and always. Amen.*

**Proceedings resumed at 3.21 pm**

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

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

**Message – Hurricane Ivan Strategic Recovery  
Process**

**The Speaker:** Honourable Members, it is certainly good to see each one of you here today and I trust that you and your families are doing well. Also to our hardworking staff and the people of Grand Cayman, in particular, we are grateful to God that there was no major loss of lives.

Though we as a people have suffered tremendous loss of property, the feedback that I am getting is that we are determined to pull through this problem together. I am convinced that with the help of God we will be up and running before too long.

May I extend the sincere thanks of this Honourable House to all the service agencies for getting us up and running. In particular, I wish to give thanks to the Public Works Department for all that they have done in this regard and of course the National Hurricane Committee. Also to Caribbean Utilities Company (CUC) Ltd. for having us hooked up with lights and air-conditioning in this Honourable House.

My sincere thanks, also, to all Honourable Members for their understanding and cooperation at this historic meeting. Historic it is, in that it is perhaps the first time in our parliamentary history that the dress code has been altered due to conditions brought upon us by a hurricane—Hurricane Ivan. The Honourable gentlemen of this House were requested to divest themselves of their jackets and ties and they have complied. In my opinion, this is appropriate in the circumstances as it would seem out of place for Honourable Members to be parading around town dressed in suits and ties at this time while the country suffers under these dire circumstances. More impor-



tantly, when I issued the directive I was not sure that we would have had lighting and air-conditioning restored to the Legislative Assembly at this time. So, please let no one for a minute feel that we have lowered the standard or dignity of this Honourable House. Until some degree of normalcy has been restored we will continue on an informal basis and later on revert to a more normal dress code.

Honourable Members, let us continue to help others wherever possible. I must say that I am very pleased to see both the Government and the Opposition working together to restore our physical and economic infrastructure as soon as possible.

I am aware that the Honourable Leader of Government Business has a statement to make which will no doubt address some details of some of the strategic issues that Government has been discussing. I will not say more on this at this point.

In closing, Honourable Members let us continue to look to God for guidance as we are a resilient people and with the help of God we will be up and running in Grand Cayman before too long and in the not too distant future. I thank you, Honourable Members.

### Apologies

**The Speaker:** Also I have received an apology from the Honourable Third Official Member who had to be out of the Chamber at this time looking about official business.

## PRESENTATION OF PAPERS AND OF REPORTS

**The Speaker:** I would like to mention to Honourable Members that there is an amendment to the Order Paper in that Item 5 will not be taken after Item 4 (that is Statements by Members of the Cabinet), and we will move straight to Item 6 which is the adjournment. It is proposed on the adjournment to adjourn until 10 am Wednesday, 22 September; this will allow all Honourable Members to have the opportunity to address the nation on the state of the various constituencies in particular. There might be other items that the Business Committee comes up with but this will give them that opportunity.

If we move along in an expeditious manner we should be out of here in a short while as when we leave here we have another meeting to attend.

Madam Clerk, please move to Item 3.

### The Emergency Powers Regulations 2004

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.

Before I begin, let me with your permission use a few seconds to reflect on the enormity of the

disaster that has afflicted these beloved Isles. Let me also, Sir, reflect on the strength, resolve, the grit, spirit, tenacity and endurance of our people to climb back from what has happened. I am confident that we will overcome. As legislators we share the pain of all residents we also share their resolve and determination to fight on with God's help.

I would like to use this opportunity to commend all Honourable Members of this House for the leadership that has been displayed during this difficult period. I would also like to pay homage to the hundreds of volunteers; to His Excellency the Governor; and all those who comprise the National Hurricane Committee for their tireless and unselfish effort in trying to move things along. It would be remiss of me not to recognise the outpouring of love and support from those abroad who have provided us with vital supplies to keep us going during these difficult times.

The House is convening today for a special reason. The Emergency Powers Law requires that when a proclamation of emergency has been made by the Governor, the occasion shall forthwith be communicated to the Legislative Assembly.

Today, in all of the circumstances, it is the first opportunity for this Honourable House to convene to be so notified. I therefore invite this Honourable House to formally take note and with your leave, Mr. Speaker, I wish to lay on the Table of this Honourable House a Proclamation dated 11 September 2004 signed by His Excellency the Governor declaring a state of emergency.

**The Speaker:** So ordered.

**Hon. Samuel W. Bulgin:** I also, with your leave, wish to present the Emergency Regulations 2004—

*[Pause]*

**The Speaker:** The Honourable Second Official Member continuing.

### Proclamation No. 5/2004

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I was about to, with your leave Sir, table the Emergency Regulations 2004 promulgated by His Excellency the Governor on 11 September 2004 pursuant to the Emergency Powers Law (1997 Revision).

**The Speaker:** So ordered.

Would the Honourable Member wish to speak thereto?

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. As I mentioned in my opening remarks, the Emergency Powers Law requires that when a proclamation of emergency has been made by His Excellency the Governor, the occasion shall be forthwith communicated to the Legislative Assembly. Today, in all of the

circumstances, is the first opportunity for this Honourable House to convene to be so notified.

I therefore invite this Honourable House to formally take note of the fact that on 11 September 2004 with Hurricane Ivan bearing down on the Cayman Islands, His Excellency the Governor, having been so advised, was indeed satisfied that a state of emergency existed and consequently by way of the Proclamation dated 11 September, he declared a state of public emergency.

The preconditions for the declaration of a state of emergency are to be found in section 3(1) of the Emergency Powers Law (1997 Revision). Section 3(1) says; **“If, at any time, it appears to the Governor that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity, whether similar to the foregoing or not, or that any action has been taken or is immediately threatened by any person or body of persons of such as nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life, the Governor may, by Proclamation, (hereinafter referred to as a proclamation of emergency) declare that a state of emergency exists.”**

The Law goes on to provide, in section 3(3) that; **“No proclamation of emergency shall be in force for more than one month, without prejudice to the issue of another proclamation at or before the end of that period.**

**“(4) Where a proclamation of emergency has been made, the occasion thereof shall forthwith be communicated to the Legislative Assembly . . .”** there are other matters in that section which is not of immediate relevance to this occasion.

Mr. Speaker, concomitant with the declaration of the state of emergency and pursuant to section 4 of the Emergency Powers Law, His Excellency the Governor promulgated what is known as the Emergency Regulations 2004. The reason for having such regulations are also provided for in the Law itself and it says in section 4 (1) **“Where a proclamation of emergency has been made and so long as the proclamation is in force, the Governor may make regulations for securing the essentials of life to the community, and those regulations may confer or impose on any Government department, or any person in Her Majesty’s service or acting on Her Majesty’s behalf, such powers and duties as the Governor may deem necessary for the preservation of the peace, for securing the public safety, the defence of the Islands, the maintenance of public order, the suppression of mutiny, rebellion or riot, for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the needs of transit or locomotion and for any other purposes essen-**

**tial to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid, as may appear to the Governor to be required, for making the exercise of those powers effective.”**

The Regulations, Sir, have just been tabled with your leave.

A necessary adjunct to this particular section on the regulation-making provision, Mr. Speaker, is section 4(3) which is probably one of the reasons why we are here. It says; **“All regulations made under this Part shall be laid as soon as may be after the making thereof before the Legislative Assembly and shall not continue in force after the expiration of seven days from the date when they are so laid before the Legislative Assembly, unless a resolution is passed by the Legislative Assembly providing for the continuance thereof, and in default of such resolution for the continuance of such regulations, the proclamation shall cease to have force and effect.”**

Mr. Speaker, the regulations that have been made provide for a number of things. For example, Regulation 3(1) provides for the appointment of requisition officers for all purposes essential to the public safety and the life of the community.

I shall not in any way attempt to go through the various Regulations, Sir, except I would say that Regulation 3(2) sets out who those requisition officers are and they are listed there and include members of the National Hurricane Committee, all Constables, members of Special Constabulary and all members of the Fire Brigade among others.

Regulation 4 stipulates that the Governor may impose a curfew to maintain public order and this Honourable House is aware of the existence of a curfew that is currently in place, I think the hours are from 8 pm to 5 am.

Regulation 8 deals with the issue of transportation, a matter of vital importance under the prevailing circumstances.

Regulation 11 deals with the issue of enforcement by creation of certain offences if the Regulations are transgressed. You will see the marginal notes that deal with the powers of arrest without a warrant, breach of curfew, obstruction and interference with officers and attempt to commit offences and assisting others to commit these offences. All of these are necessary powers in order to enforce the Regulations promulgated as a result of this occasion.

I just mentioned that Regulation 4(3) provides that once the Regulations are laid they shall not continue in force after the expiration of seven days from the date when they are so laid. So they can only continue in force, if this House so agrees, until the 27 September 2004 unless there is a resolution for the continuance.

The effect of that is that if there is no resolution for the continuance beyond the seven days then

the proclamation shall cease to have force and effect, this is what the Law says.

The Law provides in section 4(3) that on default of such resolution they shall cease to have force and effect. It is a matter for this Honourable House whether Members wish for them to continue in force beyond the seven-day period. So, Mr. Speaker, one of the things that this Honourable House is being called upon to decide is whether by resolution or motion there will be an extension.

Might I also sensitise Members that under section 3(3) of the Law, which deals with the life of the Proclamation, that the Proclamation itself is in force for a month unless the Governor on or before the expiration of the current Proclamation, issue another proclamation or as is also stipulated in law, whether His Excellency the Governor revokes the proclamation earlier.

Mr. Speaker, another thing I wish to mention in dealing with this is Regulation 6. Regulation 6 gives this Honourable House, through its Members, the power to add, alter or revoke by resolution this regulation. So this gives Honourable Members to revisit, if they so desire, any provision in the existing regulation. It might very well be that Members think there are aspects of it that are no longer relevant or needs to be continued. It is entirely a matter for this Honourable House how to deal with these things.

Those are some of the details that I would like to bring to the attention of this House in the presentation of the Proclamation and the accompanying Regulations that were issued on 11 September 2004.

I thank you.

## STATEMENTS BY MEMBERS OF THE GOVERNMENT

### Hurricane Ivan

**The Speaker:** I call on the Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

Unfortunately, the Cayman Islands have experienced the sixth worst hurricane on record. As a result of this catastrophic storm, our people have suffered severe damage to their property, extended disruption to basic living and intense emotional stress. Tragically there has been even loss of life.

I wish, on behalf of Government, to thank the many volunteers from all walks of life, who, despite great suffering and inconvenience to themselves, have worked around the clock to provide assistance, security and needed relief. At the forefront of this effort are the civil servants who work in essential services. All branches of the Police; Fire Department; Medical personnel across the three Islands; Immigration; numerous other Government agencies; the incredible management and staff of our national airline,

Cayman Airways; friends; family and business partners overseas.

Without this enormous effort which even included friends and business associates who flew in jets and private planes at their own expense, we could not have been in our present state of recovery which, when we realised where we were on Sunday 12 September, and where we are today, is in itself remarkable given the short span of time since Ivan's departure.

However, as remarkable as the progress to date has been, as a result of the superhuman effort locally, it continues to be my steadfast belief that despite the assistance we have received, we need much more assistance for disaster relief and recovery.

The people of these Islands—including all of us in this House—have suffered tremendous losses. Unfortunately, the United Kingdom has only seen fit to offer us very limited assistance at this time of great need. I should say that I have received a letter from Minister Bill Rammell, and I indeed spoke to him today. He did enquire as to our situation and said that his prayers are with us and that he will tell his colleagues in the United Kingdom of our situation.

It is important to remember that prior to the arrival of Hurricane Ivan that His Excellency the Governor invoked his emergency powers and under the provisions of the relevant Emergency Powers Law the Elected Representatives of the people, regardless of party affiliation, have not been in a position to make decisions on behalf of our people. Had the Government's powers not been removed, as Leader of Government Business, I would have immediately and formally requested the necessary assistance from the United States Government with whom we enjoy an excellent relationship. Regrettably, I believe that the Government's and the Opposition's advice to do so has not been implemented.

There is no truth to any rumour that the Government of this country turned away any aid. Thank God that we have friends in the region and further afield from St. Kitts, Belize, Honduras, Jamaica, and our brother and sister overseas territories British Virgin Islands, Turks & Caicos and Bermuda but there have also been companies and other agencies in the United States.

As the Leader of Government Business, months before Hurricane Ivan, I put a recommendation to Cabinet that an internationally recognised company with comprehensive experience and expertise in the area of disaster preparedness and recovery be retained to develop a comprehensive plan for the Cayman Islands. Marsh and McLennan, one such company prepared a comprehensive plan for the Cayman Islands to equip us to better deal with the current type of event which we have experienced and is still experiencing. An outline of the proposal was presented to Cabinet, the Governor and whoever advised him made the decision made the decision not to proceed with the development of a full disaster recovery

ery plan. It is my opinion, that had this been done that our country would have been in a much better state of preparedness to deal with the aftermath of Hurricane Ivan.

Mr. Speaker, we should all realise that not only have our people's lives been severely disrupted but the twin engines of our economy—which provide jobs and critical revenue sources for the Government to provide infrastructure, health and educational services, facilities and social relief programmes—have been jeopardised, and the ability of our people to enjoy a normal life has been stalled. I say stalled because we will rise again, we must all work together to repair the situation and to seek whatever governmental and professional assistance is necessary to ensure this restoration of basis standards of normal living happens in an expeditious manner.

I speak personally as the Leader of Government Business and a Caymanian. I can no longer stand by patiently and watch as our people continue to suffer. I believe all Members in this Honourable House feel this way. The United Kingdom, for reasons best known to themselves, has only been able to offer us very limited assistance and your Elected Representatives have been stripped of their powers to request assistance from others to an extent unless His Excellency the Governor orders so. That was done when I signed the letter to Bermuda a few days ago.

However, a disaster of this magnitude requires expertise from all aspects in order to alleviate extensive suffering. For the above reasons it has been recommended that it would not be prudent nor in the best interest of the people to extend the full powers of the Governor. It has been decided that on Wednesday at 10 am we will come back here to move a motion to give such effect, if by then His Excellency the Governor has not exercised his authority under section 2 of the Emergency Powers Law and revoked the proclamation giving effect for a state of emergency.

Mr. Speaker, in talking to His Excellency the Governor I do not think it will be a hard job to convince him of that. People feel that we must now get back to a system where the elected representatives of the people are able to make decisions which are in the best interest of all our people. In order to do that we will develop an all-encompassing strategy that addresses all aspects of the recovery plan.

The strategy would include economic recovery plans for the tourism, financial industries as well as a comprehensive plan to deal with the very important environmental damage and public health that has been created by the Hurricane.

More importantly, we must develop a plan to assist the less fortunate and poorer individuals so that they too can recover and start to have a more normal life. These things we must and will do. We have again given His Excellency the Governor a strategic recovery plan which will deal with clean up and disposal, water, food and essential services, building supplies,

infrastructure facilities (roads, CUC, telecommunications) and an economic recovery strategy.

This afternoon at 5.30 pm (I can say to this Honourable House) the private sector stakeholders in the tourism industry will meet. We are determined to rise and restart the engines of economic growth and bring back our tourism industry. Our Government will immediately put into place the necessary requests for assistance and the necessary measures to assist our people to return to a normal way of life. We believe that consideration for assistance and duty relief for persons and businesses who have lost their houses and equipment, sustained property damage and lost the core systems necessary to carry their operations, will be given.

It is good to know that a report from the Public Health Department says that there is no disease in the country post Hurricane Ivan.

Mr. Speaker, it is for us now to move this country forward, to do that we have to work together in unity. Government and Opposition alike in partnership with our people as I have seen so many Caymanians and other residents assisting each other unified, and being their brothers keeper. This is truly a time for us to be strong together in this House.

Mr. Speaker, perhaps we are distressed but not defeated; we may be in crisis, but not conquered and so help us God we will rebuild to take care of our people.

I thought about what I would say when we met here after this disaster. I do not profess to be a born again Christian, but I remembered what one of our Sovereigns said in a New Year's message, and I quote, "I said to the man who stood at the gate of the year, 'Give me a light that I may tread safely into the unknown,' and he replied, 'Go out into the darkness and put your hand into the hand of God: that shall be to you better than light and safer than a known way.'"

I can say no more at this time but that we will trust Almighty God and rebuild, and rebuild.

**The Speaker:** Thank you, Honourable Leader of Government Business.

I would invite the Honourable Leader of the Opposition to make a few comments also.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

I am very grateful to you for allowing me to say a few words on the adjournment on behalf of the Opposition, albeit you did say that we would be able to return on Wednesday and everyone would have an opportunity to speak to the Nation and express our individual feelings.

On behalf of the Opposition I wish to record our gratitude to Almighty God for sparing our lives during the terrible devastation of Hurricane Ivan. If any one of us had any doubts at all about a Superior Being, the last week has been more than ample proof that there is one.

The people of the Cayman Islands have lived through an experience which none of us have witnessed before. I am confident that there would be no contradiction of that. While today we grieve at the very few lives that were lost, we have to be and we are eternally grateful to the Father for sparing us the ordeal and anguish of loss of any others—especially given the tremendous devastation and damage to properties, buildings and, I daresay, to the country's entire infrastructure.

We here are all very sensitive to the extreme conditions under which most of us—if not all of us—now have to survive. However, I can say with confidence today that I firmly believe that this is but temporary, and if we continue to unite as a people we will be able to rebuild in relatively short order. That does not mean that everything will be fixed, but I say that because when we look around at what obtains now it is quite easy to despair. But we have not—and we will not. The ever resilient spirit of our people is shining now and this time of adversity, I believe, will only serve to make all of us stronger.

Special thanks must be expressed to the hundreds of individuals who have volunteered and who have rallied to the challenge and who have assisted the nation at this time. Our hearts must go out to them as they continue to serve. Even though some of them have literally lost everything—and I know this by speaking to some of them. This is nothing short of being what I call amazing.

We must also thank the many individuals, businesses and countries who have continued to assist in the aftermath. As the Leader of Government Business stated earlier, much more of this is going to be needed. However, I am confident today that we will get much more help because there are many, many people out there who know our plight. There are many who have been through this before and are in the position to help and want to help.

Mr. Speaker, we need to unite now more than ever, and I know that this we will do. Times are hard but we will see it through. Our people just need to continue to have the patience that they have displayed and as the hours and days pass—just as they have done since Ivan crossed us—we will see things slowly and surely getting better. We will rebuild this country. People will get their homes back and I say today that we will be the envy of many other countries. Together we will once again have our country back to where it was.

Thank you.

## ADJOURNMENT

**The Speaker:** I now call on the Honourable Leader of Government Business for the adjournment.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I move the adjournment of this Honourable House until 10 am Wednesday 22, September 2004.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday, 22 September 2004. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**The Speaker:** I ask members of the Business Committee to come together after this meeting to plan the agenda for the Order Paper for Wednesday and also ratify today's meeting. The dress code will be as it was today. Until we get back to more normalcy, I will not impose a heavy dress code on Honourable Members.

**At 4.15 pm the House stood adjourned until 10 am Wednesday, 22 September 2004.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**22 SEPTEMBER 2004**  
**12.04 PM**  
*Second Sitting*

**The Speaker:** I will invite the Second Elected Member for George Town to grace us with prayers.

**PRAYERS**

**Mr. Alden M. McLaughlin:** 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 Cabinet 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 12.07 pm**

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

Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**Message—Hurricane Ivan Strategic Recovery  
Process**

**The Speaker:** Honourable Members, on Monday last in this Honourable House, the Honourable Leader of Government Business provided us with a fairly comprehensive outline of the strategic recovery plan, which I understand has now received the green light from Government. I believe that such a plan is a move in the right direction. I am very pleased to see the close bipartisan approach that has been taken in addressing the pressing issues, in the rebuilding of our beloved Grand Cayman.

As the Honourable Leader of the Opposition said in his remarks last Monday, we will rebuild this Island. He repeated we will rebuild this Island. Honourable Members, I too share those laudable sentiments. We will rebuild Grand Cayman! There is a lot of work ahead of us and although the rebuilding process will not be easy, I am confident that with the help of God and the resilience of our people, we will return to a level of normalcy in the not too distant future.

It is roughly estimated that Grand Cayman suffered some \$2 billion worth of property damage; some people say it could be more. This is a huge burden for these small Islands to carry. We will meet the challenge. The rebuilding process will be costly; however we are already seeing funds being made available from various sources for the rebuilding process.

Post Hurricane Ivan economic recovery process requires guidance from experienced and knowledgeable individuals. I am aware Government is endeavouring to obtain the very best expertise available for this purpose. The recovery programme is multi-faceted and will involve the joint efforts of our bipartisan working group and the multi-disciplinary and experienced team from overseas to guide the programme.

I support the view that an urgent, major initiative is required to make any form of significant impact on the aftermath of this major catastrophe and all Honourable Members, regardless of party affiliation, including the Honourable Speaker's need to unite in this recovery process.

This is no time for us to question political motives of any of our colleagues. We cannot for example, wait for weeks and weeks for electricity and water to be supplied, or garbage removed, throughout the Island, while our people suffer. Thus the need for a joint team comprised of our local resources and any technical assistance we can obtain from abroad to expedite the recovery process.

I have been questioned as to my role at this time as the Speaker of this Honourable House. My short answer is that, in addition to being an elected

Member to this House, I am more importantly an elected representative for the constituency of George Town. As such, it is my intention to do all I possibly can in the recovery process. It does not matter to me very much if my actions are questioned or viewed as political, as I am satisfied that I will, as the Honourable Speaker of this House, continue to exercise the very highest of probity and impartiality equally towards both sides of this Honourable House.

My biggest regret at this time is that I am unable to be more visible within the various areas of George Town, and indeed throughout the Island, due mainly to the long hours I am spending in meetings with the Steering Committee of the Recovery Plan. However, I am sure that most of my people understand that it is most important for us to find ways and means of addressing the dire needs throughout the Island as soon as possible. I am attempting to do that with other Honourable Members of this House, together with other individuals from the private sector. On the question as to whether or not the situation resulting from the ravages of Hurricane Ivan has changed my retirement plan, I can only say that the furthest thing from my mind at this time is retirement. My only thought at this time is to relieve the suffering of our people for whatever period the recovery process takes.

I have been an elected representative for my people for almost 16 years and I have no intention of abandoning them when they need me most. Duty and responsibility has always been and still is, to provide my people with the best representation that I can offer. I have been meeting with the Recovery Committee almost on a daily basis—the Honourable Leader of Government Business, the Honourable Leader of the Opposition, Members of this Honourable House, His Excellency, the Governor, and individuals from the Private Sector. I will continue to do so as long as I am needed. Whilst this is no doubt the worst disaster of the century on these Islands in terms of property damage, I am confident that with the joint efforts of all of our people, the assistance from overseas and more importantly through the help of God, we will rebuild this beautiful Island. Every person I have met, Caymanians and expatriates, is committed to the rebuilding process.

There is no truth in the unfounded rumour that assistance has been turned away. To the contrary, we are trying to obtain assistance whenever and wherever possible. Last Monday the Honourable Leader of Government Business spoke at length on this matter and I trust he has put this rumour to rest. Let us therefore as a people spend our energy and efforts at this time in getting involved in the rebuilding of this Island, rather than listening to wild and unfounded rumours. Only this morning I was asked by a respected member of this community, who had heard wild rumours, if there was any truth that the Honourable Leader of Government Business was put under house arrest by the Governor. These unfounded ru-

mours must cease, especially at this time. Nothing could be further from the truth, the Honourable Leader of Government Business has been at every meeting and working harder than most of us. I had to tell him he needs to watch his health more closely. For example, last Monday when we left here at approximately 4 pm, we went straight into another meeting that ended perhaps at 9 pm. The Leader of Government informed me that he was going into another meeting. This is what each one of us out there should be doing, instead of spreading rumours.

I have not always seen eye to eye with the Honourable Leader of Government Business; at one stage he was in the Opposition from me. The truth is, however, that we have to tell the truth about things regardless of whether we like somebody or not and I am really getting a little angry when I hear these rumours flying all over the place.

Similarly, I have to say that His Excellency the Governor must also be congratulated because he has been present at every meeting of the Steering Committee and other committees, trying to get as much help for us as possible. I want to congratulate him for that and he has also been trying his best to deal with these issues.

In closing let me say that I am more proud now than ever in my life to be a Caymanian. This Island is, and with the help of God will continue to be, my home. Let me therefore encourage all residents of the Cayman Islands to continue to work together in the rebuilding process. Above all, let me repeat that we must never question our faith in God, for He will never fail nor forsake us. I truly believe that with the help of God we will emerge a stronger and better people. May God continue to bless these beautiful Cayman Islands.

Thank you Honourable Members.

### Apologies

**The Speaker:** I also wish to extend apologies for the First Official Member who is out of the Chambers on very urgent business.

I have been advised that the Honourable Leader of Government Business wishes to make a statement.

## STATEMENTS BY MEMBERS OF GOVERNMENT

### Letters of Support and Verbal Assistance from Various Countries

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. Thank you for your message to this Honourable House which I hope gets carried by the national press.

I rise to inform the House of letters of support from various countries. First, I would like to read the

letter from Mr. Bill Rammell, from the Foreign and Commonwealth Office (FCO):

**“Dear McKeeva,**

**“I would like to say how very shocked I was to hear about the impact of Hurricane Ivan on the Cayman Islands. The scenes of devastation that I have seen are truly horrific. I can only imagine what you and the people went through the hurricane itself. It must have been an appalling experience. You and all the other people of the territory are very much in our thoughts.**

**“However, I would like to congratulate you on the very thorough preparation which you undertook in advance of the hurricane. I am sure this is the reason casualties were kept to such a low level. I am glad that HMS Richmond and her fleet auxiliary vessel were able to land personnel on the Island and that they have been able to assist you in dealing with the aftermath of the hurricane. I also know that the Department for International Development is working extremely hard to provide you with essential supplies.**

**“In the light of this traumatic event, I, of course understand that you are unable to attend the Overseas Territories Consultative Meeting next week. You will have the support of all the other territory governments. I hope that the damage incurred can quickly be repaired; and that the territory will soon return to functioning as normal.**  
**“Yours sincerely,**  
**“Bill Rammell.”**

Mr. Speaker, I also received a letter from Mr. Eddie Tatum, the Honourable Mayor of Guanaja, Bay Islands, Honduras. He is here on the Island and I saw him last night. He has written:

**“Dear Friends:**

**“We, the people of Guanaja, are saddened by the destruction caused to your Island by Hurricane Ivan.**

**“As we see the destruction, we are reminded of the destruction caused to our own Island during the passage of Hurricane Mitch.**

**“We are also reminded that you the people of the Cayman Islands were among the first to come to our assistance.**

**“On behalf of the Municipality and the people of Guanaja, we hope that you will accept this small token of love.**

**“We pray that God will help you to a complete and speedy recovery from this disaster.”**

**“Sincerely,**

**“Eddie Tatum**

**Mayor of Guanaja**

**Honduras, Bay Islands”**

From the Falkland Islands Government:

**“Dear Mr. Bush,**

**“I write on behalf of the Government and people of the Falkland Islands to offer our sincere commiseration for the devastation that has affected your Islands as a result of Hurricane Ivan.**

**“The scale of the damage and disruption to your homes and lives is hard to grasp. Jan Cheek and I will be attending the Overseas Territories Council next week and hope to be able to talk to you or your representative about any practical assistance we may be able to offer from the Falkland Islands which will help in the process of rehabilitation.**

**“In the meantime, we send you and all the people of the Cayman Islands our full support as you endeavour to return to normal.**

**“Yours sincerely,**

**“Councillor Norma Edwards ”**

This is from the Island of Jersey, the Bailiff of Jersey:

**“Dear Mr. Bush:**

**“I write as President of the States of Jersey and on behalf of the people of Jersey to convey to you the sympathy of the Assembly, following the destruction wrought in the Cayman Islands by Hurricane Ivan earlier this week.**

**“In the States Assembly yesterday Senator Frank Walker, president of the Policy and Resources Committee, registered on behalf of all members the universal sense of shock which has been felt as news has emerged of the widespread loss of possessions, property and essential public services.**

**“We express the sincere hope that operations to restore normal life on the Islands will proceed apace and that the personal sufferings of Islanders, will be relieved as swiftly as possible in these very difficult times.**

**“Yours sincerely**

**“Philip Bailhache”**

Mr. Speaker, there were also messages of support for the Cayman Islands, from the Royal Family. From His Royal Highness, the Prince of Wales, **“I was horrified to hear of the dreadful devastation which has been inflicted upon the Cayman Islands by Hurricane Ivan and wanted you to know how deeply I feel for those who have been affected by this appalling storm. My heartfelt sympathy and prayers go out to all those who have lost their loved ones and whose properties and livelihoods have been destroyed. “**

The Earl of Wessex who knows the Cayman Islands well and visited last year to celebrate the quincentennial anniversary. Their Royal Highnesses, the Earl and Countess of Wessex, Edward and Sophie, asked the Governor to **“Please convey to the Government and people of the Cayman Islands, our**



**concern at the devastation caused by Hurricane Ivan. Our prayers are with you all especially those who have suffered bereavement or damage.”**

The British Virgin Islands and Chief Minister have been in contact with me every day since the hurricane and have offered certain assistance. We are getting police and other assistance from them. The Turks and Caicos Islands, Bermuda have offered certain assistance through the Bermuda Defence Force and other special considerations of assistance. We want to publicly thank all of them.

Mr. Speaker, I listened to your statement, Sir, and I see that even in this time of catastrophe with resultant stress and need, the dirty rumour mills, disloyalty, treachery and in fact, machinations which will not bring about the unity that the recovery will require, is ongoing. I thought that in these difficult times people's hearts would have changed somewhat and that they would have put their feelings, whatever they were, aside and the acclamations of unity would really be there.

From Thursday, September 9, I resigned myself to the fact that we were going to have trouble with that hurricane and on the Sunday of the hurricane, I knew that all of us would need to work to take this country to recovery. That is all I am asking Caymanians, I do not care really at this time what they say about me, whether they go to press with it or just spread rumours. I am a man of action and I believe what needs to be done we must do. I believe that all of us must do it together as much as the Parliamentary democracy allows. That is all that I want and I think that is all the Government wants. We want to work together. Let us show those people on the outside that had begun to distrust the political arm, be it the Opposition, or Government, that we in this House can set an example by truly working together for the good of all our people.

We have been working hard out there, I know. Members on both sides feel for each other, I can see it, Mr. Speaker. I know when people are genuine; I say let us continue that. If we stick to our guns, regardless of the political divide, and whenever, as they say in another country close to us, *whenever they fly the gate* then we will have to do what we have to do as politicians. We need to work together; we need human resources to get this done. It means most of all financial—that is going to be the true test—financial resources to get this work done. The mammoth job cleaning and bringing commerce and the health, welfare and education, social services and tourism industry back to where our people are enjoying that standard of living that we have enjoyed.

Mr. Speaker, I am sorry at this point I am speaking without written notes to you, but I had to make those remarks after the statement about the rumours in this country. I think that all those who want to start those rumours should be helping other people. That is what needs to be done. There is enough to do without idle talk and chat and they should take the “old car-

nality” out of their hearts and put aside their foolish ways to rebuild and rebuild.

**Waiving of Loan and Mortgage Repayments until January 2005**

**Hon. W. McKeever Bush:** We need to thank the retail banks for the compassionate gesture of waiving mortgage and loan payments until January 2005. However, if that period of interest is not waived or spread over the longer period . . . and there have been conflicting reports, Mr. Speaker, and that is why I am taking this opportunity . . . We as the elected Government would further request of the banks to consider a formula, a form of payment, that is London Interbank Offer Rate (LIBOR) plus one per cent that would take care of the administrative costs and at the same time would ensure that no customer would have to make a larger than affordable payment in January.

This is especially significant when we consider that the first payment would come due immediately following the Christmas season which is traditionally the time when people find it most financially awkward to have disposable cash. I know the Financial Secretary is still awaiting some information and we know that there has been what I call the “compassionate gesture,” of waiving of mortgage and loan payments. We are hoping, Sir, that interest payments are included, or the spread of that over the longer period, so that in January there will not be a lump sum payment—a wave that will crush people.

Mr. Speaker, I thank you for your indulgence and we move forward to the rebuilding period. Thank you for your offer of assistance.

**The Speaker:** Honourable Members, I want to let you know before Madam Clerk calls Item 4 that it is my intention to give sufficient latitude to Honourable Members, so that they are able to express their views and sentiments on the situations that obtain within their various districts. We do not have a motion to that effect as it would be difficult to raise a question or do a resolution on that motion. So, I have taken it on myself, within the powers that I have under the Constitution in the Standing Orders, to give sufficient latitude so that Members can include existing situations.

These are not normal times, Honourable Members, so we will not stick rigidly to the Standing Orders and the Constitution, as can be seen by our dress code. However, we would like to finish today, so I would ask Members to not exercise their right of speaking for two hours; this is not necessary because the whole situation is well known to all of the population. So, work with us so that if possible we can get out of here today. I have not yet asked the Honourable Leader of Government Business if on adjournment we will be adjourning until the day to be set, or whether we will continue today's meeting.

Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, we have not discussed this aspect, but as I see it in these times we would like to finish today so that we can move forward. However, these are not normal times that we are living in and I would not want to recommend that we put ourselves in the position where we would have to go through a longer process to get the House restarted. Perhaps we will move an adjournment that will allow you to call us back when, and if necessary.

**The Speaker:** Which will be sine die, until a day to be fixed.

**Hon. W. McKeeva Bush:** Sine die.

**The Speaker:** Thank you, very much.  
Madam Clerk?

**The Clerk:** Item 4 Government Business, suspension of Standing Order 45, 46 (1) (2) and (4) to allow the Police Amendment Bill 2004 to be read a first and second time.

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Orders 45, 46 (1),(2) and (4)

**The Speaker:** It is my understanding that the Honourable Second Official Member will be presenting this Bill and if so I will call on him to move the necessary motion for the suspension.

**Hon. Samuel W. Bulgin:** I beg to move the suspension of Standing Orders 45, 46(1) (2) and (4) suspended to allow the Police (Amendment) Bill, 2002 to be read a first and second time.

**The Speaker:** The question is that the Standing Orders 45, 46(1) (2) and (4) to be suspended. All those in favour please say Aye. Those against; No.

**Ayes.**

**The Speaker:** The Ayes have it. Standing Orders 45 46(1) (2) and (4) are accordingly suspended.

**Agreed: Standing Orders 45 and 46 (1), (2) and (4) suspended.**

## FIRST READING

### The Police (Amendment) Bill, 2004

**The Clerk:** First Reading, the Police (Amendment) Bill, 2004.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

## SECOND READING

### The Police (Amendment) Bill, 2004

**The Clerk:** Second Reading. The Police (Amendment) Bill, 2004.

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank You, Mr. Speaker. I beg to move for the Second Reading of a Bill, short title, A Bill for a Law to Amend the Police Law 2004.

**The Speaker:** The Bill has duly been moved. Does the Honourable Member wish to speak thereto?

**Hon. Samuel W. Bulgin:** Yes, Mr. Speaker, briefly. Thank you.

Honourable Members of this House are aware that 11 September 2004, or 9/11 if some Members wish to say so, with Hurricane Ivan bearing down on these Islands, His Excellency the Governor issued the proclamation declaring a state of emergency. The emergency was, among other things, to regulate public safety and the essential supplies to life. Simultaneously with the declaration of the state of emergency, Sir, the Governor promulgated the Emergency Regulations 2004 for regulating and securing the essential supplies of life to the community, preservation of peace, securing public safety, maintenance of public order. Pursuant to these regulations, no. 4 to be precise, His Excellency the Governor imposed a curfew throughout the Cayman Islands.

The dust having settled, it is felt that some of the powers that have been imposed pursuant to the Emergency Powers Law and the Regulations might no longer be necessary in all the circumstances. This feeling is informed by among other things, a recognition that there is a need to try to restore normality where possible as soon as can be. This would include Government departments and agencies reverting again where possible to pre-hurricane mode.

Accordingly, Mr. Speaker, as a precursor to consideration being given to lifting of the state of emergency, there would need to be legislative mechanism in place. This would allow the Commissioner of Police to impose a curfew where necessary, to regulate the movements of the public and for certain incidental purposes, such as stop and search and other things. Therefore, the Bill before this Honourable House seeks to enable the Commissioner of police to impose a cordon and/or curfew where the situation so demands. For the benefit of this Honourable House and the wider public, I will seek with your leave to read the relevant provisions of the Bill to best articulate the purposes of the Bill.

Clause 2 of the Bill seeks to amend the Police Law to insert a new section **29(A)** and would read **“Where it appears to the Commissioner of Police that having regard to the nature and extent of criminal activity there are reasonable grounds to believe that in the interest of public safety and public order or for the purpose of preventing crime or detecting crime it is necessary so to do, the Commissioner of Police may:**

- (a) establish a cordon around certain localities; or**
- (b) with the written permission of His Excellency the Governor, impose a curfew in any such locality between such hours as may be specified, requiring persons within that locality to remain within their premises during the hours so specified, unless authorised in writing by a constable who is in charge of enforcing the said curfew.”**

May I just say, Sir, that I intend that the relevant stage and with the necessary leave of the Chair to move a Committee Stage amendment to a certain section of this.

It continues, Mr. Speaker, with (2) **“Where a cordon is imposed, the cordon shall endure for a period not exceeding twelve hours (3) where a curfew is imposed, and a curfew shall endure for a period not exceeding forty-eight hours.”** May I just say that the “forty-eight hours” there simply means that the curfew can be re-imposed from time to time following an assessment of the security threat or other needs. So, if necessary, after an assessment has been made the Commissioner of Police can seek further approval from the Governor for renewal of the curfew. That would be entirely a matter for Honourable Members whether they think it is appropriate in the circumstances. However, the Bill will be open for debate and for suggestions in that regard.

The Bill also provides that **“29B (1) a constable may stop and search a person whom he reasonably suspects to be in contravention of section 29(A) [which is really in contravention of the curfews.]**

**29B(2) The search of a person under this section shall be carried out by a constable of the same gender.**

There is an enforcement provision in **29C** for **“A person who contravenes section 29A, is guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for six months.**

**29C (2) Where a constable with reasonable cause, suspects that section 29A has been contravened [that is violating the curfew], he may arrest without a warrant anyone whom he, with reasonable cause, suspects to be guilty of the contravention.**

Where a person is guilty of contravening section **29A** states that **“the Court may order that any goods or money in respect of which the offence**

**was committed and in his possession shall be forfeited to the Crown.”**

Mr. Speaker, specifically I think it is aimed at looters and if such persons are apprehended and items found that are suspected to be proceeds of looting, the Court has the discretion to have these things forfeited to the Crown.

If this House approves the amendment to the Police Law then even after the state of emergency has been lifted it simply means that the Commissioner of Police will have the necessary powers to impose a curfew either throughout the entire Island, or in designated areas, according to assessment made on the ground by the security officers themselves.

I, therefore, Sir, with this short outline commend this Bill to this Honourable House.

Thank you.

**The Speaker:** Does any other Honourable Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. A grave calamity has been visited upon these dear Islands we call home. Our people have been subjected over the course of the past week and a few days, to experiences which none of us who are alive today, I believe, could have contemplated in our wildest imaginations. When hurricane Ivan lashed these Islands with a force that was unreal, all of us were filled with great fear, trepidation — concern at that point I believe, mainly at the loss of our lives and the lives of our dear ones.

When we emerged from the storm early Sunday morning—really Monday morning—and it became clear to us the extent of property damage that had occurred, rumours circulated very quickly of tremendous loss of life on these islands. I too was overwhelmed at a rumour that as many as two hundred persons might have died.

However, when things calmed down, when matters subsided to a point where we started to get reliable information about what damage, particularly the fates of our fellow citizens and residents, and we understood initially that there had been no loss of life, everyone I spoke to, bar none, could only say this was a miracle.

As events have moved on and the days have rolled on, we have come to learn that there has indeed been loss of life. We are nevertheless again overwhelmed with gratitude to Almighty God, that loss of life has been limited to two persons, whose demise can be directly attributed to the storm.

Mr. Speaker, this morning when I arose quite early and thought about what I would say in this Honourable House, I went over to my office at home to look at one of many books with various quotations. My office had been treated to a good dose of salt wa-

ter like everywhere else in Prospect Park, and I had managed to have it cleaned out.

There on my boardroom table was a Bible. It is my Bible and I have it with me; it is a bit damp. It was opened to Ecclesiastes—and I have to confess that I am not much of a Bible reader. I say that apologetically, with a certain sense of shame and I have not spent a great deal of time reading the Bible. So, finding Bible verses is not something that would come that readily to me and because I saw the Bible opened, I decided to look at that chapter.

Ecclesiastes speaks about a number of things: A time to every purpose; the vanity of life—it speaks to the vanity of riches. Nothing in the initial chapters of Ecclesiastes leapt out at me that I thought was appropriate to this occasion. However, as I read on swiftly, and reached chapter seven, I found some verses that seemed to give some meaning; they give some purpose to the terrible events that have occurred over the course of this past week, ten days since Ivan. Which I believe ought to guide our deliberations, guide our action and inform our own purposes as we go about the rebuilding exercise. I believe in these words there is a message for these people of these Islands. With your permission, Sir, I would like to read these short verses.

**The Speaker:** Please do.

**Mr. Alden M. McLaughlin, Jr.:** Ecclesiastes, Chapter 7, verse 3: **“Sorrow is better than laughter: for by the sadness of the countenance the heart is made better.”** Then from verse 10, **“Say not thou, What is the cause that the former days were better than these? for thou dost not enquire wisely concerning this.”**

Verse 11, **“Wisdom is good with an inheritance: and by it there is profit to them that see the sun.”**

Verse 12, **“For wisdom is a defence and money is a defence: but the excellency of knowledge is, that wisdom giveth life to them that have it.”**

Verse 13, **“Consider the work of God, for who can make that straight, which he hath made crooked?”**

Verse 14, **“In the day of prosperity be joyful, but in the day of adversity consider: God also hath set the one over against the other, to the end that man should find nothing after him.”**

Verse 18, **“It is good that thou shouldst take hold of this; yea, also from this withdraw not thine hand: for he that feareth God shall come forth of them all.”**

The message that I get from all of that is simply this: These Islands have been the source of great pride on our part and envy on the part of the rest of the world, particularly the rest of the region, for now more than a generation. We have taken great pride in pulling ourselves up by our own bootstraps and mak-

ing this place the wonderful home that it is to so many indigenous and those who have come here and decided to sojourn amongst us. There has been plenty for a long time.

Caymanians, by and large, have not had to face adversity for more than a generation. Those of my father's generation understood adversity in a way that my generation did not, and certainly my children's generation does not.

However, in building these Islands and enjoying the fruits of those efforts in many instances, Mr. Speaker, I believe we have lost perspective; we have lost some of our humanity; we have certainly lost to a large extent our faith and trust in the Almighty. It has taken an event such as this to make us all come to realise our humanness, our mortality and just how pitiful we are as beings.

When we sat inside our homes filled with fear, completely overwhelmed and overtaken by the power of this 'thing' that was howling outside our doors, ripping our roofs off, pouring the sea into our most precious and safest homes or abodes, all of us I believe were humbled. All of us have been humbled and have come to understand that no matter how much money we have, no matter how wealthy we are, there is nothing that can withstand the force of nature. Some of the wealthiest persons in these Islands are homeless: no question about it. They are staying with friends.

That is the power and might of nature. The Great Architect is responsible for all. So, I believe that is the lesson that comes out of Ecclesiastes 7: In times of prosperity be joyful, in times of adversity remember, remember your Creator.

Mr. Speaker, I would like to spend some time discussing what has transpired, particularly in my constituency; how I view the recovery process; what needs to be done; and make some suggestions and recommendations as to the way forward in that respect. However, I would like to address the real matter before this House this morning, which is the proposed amendment to the Police Law. This amendment would invest the Commissioner of Police with powers he does not currently have. He would be able to cordon off certain areas and also impose curfews in certain situations and for certain lengths of time. That proposed Bill is one that has my complete support. Everyone needs to understand, in particular the listening public, why this is necessary because it is an invasion of personal liberty—or restraint on personal liberty—which is extraordinary. However, these are extraordinary and difficult times.

We have since September 11 been operating under a state of emergency as a result of a proclamation by His Excellency the Governor, under the Emergency Powers Law. Now, that state of emergency cannot continue indefinitely. Under the Law, unless there is a resolution of this Honourable House, it cannot and will not continue beyond Monday of next week.

The reason for that is that the Law requires that this Honourable House be informed, by his Excellency the Governor, of the making of the proclamation of a state of emergency, and that the regulations which are promulgated as a result of that, be laid on the Honourable Table of this House. Also, that the state of emergency will not continue seven days after the laying of those regulations unless this Honourable House passes a resolution that the state of emergency should continue beyond that point.

I do not believe, Mr. Speaker, that it is the desire of this Honourable House for the state of emergency to continue beyond that seven-day period, which I think expires on Monday next. If the state of emergency expires as I expect it will, it will mean the elected Government will resume such powers and authority as they normally have under the provisions of the Constitution. Some of those powers and that authority have necessarily been in abeyance with the making of the proclamation of a state of emergency. I think we all agree that the resumption democratic government is something that should happen as soon as possible.

Notwithstanding that, there are still a number of concerns as a result of the unusual circumstances in which we have to operate, following the passage of Hurricane Ivan. Mr. Speaker, one of my greatest concerns is the question of security if the state of emergency continues. I believe most, if not all, Members of this Honourable House share that concern. Certainly the Elected Government has shared that concern which is the reason we have before us an amendment to the Police Law. This would allow the Commissioner of Police to continue the curfew and to establish cordons where necessary.

I know that the curfew does irritate some people because having to be home by 8 o'clock is considered unreasonable. Perhaps if circumstances permit and proper assessment is made, the curfew can be extended to 9 o'clock. Certainly, I would not have any difficulty with that. However, I believe, given the conditions under which we are operating—with most areas not having any power, and lighting being a real issue—and the fact that many people's properties, homes in particular, have been damaged by the hurricane, it is therefore not as safe as it would otherwise be. This coupled with the reality that in the absence of electricity and in the middle of summer, it is indeed unbearably hot if one were to try and lock oneself up in the house with windows down and doors shut.

Due to the unsafe conditions in which many of us now live, it is critical that the police are able to ensure that any one who is out and about beyond the curfew is someone who has the requisite pass and authority to be there. If they do not have those things, without asking any more questions the police are able to say "You ought not to be here, come let me take you to a safer place."

So, I want all of us in the country to understand why it is necessary for this sort of invasion or restraint

to be there on private liberty. It is to make sure that the good people of this country are as safe as they possibly can be in these conditions and that the unsavoury characters who insist on going about doing ill deeds, making everybody's life miserable and destroying and looting, that the police have the wherewithal to limit their ability to do that.

For those reasons, Mr. Speaker, I support this proposed amendment to the Police Law. The task ahead of us to rebuild this country is monumental. I believe, having talked to many people that the enormity of this task has not registered with everyone. However, a tremendous amount of progress has been made over the course of the past ten days or so.

I must tell you, Mr. Speaker, one week ago I was very, very concerned about us having civil disorder in this country because of the lack of access to water and food, in particular, with the concern for fuel being of a lesser degree. Due to the efforts of many, many people over the course of the past four or five days, the situation with water and food are a lot better than they were one week ago. There is still an issue with food and water but the tensions have been significantly reduced.

Mr. Speaker, as big as George Town is, I have been to every community since the passage of Hurricane Ivan. I have a good feel now about the various concerns in different areas. In the inner city areas of George Town, not so much Central which has access to water from Flowers and others, drinking water is still something of an issue. Food is still something of an issue. There are those who even if they can get to the stores, because they have been unable to work for some ten days, do not have the means to buy food. So, we are going to have to ensure that all persons in Grand Cayman—Cayman Brac and Little Cayman are separate issues—do have access to food. It will not be caviar, or in many situations cooked food, but we have to ensure that no one in this country goes hungry.

A great deal of effort has been made by Elected Members from both sides of this Honourable House. I have seen them out doing their very best to distribute food and water, battling to get access to it in many instances, in order to keep the population fed and prevent them from going thirsty.

I believe that despite all the obstacles, hurdles and misunderstandings, that we have reached a point where if the current regime continues, the elected Members will continue to be able to spearhead the distribution of food and water, especially to the vulnerable areas in their respective districts.

Now that the food and water concerns have been abated, the concern is about shelter. I do not want to hazard a guess about how many people in George Town are homeless, let alone, know the rest of the country. However, I have to tell you Mr. Speaker, my heart is full, as we say in Cayman. The number of instances of persons who have lost everything; the number of persons who have literally cried

in my arms about their families being torn asunder; the fact that their families have been torn asunder because they have three children and everybody cannot go and stay with the same cousin, aunt or friend; you have one child over here and one child over there; Mommy staying with her sister and Daddy staying with his family.

We have got—and this is no criticism, because I understand the practical difficulties of us immediately addressing the concerns about persons who have lost everything. We cannot do it immediately, however, we are going to have to find a way as quickly as we possibly can, to get families back together in a place where they can call home. A place where they can have their children and spouses around them. That is a tremendous social issue that we are going to have to face swiftly. That is the extreme end.

Mr. Speaker, I went to an area in George Town yesterday — I will not say where because I do not want people to feel I am singling them out. The Minister of the Opposition and I had been there on the evening the hurricane struck, helping those people by ensuring that they had their places boarded up. Yesterday I went to check on the people to see if they had water and how they were doing. There were a number of houses in the yard; the house that had been out front was pushed up in a pile. There was absolutely nothing and of course as soon as the lady saw me she started to cry.

Everyone is looking to us, as elected Members, to assist with finding them a new home. Mr. Speaker, this is going to be the toughest one of all for us. We can clear the roads and rebuild them. However, for those people who had a little place and that was all they had, they have no significant income, they had no insurance, I believe—and some may say we will create a social state. However, I believe we have a duty as a government to do whatever we can to help those people get back a place in which they can live again. There are no 'ifs' 'ands' or 'buts' about it. We already have a serious problem with people trying to get affordable housing. There are those who have scratched through all of their lives, a little bit here, pinched a little bit there and are now in their 50s and 60s and in some cases beyond that.

The day before yesterday I spoke to an old lady who said, "Mr. Alden, I am eighty years old and my house is gone." She seems to be in good health, but how can we expect her to go and rebuild her home on her own? I am not suggesting that people who are in the prime of their lives, have a good job or prospects of a good job, that they should not be required to help build back their own lives. That is a given. I am talking about the vulnerable, infirmed, aged, indigent who will never, ever again be able to get back a proper shelter over their heads without assistance.

In the short term—I mean today, tomorrow and next week—we are going to have to find a way to get people 'dried in', as we say in Cayman—that is, those who have liveable standing structures, where water is

not pouring on them every time it rains. It seems that to the added misery of Ivan there is more rain almost every day since then. Those things require immediate action. I know that meetings are necessary to plan to strategise, however I have had it up to my neck with meetings. We need to be out on the road, assessing the situation and finding means of relieving and alleviating the people's suffering. We have got to do it. While I know there are some who resent the elected Members being involved, I am here to challenge all and sundry that there is nobody else who knows better the vulnerable areas, than their elected Members of this Legislative Assembly.

*[Applause comments]*

**Mr. Alden M. McLaughlin, Jr.:** I can tell you Mr. Speaker, that they can say what they want but I know that in the height of the hurricane, when it was blistering out there, 7.30 or 8 o'clock in the morning, people were calling or texting me and calling other elected Members. They called 911 but they could not come for them but they wanted their elected Members to find a way to save them.

Now, Mr. Speaker, that was impossible as 911 or no one could have gone out in that tempest. I am not suggesting... The point I am making is that it is to the Elected Members, that people in the community look for assistance in whatever happens. That is right and proper because we are the persons who they elected, who are accountable to them and anyone from anywhere else who thinks differently had better think again. I have said this in some meetings and will say it again. I do not care who tries to keep me from representing my people and accessing supplies or whatever is necessary to alleviate their suffering. I am going to do whatever I have to do lawfully, to make sure that my people get access to these things. I am going to do whatever I have to do.

*[Applause]*

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, we are on the front line and that is as it should be. The people have elected us. People know who Mr. Alden is, who Mr. Kurt is, who Mr. Roy is, who Mr. Rolston is, who Ms. Juliana is ... they know who we are. We are not nameless or faceless. We have made a lot of progress over this last week to get the powers that be to understand the role that we are not only duty bound to play but willing and desirous of playing in the rebuilding. We are not in the rebuilding exercise yet: the alleviating of misery is where we are.

We have to understand that until the people reach a certain comfort level, where water is not pouring in on them every night or where they do not have to think where they are going to get something to eat tomorrow, whether they will have water to drink or to bathe with, until they reach that level, nobody is thinking about rebuilding. The rebuilding they are thinking

about now is whether they can get some tarpaulin, tarpaper or a piece of zinc to put on their roofs to stop the leaking. That is the extent of the rebuilding. We are not as a nation ready for rebuilding until we address the basic needs of our people.

I have been a member of the financial industry for twenty years as at June 1 since I joined my firm. It was to that I owed my existence; my ability to earn a living derives from there. So, no one ought to try to tell me that I do not understand the financial industry and that it is not a major concern of mine. It is my bread and butter. However, if we focus—as I have heard some say—thank God not the majority—only on ensuring that the financial industry of these Islands is up and kicking, presenting an image to the rest of the world that we are business-as-usual in the Cayman Islands and we ignore the basic needs of our people, there will be no financial industry because there will be no Cayman Islands. Some people had better come to understand that. We have to address the basic needs of the people of this country, first and foremost.

Our people are living by and large in great hardship, suffering great deprivation and doing it with a brave face. We have to encourage them; we have to let them know that we are making real efforts to get their lives back to some sense of normalcy. What I am feeling and facing when I am out there is—“What are you all doing about this and about that?” By and large, I do not know. That has been my complaint about this from the beginning.

This is not the time for recriminations and blame. I am not going down that road but I am making certain points and drawing certain markers because it is important that those who make decisions on our behalf, understand that the elected membership of this House is not going to sit on their hands while their people suffer. We have to get back to the point where people are comfortable going back to work. Mr. Speaker, often I think that people believe when we talk like this, that we are just talking about the labourers. That is, the few who go and get a few days work here and there:

I am talking about people who work in banks, trust companies, law firms and accounting firms. They have expressed to me that they have great reservation about going back to work when they have to be at home worrying about whether or not they are going to be able to get something to eat, and water still pouring on them. That is the reality. As long as people still have to line up to get food and are limited to CI\$50 we are not operating in a normal environment. This is not saying that things are not going fast enough or that people are not trying to get things better. I am not trying to say that at all. A lot of people have worked and are continuing to work unreal hours to try to get things back to normal. The point I am making is that it seems to be in some quarters, a view that things are okay now—people have access to food and water so we can just get back to business and make every-

thing happen. We have not reached that point and still a good distance from that point. That is what I am trying to say.

Mr. Speaker, the fuel situation has improved tremendously and that has reduced tensions immensely. I think that will continue to get better. If I were satisfied that the food and water situation had reached the point of the fuel, I would be a lot more relaxed this afternoon than I am. I think they have done a monumental job in getting people access to fuel. People are not worrying about having to go to the gas station every day and wait hours and hours. That is a big part of the battle: Once people get comfortable and feel that when they need something they can get it, a lot of tensions and concerns will go away.

Mr. Speaker, I maintain that there is a real need for outside assistance. I was encouraged by what you said this morning, that there has been no refusal of outside assistance. I must say that after the Leader of Government Business spoke on Monday, in which he outlined a situation with—I think the name was Bob Livingstone at the State Department. If I recall him correctly, he said Mr. Livingstone had indicated that his office was willing to offer assistance but the United Kingdom was unwilling for them to do so. Mr. Speaker, that has almost filled me with despair; however, if that is not the case that is marvellous news. I caution us, Mr. Speaker. I know a number of us are upset with the UK and are willing to rail at what is perceived to be the lack of assistance by the UK in this our hour of need. I do not have the information and I am not part of the information loop. I only have to operate on what I hear and ask questions as to whether or not that is the case.

Certainly, there is a widespread perception out there that somehow the UK is not prepared to give Cayman the assistance which most people feel we ought to receive. I do not know what they have done. I gather they have sent water, medical supplies, there was a war ship, an auxiliary vessel offshore and I gather some of the personnel came off shore—how long they were here and what they did I do not know.

I do know, however, that our Police Force (in particular) is stretched to the limit. They are tired, weary and worn—we need assistance on that front. We need people who are able to spell out those police officers who have operated courageously and worked so hard over these past eleven days. I seriously question why we have not received them. I heard about twenty-five coming and was part of the briefing with Mr. Covington. Quite what twenty-five officers will do to alleviate the situation here I question. We need to get sufficient officers here to make sure that security is not an issue. I have heard from certain sources that officers are not showing up when they are supposed to show up because they are exhausted, they are unable to function. I cannot say that is a fact, I do not know it as a fact; all I can say is that the source from which I received it is a source I trust.

However, I think the country deserves answers to those questions.

People need to know. I think that is a big part of the battle of recovery. People need to know that the country is safe and secure and that when there is a curfew there are sufficient personnel to ensure the curfew is observed. We need regular, informative releases, not general stuff, not platitudes and generalities which talk about what a wonderful job we are doing and security is not an issue anymore. Deal with specifics: tell us how many personnel will be here, what is being done. That is what the country needs now: assurance, tangible stuff—not as my good friend the Minister of Education talks about, not 'lecture theatre stuff'.

Mr. Speaker, we need a visible presence of people who are here to assist in the recovery process. I know there are some that have pushed out their chests and said Cayman can take care of itself, we are going to do this ourselves. We might be able to do this ourselves but it will take another generation. I do not want to wait for another generation to get Cayman back to where it should be and I do not think anybody else does.

We need workers—aid workers—people to assist with rebuilding with security, with the monumental task that is ahead of us. I am astounded that they are not here in legion, and someone in authority—the Governor, or one of his assistants. Somebody needs to tell us why that has not happened. Why is it that the ships have left with their personnel? We are still in very, very dire straits. We need as many experts as possible here who can assist with disaster recovery.

Now, Mr. Speaker, the National Hurricane Committee did a phenomenal job in hurricane preparedness. As a writer of one of the letters read by the Leader of Government Business said, *he was certain our preparation had a lot to do with the number of casualties we had*. I am convinced that is absolutely the case.

Mr. Speaker, none of us could have conceived the magnitude of the damage and destruction this country has faced. None of us have the relevant experience in coordinating all that has to be done. We simply do not have it. All of us are giving our best but it is a 'fly by the seat of your pants', make a decision based on common sense and your own experiences which are not the experiences that we currently have. It is a huge learning curve for us. We have to get people here to help us with the recovery process.

Mr. Speaker, I do not believe—I cannot fathom the fact—that the UK is going to be so heartless that they are going to say to us "you guys get on with it yourselves". I just do not believe that is possible. I do not believe that they could stand up and face the community if that were the case. Someone, the Governor or one of his delegates, must tell this country why it is that the UK is not doing any more than she is doing.

I am not seeking to engage in any confrontation. I understand the importance of diplomacy, tact and these things. However, we are an Overseas Territory and they have a constitutional and a moral responsibility to us. We need this sort of assistance and we need it swiftly because it will bolster confidence in our effort to rebuild this country. The last thing we need now is for our people and outsiders who have invested, or have interests here, believe we are not up to the task and that things are not moving swiftly enough.

Mr. Speaker, you can only expect our population, as patient and long suffering as they are, to exist in these dire conditions for a short time. We have to get people back to a point where they have shelter, access to food and the basics of life and we are not there. People are still living in shelters and Lord knows how many hundreds in George Town are living with some friend or family, whose patience and charity is only so long. Those are the kinds of issues that some of the people in the key places really do understand. It is more than clearing the roads and getting electricity back in certain key areas, which is important and necessary. However, these are the other issues that worry me, worry me and worry me day and night.

Mr. Speaker, schools: Many people have taken their children off the Island to schools, and I am sure when the First Elected Member for Cayman Brac speaks, she will address the situation in Cayman Brac, which is a consequence of people evacuating Grand Cayman. We have to find out how quickly we can get the school system operational and how quickly we can get our children back into school. That is a major source of concern for parents for practical consequences which may not appear obvious to some people.

It is not just the fact that children ought not to lose a term or more of school, but what do parents do with school-age children? If parents have to go to work, leave their places unsecured (many people do not have helpers), what are they going to do with the children? It is a major issue. Those who can afford or some that can ill-afford it have taken their children off to school in Canada, the United States, Cayman Brac, Jamaica and to Barbados. We need answers to those questions and we need those answers swiftly. It is not a question of being impatient. These are hard questions we have to face.

Mr. Speaker, the Tourism industry has taken a huge hit and the reality is that it will be a long time before we have such a thing again because unless we get the Islands back to a state where people desire to come here, there will be no Tourism industry. All of the other ancillary industries that rely on the Tourism industry are also not going to be able to survive: restaurants, bars, rental cars, hotels—and the hotels are directly related to the Tourism industry—will face huge issues.



My question is: Where is the assistance? Where is the requisite help and expertise to get us through these matters? We all recognise that there is going to be (even if we did not have the huge outlays of cash which is going to be a necessary consequence of Ivan, even if we did not have to spend our own money to rebuild), there is going to be a shortfall as far as the budget is concerned. How will we get through these things? We are going to need outside assistance.

Sanitation has already become an issue. In some places including the area in which I live, the fly population is increasing daily. We are relying on the Department of Environmental Health to deal with all of these issues and I gather there is a plan.

My point is, Mr. Speaker, with the best will in the world, the greatest effort, all of which I concede are going to be given to this exercise, we do not have the local resources to adequately deal with this sanitation issue in this country. This is not a problem that we can wait for another month to resolve, we need people picking up all of the garbage now. I know trucks have been deployed and certain areas have been served, but I can tell you no garbage has been collected in my area for ten days. That is not a complaint about anything as far as the Department Environmental Health is concerned. It is that they do not have the resources necessary to carry out this job. We have to get machines, and get people in here to help get these things done swiftly before there is an outbreak of something or the other. We cannot rely, as some seem to think, on local resources to be able to do all that has to be done. These things cannot wait for a month to be done; these things need to be done now.

Mr. Speaker, I want to offer a few recommendations and suggestions about the rebuilding programme now. As far as rebuilding is concerned, we need to have the town to the point where the Government can function with a roof over their heads and an office to work from. We have to accept that those things have to be done. We have to find the quickest, possible route to repair the damage done to the roofs and structures of privately owned buildings, residential and commercial. Insofar as possible we have to seek to utilise methods that would do better in future hurricanes.

That means, in my view we are going to have to import additional expertise and labour temporarily. However, I hasten to say that we have to ensure that we make full use of the existing work force and that we give local contractors all the work they can possibly handle, if they are competitive in terms of price, speed and quality of workmanship.

Mr. Speaker, we are going to have to deal with some of the impediments, which are the result of some of the protective legislation we have in place. Some of the existing laws will delay the achievement, and will delay the objective of speedy rebuilding unless, the Governor uses his emergency powers, or

the Governor in Cabinet uses ordinary statutory powers to shortcut the licensing and other requirements.

I have had a look at some of those pieces of legislation and the following laws contain exemption powers, which would enable a speedy way of getting the requisite licences and permits: The Immigration Law; The Local Companies Control Law; the Trade and Business Licensing Law; The National Pensions Law and The Customs Law. We are going to have to cut through all of the bureaucracy and in my view, vest in Cabinet the ability to quickly make the necessary grants to get people, companies in here to do what has to be done.

We are going to have to identify the workforce; establish a register for persons able and willing to do the reconstruction work; and make a note of their particular skills. We should use the radio to encourage registration and as soon as we get the written press up to their previous level of operation also include them.

We need to work, although I know some of this is already going on with the Contractors' Association, so that we can advise ourselves of what the intentions and capabilities of existing contractors are; we could also investigate technology for temporary solutions pending the availability of funds; and also look at the feasibility of higher construction codes. Although I hasten to say that given the immensity and strength of that hurricane, I believe that generally speaking, Cayman has stood up better than anywhere else would have, including South Florida.

We have got to expedite bank finance and insurance settlement, I know some efforts are being made on that but we have to really press those things on.

We should allow existing contractors to bring in temporary labour, on the basis of a single permission from the Governor in Cabinet, rather than individual work permits, charge a nominal fee and provide exemption from the Pensions Law, so that there is less burden on employers.

I bear in mind, Mr. Speaker, that of course you have to ensure that these people who come in to work also have adequate housing and food. The contractor would be required to ensure to the satisfaction of the Government that those were available. I would suggest a maximum of ninety days for these permits and of course, whatever other conditions are deemed necessary to suit the particular cases.

Mr. Speaker, it might well be that we have to import foreign contractors to do some of these jobs and I would not be adverse to that as long as we have satisfied ourselves that we do not have the adequate resources or expertise here to get it done. By that I mean our local contractors will be stretched beyond their limits to be able to deal with the tremendous amount of reconstructing that is going to be necessary in the immediate term.

Once we have determined that we need them, for the time being we need to do away with the provisions of the LCCL and the Trade and Business Li-

censing Law and ensure that these people are able to get the necessary permissions swiftly. We need to expedite customs clearance, and I think in some of the meetings we have agreed to waive duty on materials and equipment required for the Ivan reconstruction effort.

Mr. Speaker, I think the last point I want to deal with is to address concerns that have been raised with me about price gouging. Government must do everything it possibly can to discourage price gouging and Mr. Speaker, if notwithstanding public statements by the Government about its disapproval of merchants increasing prices on goods, to take advantage of the shortage in supply and the need for people to have these goods, then this Legislative Assembly ought to pass the necessary legislation to ensure that that does not happen.

I have had reports of certain goods being marked up significantly since the passage of Hurricane Ivan, notwithstanding the fact that no new goods and supplies had arrived since then. At this point I have not confirmed these reports, therefore I will not identify what the goods are, for fear that what I may say may not be true but it perhaps may cause people to think it is from a particular store. The last thing I wish to do is to malign any merchant or anyone for that matter.

There are concerns in the community about certain merchants taking advantage of the situation and unduly increasing the prices on certain goods. I do know that has occurred, because of a personal experience before the hurricane, in relation to the sale of plywood. That one I am not asking about, I had that personal experience. The same plywood which had been sold for \$25 per sheet the day before, I bought for \$32.50. However, I really do believe that a strong statement must be made about the disapproval by the Government, and this Legislative Assembly, of those sorts of practices and the willingness of this Honourable House to pass the necessary legislation to criminalise that sort of behaviour in the aftermath of the greatest disaster these Islands have ever suffered.

I believe that I have covered just about all of the areas I wanted to address on this occasion. I just wish to say as I close that this experience has brought us closer together as a nation, a people and as legislators in this Honourable House. While I go through my constituency each day, as I am sure all other Honourable Members of this House do, I never cease to be amazed at the resilience of our people; of the strength of character, will and the indomitable spirit of our people. These are times of great adversity; there is no question about it.

People are suffering great deprivation and still they have banded together, they have bonded together, they are helping each other, helping themselves, they are looking to us for leadership, direction and guidance. We as Elected Members must not allow anyone, or any institution, to wrest or seek to wrest our responsibility away from us to ensure that

our people have whatever is available to them, particularly in these difficult times. It is to us the people look and rightfully they should. We must be in a position to be able to say to them what is going to happen, when it is going to happen. We must be in a position to ensure that the resources, though limited, are available to all of our people.

When the state of emergency expires, as I expect it will on Monday, the elected Government will resume the helm of this country and responsibility for the allocation and distribution of resources. I expect that as the Second Elected Member for George Town, to be fully involved in matters involving my constituency in particular. I pledge my support and assistance, and willingness to offer my views and recommendations to the broader recovery programme as well.

In particular, at this point I am gravely concerned about my constituency the district of George Town. I do believe that I can rely on the good judgment of the Cabinet to ensure that both myself and the Leader of the Opposition, the First Elected Member of George Town, will be consulted on a regular basis in relation to matters that affect the district of George Town and that we will be involved intimately in whatever is done in relation to George Town, whether it be the distribution of supplies, the rehabilitation of private homes and businesses, reconstruction of roads, whatever is happening in relation to George Town. As I said, I do believe we can rely on the good judgment of the Cabinet to ensure our continued involvement there. My colleagues from the other districts, will I am sure when they rise to speak, indicate their desire to be so involved in their districts.

This is a time for national unity, it is a common purpose, a common cause, and despite the political differences which we have, all of us are here I believe because of a sense of duty, responsibility and a willingness to represent the people of this country and to lead the people of this country. That calling, Mr. Speaker, becomes even more honourable in times of adversity. It is easy to be in charge when all is going well. The true test is those that can rise to the occasion in times like these. I stand ready, as I am sure do my colleagues on this side, to do our part in these tough times; to do our part in rebuilding these beloved Islands we call home, the Cayman Islands.

I thank you, Sir.

**The Speaker:** Does any other Member wish to speak?

The Honourable Minister for Education.

**Hon. Roy Boddan:** Mr. Speaker, I rise to make my contribution to the debate on this Bill, a Bill for a law to amend the Police Law (1995 Revision) for the purpose of ensuring the maintenance of public order and public safety and for incidental and connected purposes.

This is one time when I can say, Mr. Speaker, that I envy my colleagues who are assembled here under these extraordinary circumstances because, Mr. Speaker, when Hurricane Ivan struck I was in Geneva on official business. So, I cannot claim to be like my colleagues, a veteran survivor. However, I can assure you that I did not take any comfort in the fact that I was thousands of miles away out of the destructive path of Ivan, because I was only physically in Geneva: mentally and spiritually I was in the Cayman Islands. It was here that my family, friends and colleagues were and I had great fear and trepidation because following the hurricane, I understood, realised and expected that if that hurricane had struck—and I am still thankful for the miracle—that there would not have been much left of the Cayman Islands.

Therefore, I have a special commendation and respect for those of my colleagues who were here and lived through what must have been a most frightening experience. You too, Mr. Speaker, because it seems to me, as I arrived a few days after that there was no one in the Cayman Islands unspared and untouched by the destructiveness and devastation.

So, I should begin by thanking God and by commending the people of the Cayman Islands for standing so courageously and for those members of the National Hurricane Committee who laboured before and indeed are still labouring, to bring some semblance of order, comfort and hope back into our lives.

Mr. Speaker, we are assembled here under most extraordinary circumstances, because for the first time since World War II, the Cayman Islands has been placed under curfew, and the Governor for the first time in recent history has invoked Emergency Powers Regulations 2004. This law covered under the Emergency Powers Law (1997 Revision), allows the Governor to suspend the Cabinet and to rule without the advice of his constitutionally appointed Ministers. Such an action also bypasses the democratically elected Legislative Assembly and allows the Governor to rule as he sees fit.

Quite conceivably, this state of emergency must concern anyone with a sense of democracy and a sense of what an elected legislature conveys. All of the Members are concerned with the maintenance of law and order in the country and with the maintenance of standards of conduct as we move about trying to reconstruct our lives in the way in which we went about them prior to Ivan striking on 12 and 13 September.

However, we are also concerned with the suspension of democracy and the suspension of rule, laws and regulations, as we have come to expect. So, quite naturally we are here to debate, to discuss, to discourse returning to normality and returning to life as we knew it before, giving the Elected Members of the Legislative Assembly and the Cabinet, their responsibility. We as Elected Members are particularly

concerned with our ability, as was articulated by my colleague the Second Elected Member from George Town, for meeting the needs, servicing and having the access to those things which would enable our constituents to live under a semblance of normality and to restore to them the hope that is so critically needed in these kinds of times.

So, we have come to debate this law to amend the Police Law, to enable a curfew to continue so that we may be assured that no one is in a position to take advantage of the unfortunate and devastating situation in which we find ourselves. Mr. Speaker, during the course of my articulating the necessity and of outlining my support for this Bill, I will touch on a number of things. I have to say that not surprisingly, I wish to associate myself with many things so ably articulated by the last speaker, the Second Elected Member from George Town. These are times, not for political partisanship, but for a time of unity, a time for articulating our common concern as we are stirred by the bond that binds us together in this time of adversity and challenge.

I was particularly heartened by that Honourable Member's concern with how we develop. He was concerned that we must not develop now, or seek to restructure, leaving out those of our constituents who need shelter, regular access to food and other necessities. It would enable them, as we move forward, to live in dignity and to live with conveniences that are as necessary as the conveniences of those who labour in the financial sector.

The Cayman Islands have never witnessed devastation of this magnitude and I hope we will not have to witness that again. I have always said, Mr. Speaker, that Cayman is a frontier society, so it should not come as any great surprise that we would have this kind of challenge in the existence of the Cayman Islands as a society. What we need to do now is to find a way to rise to this challenge, so that we can develop stronger bonds, a more cohesive society, and a more understanding and deeper appreciation of our fellow men. Whether it be those of us who are established, as I consider myself, or whether it be those persons who have come of a more recent time and have not reached a point to where they can be described or classed "as established as yet".

As I traversed Grand Cayman, I was appalled and taken back, humbled by the magnitude of destruction. I particularly single out the constituency of Bodden Town which I represent, and then that of East End. The geography, and by inference the demography, of these communities have changed and are bound to change. Perhaps it would be wise to consider, before any rebuilding takes place, resurveying these constituencies to ascertain what, if any, physical changes have taken place and to ensure that the old established boundaries are still relevant and appropriate. Particularly, Mr. Speaker, on the seaside of these districts, significant physical changes have taken place. It would not be the most far fetched idea,

as to suggest that literally, physical boundaries have been significantly altered. I would seriously advocate that as early as is convenient, some attempt be made to resurvey, to ascertain that properties, its size and boundaries as we knew existed pre-Ivan, are very relevant and appropriate before any rebuilding.

The times call for a unity of effort. We are entering the rebuilding phase now and it is time for those persons, who best know what is needed to come forward. Those persons, beginning with Honourable Members of this Honourable Legislative Assembly,

Other organisations and bodies, particularly the National Hurricane Committee, have done well, and have made it possible for us to come this far without an apparent loss of life. Now is the time for the leaders of the country, those leaders elected by the people themselves, to take over the reins and to say as legislators and elected Ministers of Cabinet what must take place from here on in, what must be priority. Of course, Mr. Speaker, we are here to debate what we consider an important priority; the maintenance of law and order. Beyond that, also how must we prioritise development in terms of a regular and constant supply of food, water, electricity and how we must dictate the rebuilding of the communities in terms of making assessments as to which is the worst and prioritising.

It is now necessary to think about moving our people out of the public shelters back into the domains of their own houses and surroundings. Mr. Speaker, sociologists and psychologists tell us that people who are housed in these kinds of communal circumstances for a long time, begin to adopt a certain kind of psyche and personality which does not bode well and which does not easily enable them then to move into surroundings where they can re-establish their independence and their own identity.

I have heard my colleague, the Second Elected Member from George Town, speak about schools. I am going to say what I believe needs to be done. However, before I say that, let me assure him that as soon as the authority reverts back into the hands of the Elected Cabinet Ministers, I am prepared to, after discussing with my Cabinet and outlining what I think the priorities and the way forward should be, consult with all Elected Members of the Legislative Assembly as far as possible, educational and school developments as I see it so that each district and area representative can have his or her input into what is going on. What should be the policy with regards to the development of education and the placement of our children back into schools?

Mr. Speaker, we must move forward in a united way because I would suspect we will have to reorder some of our budgeted priorities. In this regard it will be necessary to have the support of all elected Members to enable us to understand this to sell it to the wider constituency and society. Simultaneously, with that, we have to understand that we cannot con-

centrate exclusively on getting the business community going without ensuring that the people who work in the industry [*Applause*] are comfortably housed and have transport to and from work, that they can be reasonably assured that their dependents are taken care of. I caution against any restructuring that does not give account for this and I can say unequivocally that I will not be a part of any reorganisation or redevelopment of this society that focuses exclusively on getting the business community up without taking care of the social and human needs of the populous at large.

[*Inaudible crosstalk*]

**Hon. Roy Borden:** Mr. Speaker, we are appreciative of those countries, jurisdictions, agencies and individuals which came forward with assistance and are still supporting us morally, spiritually and literally with and offers of, their resources.

It is now time for the Elected Legislature and Elected Cabinet Ministers to begin to reorder the development of this society and jurisdiction, particularly of Grand Cayman. I see a need now for less talk and more action. I see a need for less meetings in boardrooms in corporate offices and more meetings in the Cabinet office and the headquarters of the Government, with the Elected Members of the Legislative Assembly huddled in consultation with the Cabinet. I see a need for less agendas and more action. I see a need for the priorities from here on forward to be set by those persons constituted and entrusted by the society to so do, namely the Elected Cabinet Ministers with the Legislative Assembly Members throwing their support.

Mr. Speaker, I am watching closely to see that there is only one agenda mounted, and that agenda is a development policy and a reorganisation and a restructuring policy that benefits all and sundry. Not just one or two sectors, or one or two sets of individuals, but all and sundry, simultaneously, equally—that is, equally according to the development of the whole of Grand Cayman. I can say from what I have experienced that we have done well. However, as we drive, meet and speak with people now we can understand there is a need to move to the next level.

I want to commend the forces of law and order as I understand they have been working under the most trying of circumstances, just like I wish to record my concern and disappointment that little else but platitudes and moral support have been forth coming from a certain quarter. Mr. Speaker, I have to say that I am not totally surprised because anyone who knows me would know that my expectations from that quarter are low indeed. It is true I am not, have never been, nor will ever be, a good colonialist. It does not surprise me that all we have is the little we received from them that their '*thoughts were with us*'. So too were the thoughts of a billion Chinese.

We, the Caymanian people, will have to labour to rebuild our society and with the help of God, we shall so do. That is why, like other Members of the Legislative Assembly and the elected Cabinet, we realise that for the time being we are going to have to put aside political differences and personal differences, and as the old maritime phrase goes "put our shoulders to the wheel". Perhaps there are some who would believe that we are going to stay down. However, let me assure them like the phoenix we will arise from these ashes and with the help of God ensure that our financial services and tourism sector is once again up.

Mr. Speaker, now to the import of this Bill: It is necessary for the curfew to continue because as is realised we do not have full electricity restored. I am reminded that a fundamental source of security is light. There are communities, only a pocket in George Town now, which have what could be considered a full source of electricity. In the outlying areas indeed even in outlying parts of George Town, there is still no electricity. It is necessary to regulate the movements of people so that after certain hours only authorised persons have full freedom of movement. We know that there are those who are opportunistic and would avail themselves of the cover of darkness, and also in the absence of law-abiding and lawful persons, help themselves to whatever is available.

I was appalled yesterday as I visited the Constituency Office in Bodden Town in the commercial complex in which it is situated, to learn from some of the business people who share that complex, that there were elements who smashed the glass and looted some of the stores. I understand that the business lady who occupied the store at the very front of the building, close to the road, had to take her goods out of the building and abandon the premises because she had been visited by looters. I was saddened and dismayed because this is the main street in the Bodden Town community.

So, if that is happening there, I can imagine what would happen in more isolated areas. It is therefore necessary for the forces of law and for the extension of the curfew. I think it is only right and fitting for those persons found with no authority breaking this curfew, to be dealt with to the full letter of the Law.

I am happy, Mr. Speaker, that we can so regulate it so that the curfew and the state of emergency do not have to exist any longer than what we deem is possible. The Bill before us allows us that opportunity and that flexibility. I would hope that when the Bill is passed and assented to, that if there are unruly elements that they would understand the significance of what we are doing and the message we are sending.

Now, I will move on to more general matters.

**The Speaker:** Honourable Members, I want you to know that we are having a little difficulty in having the lunch sorted out, but it should be here within a few

minutes. So, please continue to be patient, these are not normal circumstances. It is now 3.20 pm and as soon as it is here, I will take the luncheon suspension.

Honourable Minister of Education, please continue.

**Hon. Roy Boddén:** Mr. Speaker, the only problem with that is that the longer I go, the more hungry I become and a hungry man is not the most logical of thinkers.

Anyway, Mr. Speaker, I want to address what I would consider the most important matter first, since it is a matter for which I have ministerial responsibility.

It seems to me that before we can sensibly rebuild, we must take stock and come to some decision in our rebuilding and restructuring. In so doing, I would hope that after we have arrived at that, we can then make assessments to see what, if any, labour or expertise we will need to bring in from outside. I was listening to the Second Elected Member from George Town, and I have to agree with him. Indeed, I stated yesterday that one of the first things I would like to do is to direct the Employment Services Department to cause a survey to be made to ascertain what labour we have available, district by district in categories so that we can inform ourselves of what persons we have available locally to be employed in the rebuilding and restructuring.

I believe out of this adversity can come many benefits and many good things to our people. I believe that those persons in the communities should be employed as far as possible in the rebuilding of their various communities. I certainly would not agree to any large scale import of labour without first being assured that such is not available locally at this time.

So, I would like to see [this happen] as early as is reasonably possible [through] the Director of Employment Services. It would be his decision whether he does so in tandem with the Chamber of Commerce or with any other body or non-governmental organisation which is equipped to do so and would be something to which I would not object. I think this is necessary, sound and sensible and I certainly would encourage it because in this redevelopment Caymanian people must benefit. We must not make the mistake we made in the past when throwing the immigration gates wide open to accumulate persons that we will later not be able to accommodate, or not be able to get rid of as will be necessary.

Mr. Speaker, I took the time to personally visit each of the Government schools on Grand Cayman and made notes of the damage as far as I could ascertain. It is safe to say that the only school which was untouched by Hurricane Ivan was the Prospect Primary School, which was (as you would know, Mr. Speaker) most recently handed over and also served as a hurricane shelter. That school is still in excellent shape. All other government schools, it is safe to say, from my eye (I hasten to admit), suffered damage from extreme to minimal. That is, they suffered dam-

age in ways that will need weeks of repairing, or, at a minimum one week's repair.

I know that it is a concern for our people because after they have settled themselves they must be enquiring as to what is going to happen to the children. It is my understanding that many children have relocated to Cayman Brac and most of them have been accommodated. I commend the school authorities in the Brac but the schools there cannot absorb all the children of Grand Cayman who are going to need to be accommodated.

Mr. Speaker, as you would know, I do not yet have the authority to make decisions regarding education. Until the Governor removes the state of emergency, my authority and position does not hold sway. However, I can assure you that when the situation reverts back to normality and I again, as Minister of Education, have the authority, I have some ideas and solutions which I am going to discuss with my Cabinet colleagues and later with Members of the Legislative Assembly, as to how we can get education back on track.

I am concerned that Ivan may have set us back some significant amount because we have students who are going into exams next year. We will not have the facilities up and ready to accommodate all of the students in the Government system, to the point at which they were accommodated prior to Ivan. We were just setting priorities and said we were going to commence the building of a new high school in Frank Sound, simultaneously with a primary school in West Bay.

Concomitant with all of this Mr. Speaker is the responsibility we have in helping the private schools. As I understand it, Triple C School has been damaged to such an extent that there will be no classes held there for the balance of this year. Damage has also been done to Cayman Prep and High School, and the St. Ignatius and Baptist schools. As Minister, I cannot say that I know of any approach made by these private schools to the Government yet. However, it would not surprise me if they have.

So, while we have responsibility for government schools first and foremost, there is a sense in which we have a moral responsibility to help the schools in the private sector which have come to rely upon a certain amount of government support. I say all this to say, Mr. Speaker, that the position of the Government schools is compounded by what will be this expectation. If we do not quickly come to some acceptable solution we shall lose the advantage that we had in our education system.

I can say, however, that all temporary classrooms have held up reasonably well. We may have in the interim to consider the establishment of more temporary classrooms until we can come to some decision with regards to prioritising our permanent physical development in school buildings. I have to say from a list I received yesterday from the Government education establishment headquarters, over at

the schools' inspectorate, that almost every teacher in the Government system has been affected. Some of them have been left homeless, lost all their possessions and some of these teachers were newly recruited teachers.

So, in that regard, it is not only that we have suffered devastation in the physical facilities but our personnel. I gave this list to the Honourable Leader of Government Business with how the teachers were affected, their contact numbers and with that went a plea from me for the rendering of any assistance to these teachers that was available. When I went over to the schools' inspectorate yesterday, there was great concern on the part of the Permanent Secretary and some other officials about the urgency to help these teachers. Mr. Speaker, teachers are like anyone else in these kinds of circumstances and conditions. Nor did we wish it to reach the point where they would begin to become forlorn and lose hope that they would be assisted in their time of need. I reiterate that apart from the restoration of the physical facilities, we also have to ensure that our teachers are reasonably accommodated.

I spoke with the principal of the John Gray High School a few days ago and I went to visit that site myself. That site is really, physically, not the strongest of facilities and I fear for the worst in terms of it being in any position to be usable soon. This means that we must make some decisions of exigency. If we are unable to operate in any reasonable standard, the school that produces our cohorts who move on to college and university, I fear that we are going to have a breakdown and a setback in our system. This is what I mean when I say that Ivan may have set us back significantly in terms of our educational development. So, we shall have to huddle to see how we can quickly come up to the maintenance of some semblance of continuity as far as our high school students are concerned.

I then visited the George Town Primary site, which we had most recently earmarked for physical redevelopment. Mr. Speaker, it took my heart out because as bad as it is, if it can be believable, trust me, it is worse. I do not know how we are going to any time soon restore any semblance of normality up there. Fortunately for us, when the Prospect School is able to revert to its exclusive use as a school, we may have to move even more of the children from the George Town Primary. I said "we may"—emphasis on "may"—because I have not discussed it yet with the experts. Even what was not earmarked for immediate restructuring at that school has been damaged.

That brings me back to the point that it is a critical necessity that as soon as is humanly possible, we move the people out of the schools, which are now being used as hurricane shelters. In the case of North Side, "out" may be "out of the North Side Community Centre", as this may have to be used as a school so that we have these spaces available.

It strikes me that we may have to operate our schools on a shift system, if we are in the interim to accommodate all of our students. This is not really strange in some jurisdictions, although it would be strange in the Cayman Islands. It would seem to me to be a decision of exigency, which we may have to consider. That is, allowing a certain number of students to go to school in the morning and then another set to go in the afternoon. It would be interesting to find out how acceptable this would be and this is one of the things that I intend to discuss with my colleagues and fellow Members of the Legislative Assembly.

I believe that in the case of George Town, it may be something we have to consider. Quite frankly, I do not believe that the Red Bay School, what is left of the George Town Primary School and the new school in Prospect, can comfortably accommodate the cohorts of students who would be primary school age in George Town.

We also have the cohorts of Triple C, that we will have to accommodate and we are going to have to think of utilising the teachers as best we can. Some teachers may have left the jurisdiction, I am not certain because I have not received any report from the Chief Education Officer, however it would not be far fetched to expect that some would have left. There is also the question of whether those who have left will be returning and returning to what. These are things that we are going to need to work out in the immediate interim, the sooner rather than later.

I can offer a ray of hope to the parents. I spoke yesterday with the Permanent Secretary, and we agreed that we are going to get the educational establishment up and running and children accommodated by 30 October. By my reckoning, that gives us from five to six weeks so we shall have to be working diligently. It cannot be expected that parents of school age can perform at their regular jobs if there is uncertainty as to the accommodation of their children and since everyone in the Cayman Islands at this time is education conscious, it is incumbent upon us to see that we have satisfactory arrangements made.

So, I reiterate we have given ourselves until 30 October to have some acceptable format where we can accommodate the students in our system, from the premise that we will give priority to exam level students first. However, it is our objective to ultimately accommodate and incorporate all of the cohorts of students.

Mr. Speaker, I want to speak a little about district matters now. Valiant efforts have been made by many persons in the district which I represent, to get things functioning. I want to say that there has never been at any time, since I have been a Member representing the constituency of Bodden Town, that there have been differences between the elected Members. I want to say that even more than before, at this time, that the three Members, in addition to members of their respected political support committees, family

members and well wishers have banded together and worked together to ensure that food supplies, water and other necessities were dispensed without fear, favour, or political partisanship to members at residences of Bodden Town. MLA Anthony Eden, my colleague the Honourable Gilbert McLean, and myself, with well wishers, supporters, family members, and friends, worked as best we could.

*[Inaudible interjection]*

**Hon. Roy Bodden:** Well, it is true, that was not only in Bodden Town, but I am speaking of Bodden Town.

*[Inaudible comments]*

**Hon. Roy Bodden:** It is not over yet and that is true.

Mr. Speaker, it was heartening to see how much was done by so many diligent persons in so short a time, sometimes in rain. Could more be done? Of course, more could be done. Are there people who are unsatisfied? Of course, there are, but more could not be done by us and those who were supporting us and we made and are still making— even as I speak there are people carrying on the dispensation and help and support.

It made us also aware though that there are areas which need to be addressed because it appeared that the conditions of our residents brought sometimes a testiness that perhaps we had not been so keenly aware of. This brings me, Mr. Speaker, to mention again, as I visited the building in which our MLA Office in Bodden Town is housed, about some complaints which were experienced by persons outside the shelter and which are simultaneous and similar to complaints which I heard from persons inside the shelter. Under these circumstances anything that can go wrong will go wrong.

**The Speaker:** Honourable Minister, is this a convenient time for you to take a break?

**Hon. Roy Bodden:** Mr. Speaker, this is a most convenient time because my breakfast this morning was a little dry cereal, a peach and a glass of water. Although I am of the age that I have seen lean times in the Cayman Islands, I do not want to test myself. Thank you, Sir.

**The Speaker:** Honourable Members, I wish to ask you to take one hour for lunch. It is now 3.02 pm and if you could be back here by 4 o' clock. Remember, we are trying to finish the debates today so it is quite possible we may have to go beyond 4.30. It is really left in your hands.

Thank you Honourable Members. We will take the luncheon break at this time.

**Proceedings suspended at 3.02 pm**

**Proceedings resumed at 4.30 pm**

**The Speaker:** Please be seated.

The Honourable Minister for Education continuing.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. I promise you as Henry VIII promised each of his wives, "I shall not keep you long."

Mr. Speaker, I wish to say that I have come to the point, where having regard for time and the urgencies of yourself and Honourable Members, I want to wind up by focusing on lessons to be learnt out of this experience. I am happy to say that this experience has brought us as a community much closer together, for Ivan has spared no one. As I move about there are persons whom I have encountered on previous occasions who had no time even for the briefest of salutation and expression or regard, now extending a hand and a hug and proposing brotherly love. I can only hope that it continues long after the memories of Ivan have faded.

Mr. Speaker, there are other lessons too for us to learn with regard to the development of this country—its physical development. I hope that we take cognisance now of the opportunity to improve our building structures, learn where to build, where not to build, what to build and what not to build. However, the greatest lesson of all that I think we have to learn is that all of us in these Cayman Islands form interdependent entities. We have, as we move about our social and working lives, always to give respect and cognisance to our fellow citizens.

Mr. Speaker, finally, this, with regards to social control: Many years ago it was proposed in this Legislative Assembly by me and by at least one other Member that I can recall, a motion calling for the establishment of a national identification system. If there is any lesson that I have learnt from the experience with Ivan, is that it is necessary for us sometime in the near future to have established in this society a system of national identification where every Caymanian citizen has a national identification card.

Mr. Speaker, we are talking about a curfew. It makes it easy for social control; it makes it easy for dispensing all of the kind of assistance that we need to dispense now. I have seen on occasions, far too numerous to elaborate now, how if we had such a facility in place it would make it easy when our people are queued up. In every society under these circumstances certain people must come first. I hope that the powers that be can understand that is necessary and I would hope that either a bill or a motion comes to this Legislative Assembly establishing such.

In conclusion, we cannot be cynical. Those of us who are Caymanians have always leaned on our closeness to the Almighty. I believe, Mr. Speaker, that that closeness continues. We will build back the Cayman Islands. I cannot refrain, however, from remarking that Caymanians are alarmed that some

people on whom they bestowed privileges, saw fit to desert us. I hope, Mr. Speaker, that a record has been kept of those persons who would use our hospitality for convenience and that when they attempt to return there could be some stark reminder of the unwelcome that awaits them as they try to move back into the communities which they left.

The Cayman Islands were not built by cowards, nor were they built by people who would use the kindness, generosity and hospitableness of the people for convenience and for advantage, but were built by people who were bound by sincerity and a camaraderie which is still in the veins of their progeny. Mr. Speaker, I know some of them and they cannot get my respect again.

By God's will we shall continue to thrive after Ivan and we will rebuild the Cayman Islands to the status which we held pre-Ivan. I implore my colleagues in the Legislative Assembly to continue on the path we have continued on. Later there will be time for separation, for distinction and for politics. However, right now the immediacy of the moment calls for a working togetherness to build the Cayman Islands and then of that we can all and shall all be proud.

Thank you.

**The Speaker:** Honourable Members, it was the intention that we would complete the business on the Order Paper today, however, this is not possible, especially due to the very unsafe driving conditions on the roads and in particular staff and Members of the House who live in East End, Queens Highway and that area. It is very unsafe driving there late in the evening. So, at this time I propose to call on the Honourable Leader of Government Business to move the adjournment.

**ADJOURNMENT**

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker. I move the adjournment of this House until 10 o'clock tomorrow morning, Sir.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow, Thursday, 23 September. Those in favour please say Aye. Those against, No.

**Ayes.**

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

**At 4.35 pm the House stood adjourned until 10 am Thursday, 23 September 2004.**





**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**23 SEPTEMBER 2004**  
**12.37 PM**  
*Third Sitting*

**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 Cabinet 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 12.40 pm**

**The Speaker:** Please be seated. Proceedings are resumed. Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**Apologies**

**The Speaker:** I have received apologies for absence from the Honourable First Official Member.

**STATEMENTS BY MEMBERS  
OF GOVERNMENT**

**The Speaker:** I have received no statements by Ministers or Members of the Cabinet.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READING**

**The Police (Amendment) Bill, 2004**

*(Continuation of debate thereon)*

**The Speaker:** Does any Member wish to speak?  
The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker. I rise to offer my support to this proposed legislation before this Honourable House. I would like to say how sad it is for these Islands, the traumatic experience that we have all gone through. However, as I go from one area of the Island to another, it gives me a great deal of satisfaction to see the unity this has brought to us. The way we have worked, crossing all party lines: thank goodness no politics have been brought into this. This has truly brought out the best in Caymanians and residents.

Before I touch on a few areas on my district, I would like to comment on the Bill to amend The Police Law, I would ask the Honourable Second Official Member to give consideration to a small amendment in 29(c)(1), if permissible and I do know that there are certain limitations and restrictions. I will read 29(c)(1), "A person who contravenes section 9(a) is guilty of an offence and liable on summary conviction to a fine of \$1000 to imprisonment of six months." The reason I am saying this, is because of some of the things I have seen and heard on the Island, I would add here "and where relevant, be deported."

I have been hearing and witnessing some horror stories in our district. We need to put our feet down and stop pussyfooting. Too many people are in need and I do know that, generally for deportation to take place, the sentence has to be over twelve months. However, these are difficult times and we need to stand up. Too many people are suffering and others are taking this frivolously; they are not dealing seri-

ously. We need to help each other and stop taking advantage of the situation.

My specific concern now is in the area of Bodden Town. What bothers me a lot is the disposal of garbage. It is now going into two weeks since I have seen the trucks in Bodden Town, Savannah, Breakers and Lower Valley and I have been made to understand that garbage in certain areas in George Town and other districts has been picked up twice, since the hurricane. There are mounds and mounds of garbage and I am concerned. We know what could happen; rodents can cause diseases. I remember a few years ago one of my good friends developed leptospirosis and this spread through the droppings of rats in the water. There are many rats around this Island at this time and we have to be extremely careful. It is a disease that affects the liver and if not caught in time with the proper medication, it can be fatal. I am begging the sources that can deal with this to do so.

My other concern is that in Gun Square and Cumber Avenue there is still a significant amount of standing water. The mosquitoes there are in hoards. A few years ago we had to treat the water with a bit of diesel at times. I would urge the powers that be to look into this problem as soon as possible and wherever we see standing water to have it treated as soon as possible.

As I continue into Bodden Town, I remember last Monday or Tuesday my other two colleagues the Honourable Minister of Health and Minister of Education. It pained me in the rain when packing bags, preparing supplies for distribution the next morning, when the people distributing went back, the bleach and liquid detergent and many of the bags had disappeared. No one seemed to be accountable for that. Mr. Speaker, this cannot be tolerated. It seems that those who already had were getting more. We need to show compassion and share with those who really need help especially the older people and those bound to their houses.

Yesterday my colleague, the Second Elected Member from George Town, touched on price-gouging and I am hoping that as soon as this House has the opportunity to reconvene and get going and get over this crisis, that proper legislation is brought to deal with this. I can tell you that we personally experienced going into the stores, looking for a submersible pump and on the shelf it was \$60 and when we went to check out it was \$85. We went back to check, it was \$60 yet people were trying to charge \$85. This is intolerable, Mr. Speaker. For whatever reason when people are most vulnerable we cannot allow some of these merchants to get away with it because what else can we do but pay what they ask.

I am pleading and hoping that as soon as we can get this legislation dealt with, it will give the power back to the Ministers, to start cleaning up especially on Spotts straight where Mariners Cove and Ocean Club used to be on the other side of the road. It would

be such a relief on the human psyche to just see some of that debris moved, and as my other two colleagues spoke, this is of the magnitude that I firmly believe we cannot deal with locally.

We must look at bringing in equipment quickly like grab trucks that can stay in the road and reach over in these areas; because debris is on both sides of the road as far as you can see into the bushes and it will expedite getting this removed. It is incredible what this will mean to our people to just see something like that. We met with Caribbean Utilities a short while ago and they have given us some positive feelings but it is a long struggle ahead and we can deal with it. However, we must accept that we need outside help and it must not come in letters sympathising with us, as seen coming from the Mother Country.

*[Applause]*

**Mr. Anthony S. Eden:** There are a number of us sitting here, and I will cast your memories back to when we had 1200 refugees pouring into this Island. I will never forget that as long as we live. Our dear Mother Country sent us a few tents. We remember when we came to Finance Committee and everyone raised holy hell about having to appropriate funds for something of this magnitude and they gave us some tents. That is not good enough. As I said then and I will say now, if my dear deceased Mother had treated me the way the Mother Country is treating these Islands, I would never have survived.

*[Applause]*

**Mr. Anthony S. Eden:** Mr. Speaker, these are trying times, however I know and see the resolution of the Members in this House, those who have worked so hard, the Hurricane Committee, the Reconstruction Committee, Ministers the MLAs, and we have that responsibility. I would like to personally thank all of those ... and the names are numerous but I will call a handful of names of those we saw in the district.

While we as MLAs are in here trying to arrange for things and distribution, a number of people are out there day and night. I will call out a few names and the others will please forgive me; Mark Scotland, Crosby, Jerry, Carter, Cindy, Carolyn, Steve McField, Kendall, Ossie, Chuckie, Charlie and Tony Powell, special thanks to Cayman Imports and Progressive Distributors for all the help they have sent into our district, Gilbert, Roy, Woods Furniture, Public Works for transportation and as I am gently reminded, my dear wife, who as many of you know is not well. However, she has made me proud. She is out there right now and up to last night we were down in Newlands and different areas and I understand how some of our constituents feel when we are not there personally delivering.

However, as legislators, we have to make the arrangements for distribution and the provision of these supplies and cannot visit the households personally, seven or 8000 or more in Bodden Town. It is our intention that as time progresses, we will literally be visiting every house, making assessments and finding out what is needed. In closing, I would like to urge, beg and plead to please do not forget the three Eastern districts. I know this will not happen and as I see the Minister of Tourism enter, we need to help him in providing whatever assistance necessary to get this Island cleared up. As I said specifically earlier on, the Spotts straight, I do not have to tell anyone that the tourists will not come here and look at this debris, we must get it cleaned up.

Finally, in closing, I would like to thank God for all the mercies he has placed upon us. Let us encourage our people to turn around our sometimes evil and wicked ways. We must refocus and realise that seeking the pleasures of this world is not everything. It is time ... as we remember, and all of us here of age, remember the respect we had for the Lord, how He has spared us so many times as I reflect back to hurricane Gilbert, Mitch, recently Charley; that went between Grand Cayman and Little Cayman is beyond my comprehension.

I heard certain explanations from meteorologists but I am not convinced that that was exactly what it was. However, we have an opportunity to get back to the days that made the Cayman Islands the most successful small island country in the world. It can only be done through the respect and love we have for our Heavenly Father. He is the one that will provide for us and as we go forward I urge us all to work together and we will rebuild our beloved Cayman Islands. May God bless us all.

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

**Mr. V. Arden McLean:** I too rise to give support to the Bill to amend The Police Law, to ensure the maintenance of public law and public safety. Similar to previous speakers, I will not dwell too much on that Bill and speak in general terms on the devastation that has been visited upon us in this country. First, let me give thanks to God for sparing us, that is, the loss of life was minimal in such a devastating storm.

Mr. Speaker, I do not believe any of us could imagine the devastation this country experienced as a result of Hurricane Ivan. Certainly, we were not prepared for such and to this day we struggle to try to put the pieces back together—in particular, my constituency of East End.

On Monday when I reached the Police Station in Bodden Town I found that the roads were totally impassable. I had to find a way into East End and I started walking. After walking for a while I met a friend with a loader and that is how I got into East End; by constructing a road into the district. East End was

totally cut off from the rest of the country. Upon reaching East End and since that day, tears have stained my cheeks from the sorrow and empathy for the people of East End.

One who was familiar with the district of East End would find themselves lost in that district because of the extent of damage.. People are displaced, property is gone, homes are destroyed, and there are over 100 of my people displaced and still in shelters. Mr. Speaker, I dare say many tears will continue to flow for a long time yet. I had an opportunity to speak with some of the older folks since then and they reminded me of the 1932 and 1944 hurricanes. However, they have never seen anything as devastating as we have just witnessed. Thank God, we have survived and only by the grace of God.

As I go around East End, and I have been there since the Monday following the passage of Hurricane Ivan; we hear of the acts of bravery of people during that hurricane. People left shelters to go out to rescue other people; they were swimming in twelve feet of water right in the middle of East End where the Capt. George Dixon Park is located. There will be time to thank these people and I will. They were young men, foreigners who went out and risked their lives to save others. On behalf of this country, I thank them from the bottom of my heart and there will be a proper time to thank these people publicly.

Since then we have had many acts of generosity in that district. As soon as the storm was over and I went to East End, I found a way to get to a lady in East End, and I know that this lady is a very private person, but these stories of generosity in these times must be told. Mrs. Susan Olde, has lived in that district for the past 7 or 8 years, and I went to this lady for help for the district of East End. Without question, she offered financial assistance. What was so interesting about me finding Mrs. Olde, was that she stayed here and she battled that storm with the people of East End. Thus far, there has been over \$200,000 of aid sent to the district through this woman. Mr. Speaker, directly given by her and she has committed \$3 million to the rebuilding of East End. *[Applause]* There must come a time in the life of the people of East End we when we honour that family and if I am around something must be named in their honour in that district.

While the National Hurricane Committee prepared us well for the storm, they have become overwhelmed with the aftermath of this Hurricane Ivan. We could not have handled it. East End was cut off, and if it were not for the generosity of this woman we would have still been in East End, scrambling, trying to get food into East End. I am eternally grateful to this woman.

What is more interesting is that we just got an update from CUC and we are talking about 8 to twelve before we get power in this country and 8 to ten before we can get it to East End. Mr. Speaker, do

you know what this woman has done? She has bought 200 generators, one for every household in the district East End. If you think that is not generosity—and feelings for the people that she and her children are living among. That woman, the Trust that runs her life (and she gave me permission to say this) since her husband died, sent a plane to this country to take her out before the storm but she refused to go. That is what we need. Those are the types of people we need more of in this country.

I know there are people here in this country with the financial wherewithal that can do the same thing and my appeal to them is to now help us rebuild our Country. I have a few words for Mother Country and I will take my licks for this one. I have broad shoulders and have never once shirked my responsibility and never once been afraid. In 1999, England made a big thing about how they were going to give us citizenship, non-reciprocity, but we would have all the privileges of an Englishman.

During the same time, England brought upon us another impending disastrous situation. When they supported FATF and OECD, to take our feet from under us, we survived—but barely, because of the struggles, the fight that we as a people put up against England and her G-8 friends. We survived them then.

They claim that the Cayman Islands is one of their prized possessions. Here we are devastated by an act of nature and England sent two of their warships and then after a few days withdrew them. I would like to know where that British citizenship has come from and of what value is it to us?

The Leader of Government Business read a letter from Mr. Rammell. The whole world has sympathised with us and if that is all England can do then I say something is wrong with that. *You sympathise with us?* Maybe our biggest downfall has been our success. Every country in this world has experienced disasters and all the other countries come together to assist them and here we are an overseas territory and England has done literally nothing to support the Cayman Islands, although I do not know but understand there is a rumour that they sent a former governor from BVI to assist the current governor. Is that what they think we need now? We do not need that now. We do not need that, we have sufficient support here for the current governor, what happened to the Chief Secretary? We do not need that, we need support, security and financial support and if they intend to help us I would like to see it very soon.

I wonder if they recall the war in Falklands and people of this country went from house to house collecting \$1, \$10 bills and \$20, from the little old ladies. This was sent to England to support their war against Argentina. Those same old ladies have now lost their homes. Where is England, Great Britain? We helped them with \$1 million dollars to maintain sovereignty over Falklands. Here we are devastated, not one leaf on the tree and they are not sending one pound of

fertiliser to get the green leaf back. One pound of fertiliser cost less than \$1 million, send us something, send us a gallon of water. The people of this country, my people, must know that England is doing nothing to help us. We are too afraid and do not speak from our hearts. The time has come, the time is nigh that England step up to the plate and we are not only here to cut our feet from under us in our financial industry but also when the time comes that we need help, they must respond. If they want to talk in the G-8 about their *country* in the Caribbean then they must help us rebuild it. Let us rebuild it.

My message to England is very simple. It depends on who you talk to, either an Arabian or Egyptian bird, named the Phoenix. It is so ironic that that mythical bird lives for 500 years then sets itself on fire rising renewed from the ashes. Why is it ironic? We just celebrated 500 years of existence and here we are, we did not set ourselves on fire but we have been burnt. My message to England is that we are going to rise from the ashes like the phoenix does and we are going to do it by ourselves. The same determination, commitment that our people had for the past 500 years have been passed on to us and we are going to do it. Surprise, surprise, it is not going to take 500 years to do it. In the next 500 years we will do it again and we will rise again. We are going to be the “phoenix” of the Caribbean; we are going to rise from the ashes and we are going to spread our wings even further than we did before.

I know that my people are ready, willing and very able. Those people from the past, our ancestors were in the days when it was wooden ship and iron men and that is what they have passed on to us, through their actions and the spoken word. While England is thousands of miles away, we have learnt well from our ancestors and we will do it, I promise you, Mr. Speaker. It will be in our lifetime, mine and yours. We will do it; that is my message to England. We are the phoenix, the phoenix of the East, the phoenix of the East has arrived in the Caribbean, and if it means I have to work my hands to the bones that is what I will do to bring this country back from the ashes. The ashes will not keep us down. I think that is enough for England.

Mr. Speaker, I would just like to turn to other areas that I feel need to be addressed. As I said earlier, neither the National Hurricane Committee, nor anyone else in the country has been prepared for the aftermath; it was impossible. However, the time has come for us to stop the meetings. By now we should have understood, or maybe we have not yet understood the enormity of what we have to do. I see it every day I am in East End. This morning at 6 o'clock I was at the door of the Second Elected Member for George Town, to get him to accompany me to Progressive Distributors to get food for my people in the shelter so that they could get breakfast by 8.30 or 9 o'clock. We did that and that is how it has been going

because travelling into East End is extremely difficult. The roads are destroyed, it is a makeshift road and it is dangerous.

Mr. Speaker, you mentioned it yourself yesterday that you wanted to adjourn to allow Members and staff to make it over that almost impassable road, as a result of Ivan. The time has come to refocus. There was a point when the issue was food and clean drinking water. As far as I am concerned, I feel that I have that under control in East End. There are other places that we need to pay more attention to but right now every day in East End, food is distributed between 8 and eleven o'clock in the mornings, and more on the weekends. One of the things I implore from the people of these Islands, is to have a little patience. Nothing will be the way it was before and if we have to eat a few corned beef, sausage and chunky beef from the cans for the next few weeks that is what we will have to do to survive. That is all I am eating, I am eating that at home, I do not even have hot water to shave. There has to be some patience exercised in this process; I implore the people to be a little patient.

To the people in my district, I want them to come out every morning and get whatever they need from the distribution point at the Civic Centre. That brings me to a convenient point about the importation of goods to this country and the commandeering of goods. I know we under a state of emergency and whatever is needed the Government has the right to commandeer stuff in the best interest of the public and requisition officer that are civil servants. I understand that, but I know when I started this process Tuesday last, there were a number of looters in the street on Sound Road. I went to East End and brought some people down to get the container through. That is an unfortunate state of affairs in our country. I will speak briefly on the security and how our people are feeling at this stage, but first, let me explain, that is not the Cayman way. That is not the Cayman culture. While we may get upset and we may get disrupted, agitated and whatever adjective you may want to use to describe us, we do not do that. There were no Caymanians there; there were other nationals that were in the street. I had to stand very firm with those people to get them out of the front of this trailer, and the driver was not excited about getting through but I was, because I was delivering food to my people in East End. That is a serious state of affairs but nonetheless it was delivered to East End.

Returning to the requisitioning of goods and officers, within the next few days I am going to have at least six containers assigned to me. I have been hearing that we are requisitioning stuff coming into the country. Did they all hear that East End is cut off and I cannot get any food to East End? Do they understand that of all that over \$200,000 worth of food stuff gone to East End, not one gallon of water has gone into Arden McLean's house? It is going to the people of East End, it is not mine. I am trying to en-

sure that the people of East End, during this time of misfortune, they are relieved of that pressure and that I make them as comfortable as possible. Mr. Speaker, this is not a good thing, I do not have any shop, I am not selling generators or flour, and we are giving it away. I would implore all those who have any authority to tell them to let us through, to go to East End. There is no need for it to go anywhere else and if anyone else gets stuff donated, please let it go.

The best people to know what is needed are the 15 people who were duly elected in the country; those are the ones who must do the distribution in the country. The National Hurricane Committee has done well, but we are now reaching that phase where we need help: we need to get help in here. We need our MLAs who are willing to help and those who are capable, we need to get them involved. For too long, we have been left out on the sidelines.

I do not know what is going on, but I am getting food and what they need, to East End. We need to get every body involved, get the Members of the Legislature involved. This is not about politics; this has bridged the divide; the dynamics of politics has changed; Hurricane Ivan has changed it. There will be times when we will argue again, after we have made sure that our people are back on their feet and comfortable.

The time is now fast approaching that we need to get people back into their homes, even if it was not as good as it was, that is, someplace they can feel they are back in their environment and in control. They cannot survive in those shelters for very long. It is cramped quarters and while they may be living among friends, it is not theirs and the time has come when Government must support. We need the roads built back in East End. We hear CUC saying it is difficult for them to get in there because the roads are destroyed and we have put up with it for a week and a half. It is time for rebuilding and in particular, my district. Many of the Members might not have had an opportunity to reach East End yet, but it is bad, it is destroyed. I would invite any Member to go to East End to see the devastation that has been brought about to that district. I am going to need as much help as possible, to rebuild that district and I am glad there is no divide in this Honourable House now, in that I will get the support that I need to rebuild that district.

There is much to be done, but no matter how we do it, there will be those distracters, but they should come out to help instead of walking around shelters at night when they think the politicians are not around. They should come out and help the people of this country, and stop spreading rumours. Get up at 4 o'clock in the morning and go to George Town to get turkeys, chicken, bacon, beef and potatoes, so that the people in the shelters can be fed; that is what they must do. When I am having 20 hour days, they are sleeping.—that is what they must—stop distracting and spreading vicious rumours, about me putting

money in my account. This is not the time for it. If you want to help, help. Spreading rumours about the Leader of Government Business and Leader of the Opposition, under house arrest must stop. Start helping! Go and pull one or two tarpaulins over somebody's house, pull some bush, clean rubbish out of the yard, get a chainsaw in hand and stop dragging around mouths and doing nothing about it. This is what is happening. This is the time to rebuild and we have to stop it. This is the time for us all to come together, come together as one and when the time comes for campaigning we will do that — not now there is no time for it.

There is no time for abundance of meetings; it is time for action, action. I hear that in the pre-campaign phase, a few months ago, the two Ministers from Bodden Town say that actions speak louder than words, and it does. It does and the actions by some of the distracters around here speak much louder than words. They have to stop it and get out there like the rest of us.

Security: I know that the Police Force is stretched beyond its limit; much needs to be done but we need more help with security in this country.

Our people are concerned about looters. I know, I hear them; they are afraid to leave their houses and I am not saying that looters are still out there in all places. However, I believe that the police have put that under control to a greater extent but as soon as looters hear on the radios that within a week, which I heard last night from press release, that they are going to release some of the people from Turks and Caicos and the other countries; this is not over, this has only just begun. It is not over, and we need as many as we can in this country now, we cannot afford and I believe we need to bring some people in to help us.

It is impossible for the Department of Environmental Health to do what they have to do in such short time; it is going to take years to clean this place up because DEH cannot do it in a very short time. I am mindful of time, but there is so much that needs to be said.

Mr. Speaker, I look forward to the lifting of the state of emergency, but certainly, I believe that the curfew is necessary. We cannot afford to have our people walking the streets all hours of the night, when they will upset the restoration process and it gives those unsavoury individuals—because we have them still, they have not gone any place and some of our own people are like that and if we do not keep the curfew in place they are going to hit the streets and their apprehensions on our people will be worse than experienced prior to the hurricane coming to this country.

It is frightening. We need to keep them home and the curfew must stay in place, regardless of what time we compromise. We need to ensure that it stays

in place, thus, my reason for supporting the amendment to The Police Law.

Mr. Speaker, I would like to thank all those people in East End and this country who have helped—in particular people in East End shelters. People have been there: Support staff have been there around the clock for days and have not gone back to their homes. The churches are having churches in the shelters. Many of our churches are destroyed and have no place to worship; they now go to the shelters to worship.

I have a situation where the Alden McLaughlin, East End Civic Centre has no air condition because the generator is too small and today I am going to look for a generator to get air condition in this place. Mr. Speaker, I do not know what more I can do. I have done it all since last week Monday evening. I have had two and three hours sleep per night, but that is what it takes if we are going to do it. Fortunately, or unfortunately, for me East End was cut off so I had to take the helm. There was no one else available to help me; the National Hurricane Committee could not get there, their officials could not get there nobody could get to East End; I had to take it over. Thank God, I did.

One of the things I have always said about myself is that I do not like following too much because when you are behind the scenery never changes; you have to be up front for the scenery to change. Thank God, I am made like that or East End would have been in total chaos: no grocery stores, nothing in that district. We know we are in for a long haul, between Darrel Rankine, Oswald Rankine, Jeva Powell, Augustin Powell, we can do it and we are going to do it. Delmira Bodden and her brothers, heroes in that district to name a few; Donna Conolly, Ann Kirchman from the Lands and Survey, have worked until you can see the red in their eyes. I thank God for all of them and the unnamed ones. I trust they will not hold it against me, if I did not call their names because there are so many, too many to name and let them know we are on the block and we are going to do it, if it means our entire lives need to be dedicated, we are going to do it.

We just need a little assistance from the Government because no matter what assistance Mrs. Olde gives us, we will still need Government. We need to have Government, we need to rebuild the district and there is so much to be done. I ask for the support of the Honourable Members here and I know if I complained any other time . . . This time the Members are listening to me. They know how badly East End has been hit and how much destruction has gone through that place.

I would not advise too many sightseers to come up there because the roads are too bad and we really do not need sightseers in East End right now because we cannot even get across to Tortuga Club. The roads are blocked with 5 feet of sand, it will take us 3

weeks to get it cleared, and we do not need sightseers because the little restoration effort that Public Works is doing, will be disrupted. Stay at home and pray for us and whatever little donation you can give, please give it into the Government, we need it because our Mother is not sending us anything. We are going to have to do it ourselves.

Thank you, Mr. Speaker.

**The Speaker:** Honourable Members, before I call on the next speaker, I would like to take two minutes suspension to speak to you on a matter off the air.

**Proceedings Suspended at 1.44 pm**

**Proceedings Resumed at 1.49 pm**

**The Speaker:** Proceedings are resumed. Does any other Member wish to speak? Does any other Member wish to speak? If not, I would ask the Honourable Second Official Member to reply.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I only rise to thank Honourable Members for their support of the Bill and I have taken on board the comments made by Honourable Members, and where possible those will be reflected in other legislation in due course. I thank you, Sir.

**The Speaker:** The question is that a Bill shortly titled The Police (Amendment) Bill, 2004 be given a second reading. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed: The Police (Amendment) Bill, 2004 given a second reading.**

**House in Committee at 1.51 pm**

## **COMMITTEE ON BILL**

**The Chairman:** May I assume that as usual we should authorise the Second Official Member to correct minor errors and the like in these Bills.

Would the Clerk read the clauses?

**The Police (Amendment) Bill, 2004**

**Clauses 1 and 2**

**The Clerk:**

Clause 1	Short Title
Clause 2	Insertions of sections 29A, 29B and 29C into the Police Law (1995 Revision) Emergency Powers

**The Chairman:** The Honourable Second Official Member.

**Suspension of Standing Order 52 (1) and (2)**

**Hon. Samuel W. Bulgin:** Thank you, Sir. Mr. Chairman, the usual thing is that we would type and circulate a Committee stage amendment notice. Given the circumstances and pursuant to Standing Order 52(1) and (2), I seek leave of the Chair to move Committee stage amendment and to waive requirement of written notice to be provided.

**The Chairman:** The question is to suspend Standing Order 52(1) and (2). All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Standing Order 52(1) and (2) have been suspended.**

**Hon. Samuel W. Bulgin:** Thank you, Sir. Mr. Chairman, In accordance with the relevant Standing Order, I seek to move the following committee stage amendment: That clause 2 of section 29A(1)(b) be amended by deleting "in any such locality" and substituting the following:

- (i) throughout the Cayman Islands;
- (ii) in respect of any district or place within any district on any of the Islands.

**The Chairman:** I will put the question on Clause 1 first and then since it is Clause 2 that is amended we will deal with the amendment to that. The question is that Clause 1 forms 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 Chairman:** You have heard the amendment made by the Second Official Member on Clause 2. The Second Official Member.

**Hon. Samuel W. Bulgin:** Mr. Chairman, there is another amendment to clause 2, that I would seek the leave to propose as well. The other amendment is in respect of section 29C(3) where it appears in the Bill to delete "shall be forfeited to the Crown" and substitute instead the following words, "may be forfeited to the Crown or otherwise disposed of as ordered by the Court."



**The Chairman:** The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, the Honourable Second Official Member stated in that amendment he just read if I am remembering it exactly “may be forfeited by the Crown or otherwise disposed of as ordered by the Court”. Does the word “may” . . . is it implicit that that does not apply to the second phrase in that amendment?

**Hon. Samuel W. Bulgin:** The objective is that it may be forfeited—

**Hon. D. Kurt Tibbetts:** One or the other?

**Hon. Samuel W. Bulgin:** It *may* be forfeited to the Crown or otherwise disposed of. The objective—the thinking there, Mr. Chairman is that for example, if someone loots someone’s property—

**Hon. D. Kurt Tibbetts:** That they can get it back.

**Hon. Samuel W. Bulgin:** It does not necessarily go to the Crown. If the owner can be traced then it can be returned.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, that is not my point, though.

Mr. Chairman if I may, quickly, what I am trying to ask is . . . the way it is worded says “may be forfeited to the Crown”, my question is: Does it mean ‘or may be’ again. In other words — I am just speaking to the wording when you make the correction. Would you read it just one more time?

**Hon. Samuel W. Bulgin:** “May be forfeited to the Crown or otherwise disposed of as ordered by the Court.”

**The Chairman:** “...ordered by the Court.”

*[Inaudible crosstalk]*

**Ms. Edna M. Moyle:** ... That “may be” would not refer to that. The Court order will tell you where it will go.

**The Chairman:** Are you satisfied with that explanation?

**Hon. D. Kurt Tibbetts:** Mr. Chairman, I am outnumbered, but not satisfied.

**Hon. Samuel W. Bulgin:** I would like to assist if I can, so please direct the question again.

**Hon. D. Kurt Tibbetts:** I hear what the lady Member from North Side is saying and it is just a question of wording—not one of intent. We know that the intent is

that the Crown will forfeit if not or it will be appropriately disposed of elsewhere. If it is someone’s property it will be returned. I am speaking about the wording. It begins—

**The Chairman:** May I suggest that for the wording you and the Honourable Second Official Member could clarify that, in the interest of time.

**Hon. D. Kurt Tibbetts:** That is fine.

**Hon. Samuel W. Bulgin:** That is okay.

**The Chairman:** If I may now put the question on the amendment to clause 2. The question is that the amendments form part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The amendment forms part of the clause.

**Agreed: Amendment forms part of the clause.**

**The Chairman:** The question now is that the clause as amended forms part of the Bill. All those in favour, please say Aye. Those against, No.

Ayes.

**The Chairman:** The Ayes have it.

**Agreed: Clause 2 as amended passed.**

**The Clerk:** A Bill for a law to amend Police Law (1995 Revision) for the purpose of ensuring the maintenance of public order and public safety and for incidental and connected purposes.

**The Chairman:** The question now is that the Title forms 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:** This brings us to the end of Committee proceedings on the Police (Amendment) Bill 2004. The House will now resume.

**House resumed at 2.02 pm**

**The Speaker:** Proceedings are resumed.

## REPORT ON BILL

### The Police (Amendment) Bill, 2004

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I beg to report that a Bill for the amendment of The Police Law, for the purposes of ensuring the maintenance of public order and public safety and for incidental and connected purposes, was by a Committee of the whole House and passed with two amendments.

**The Speaker:** The Bill has been duly noted and set down for Third Reading.

## THIRD READING

### The Police (Amendment) Bill, 2004

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I beg to move that a Bill short titled, A Bill for a Law to amend The Police Law be given a third reading and passed.

**The Speaker:** The question is a Bill shortly titled, The Police (Amendment) Bill, 2004 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 Police (Amendment) Bill, 2004 read a third time and passed.**

**The Speaker:** I will call upon the Honourable Leader for adjournment, but it is understood that on adjournment that Honourable Members will have the opportunity to continue the debate.

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. As you have said, if any other Members wish to put on record their thoughts on current or future situations we may face. We move the adjournment of this House, *sine die* - I should say we shall not set a date because there could be various occasions and matters that we might have to raise. Therefore, I think this would be a good place to come back, even if only once per week to do certain business that needs to

be dealt with and in the current state of the country we might need to come back at least once a week. We will let Members know that and I think it would be best to leave the House to advise the Members when that need arises. Perhaps, we could have business on Wednesdays, so I move the adjournment of this House, *sine die*.

**The Speaker:** The question now is that the House be adjourned *sine die*. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned.

**Hon. W. McKeeva Bush:** No.

**The Speaker:** I would like to inform Honourable Members, that those of you who wish to move out for short lunch (which has arrived) you may do so.

### Comments on the Hurricane Recovery Programme

**Hon. W. McKeeva Bush:** The debate on The Police Law is an important one. The Bill gives powers through the Police Law for curfew. This will end the state of emergency with the Governor and the National Hurricane Committee. The state of emergency will end on Monday and we need to amend The Police Law to deal with such matters as curfews whenever necessary. The state of emergency with control by the Governor and his National Hurricane Committee will end and give back authority to Cabinet.

During the last ten days the Governor has been in control and has had wide ranging powers. We need now to get back to work so that the recovery plan can be put into action. This is beginning to happen already, and Mr. Speaker, as you said, and those in charge, post-hurricane economic recovery programme requires guidance from experienced and knowledgeable individuals. I am aware that we are endeavouring to obtain the very best expertise available for this purpose. The recovery programme would be multi-faceted and would involve the joint effort of a bi-partisan working group on multi-disciplinary team from overseas to guide the recovery programme. I support the view and I have asked that a major initiative is undertaken to make the significant impact on the aftermath of this major catastrophe.

Mr. Speaker, while we focus on the needs of the current situation, there is a need for a more structured disaster recovery agency to deal in the future with a major disaster of the magnitude of Hurricane Ivan. While we wholeheartedly commend the contribution of the National Hurricane Committee we must examine the ways to improve on what we already have. I

am of the opinion that this disaster presents an opportunity for all Members of the House and those on the outside, all others, to take stock, to reflect and to see how we revisit the current arrangements with a view to be more productive and responsive to disasters of such an enormity.

We need to examine what institutions and agencies, including non-governmental organisations such as the Red Cross and how they could be strengthened to assist in recovery efforts. Then we need to look at the hurricane shelters: are they structurally in order? Our communications: are they reliable enough to withstand category 5 or 6 hurricanes? We also recognise our vehicles and equipment for genuine rescue: do we have the type of equipment to carry out these types of daring operations without necessarily risking the lives of those who will have to operate them?

Living on this kind of Island with the climatic changes that have turned around these weather patterns and forced these hurricanes, we need to think about that type of equipment. There were many people who called for help, but of course in that type of hurricane, tanks may have been the only things to use. There may be equipment in the world to help us with that sort of rescue. These are some of the areas we need to consider as we move forward. Members talked about the United Kingdom — and I will move to the current situation quickly. Members complained that the UK has not given much help as yet and that is a sad fact because I felt that ...

We all knew that Hurricane Ivan was going to hit us from the Thursday and I resigned myself to that and began preparations for my district. I think that the UK should have had a plan, an operation to take people from then or whatever assistance should have come our way from that time. Of course, that has not happened. There is an advisor, a ship was here, but it is not too late for the UK to help us because we do need help in terms of the recovery operations. The gigantic task of cleaning alone is going to take quite an effort. Therefore, it is not too late for them to redeem themselves and I hope they do that.

As far as tourism and commerce is concerned, it is appropriate that we give some of our focus to the commerce sector. We need business up and running to keep confidence alive in these Islands. If we lose confidence, where would the revenue come from to do the kind of recovery that is going to be necessary? I would like to make it clear, that no assistance was turned away and whatever assistance we could get we accepted and we are still accepting assistance. We need much more. There are many people who are trying to help us. I was advised to write to Presidents' Economic Council, with the advice of the Leader of the Opposition who had some contact with a person there and he might be here tomorrow. We will go to Washington to an agency we need to talk with, as advised by our representatives there. I hope

that is done quickly. Therefore, we have not turned away any assistance.

The truth is on Monday after the hurricane, our representatives in Washington were contacted and they were told by the UK that they did not have to help because the UK were going to be helping us, they would be taking care of Cayman.

As far as tourism is concerned, I believe we can get certain aspects up within 6 weeks. As far as the hotel industry and the Seven Mile Beach, it is all to do with Caribbean Utilities Company who can help to get electricity and where they cannot help, the hotels will have to get their own water, water station and generators. The public utilities have to understand that will be what happens if it takes too long. If we lose the tourism industry this season and do not get up and run within the next 6 weeks we would have lost the entire season and that is why we need to have a real impact within the next 6 weeks. If we lose the next season the effect will be worse than the 9/11 effects on the tourism industry, and that took about 3 years to turn around.

There are many things that the Government will have to do to get tourism and commerce up and running, through immigration, local control and licensing. These are some of the things we have already done through the work permit board; a ninety-day mechanism for work permits, and we have stressed to them that this does not mean that any Caymanian is going to be left out. However, I suspect that all willing and able Caymanians will have all the work they can handle in the gigantic recovery effort. We are looking at an exemption from the Pensions Law, payments to the Pensions Law that has to be worked out for 6 months to give Caymanians an ease during that period.

The matter of housing is a serious, very serious, serious matter, a tremendous need to house people. Apartments and houses have been severely damaged or destroyed, so there is a need for housing for our own Caymanians and workers of industry.

Teachers have been hurt because of the effects of the hurricane and some do not have a place to live. There is a tremendous need and we have talked about cruise ships as a temporary measure. I know people in the private sector that are sourcing them. I know of two companies who will be able to get two and that will take some people off ... one had the capacity of 600 people, I think, that is about 250 berths and I have not yet received the capacity of the other one. Therefore, people are moving to try to get the country back together again.

We also looked at trailer homes; however, this is trickier. We do not want to develop that type of housing in any permanent aspect; we want it to be temporary. We are willing to look at it and accept that if people can afford to bring them in, although there are a lot of issues to deal with. However, the Steering Committee is working to that extent.

There are people in crews willing to go out and help people get their roofs back on, those who have insurance - the insurance companies have already said they would give a down payment to start, those who do not have insurance Government will simply have to find a way to help them. We are discussing all these issues and the meetings that people say will have to end, I can tell people that I am tired already because from Monday after the hurricane we have been in meetings straight through. However, they are necessary most of the time; yes they are long and drawn out sometimes but very necessary.

Transportation is a very serious matter. I think we will probably have to use some of the school buses as transportation and find a way to help the small transport operators who have lost their buses. I understand there are 5,000 to 10,000 vehicles destroyed. There were many who only had third party coverage and any vehicle over 5 years could not get fully comprehensive insurance. I propose to the Financial Secretary that we bring down the duty for those people, particularly those who have third party insurance, no comprehensive and will be unable to make any claim. That is one thing we will have to do.

The next thing is to take care of civil servants who have done a sterling job in this whole catastrophe. They have been working two and three shifts straight. I have said to the Governor that he needs to start some type of shift to allow them to get rest and take care of their own affairs. Certainly, we need to get the Civil Service up and running so that the core government can be back to work.

We have set up the Cayman Islands Recovery Fund and hopefully donations will start there. We are going to have to rejig our budget, take some from the general reserves and borrow; those are the three areas I see ... I am not concerned about revenue to an extent. In the immediate we must be concerned, but this recovery effort is going to give us good revenue, it will create opportunities that never existed before. Out of every disaster there comes hope and opportunity.

I would not go any further at this time except to say that in this country there should be no division. There should be no division in these Islands today. I find that there is tremendous goodwill from everyone. Everyone wants to see us recover and is prepared to work together and that is what we need. As I have said, we will rebuild.

Politics and rumours should stop. I do not want to refer to it but when you get a national crisis and you find people saying the things that have come up in the last few days, you wonder what is wrong with the people and if our people have not learnt anything. Out of this what has saddened me is that there are still those with so much hatred. I have come to resign myself to it, which is that if they cannot have their way they must blame, accuse, or make somebody look as bad as possible. For myself, I am not concerned, I do

not care what they say; I have my conscience to live with and I am going to do my part.

I am going to ask for a day of Prayer, as soon as we can, on the steps of the Courthouse or here and I hope all the churches will be there. It should be a large crowd. I want to thank all of those who have helped. That is, the National Hurricane Committee, the many civil servants that have put forth their efforts and the members of the private sector who are out there working hard to get the recovery going. People who are already mentioned; Mrs. Olde who is a great benefactor to these Islands; Mike Ryan and his group; the Darts who have given and continue to give; and a gentleman by the name of Fahaad al Rasheed were all recent status grants who showed their worth, love and respect for these Islands.

There are many others of course that cannot be named at this time but I want to thank all of them from the bottom of my heart and on behalf of Government for all that they have done.

What will happen now, Mr. Speaker, is that Ministers with departments and ministries will get back to work to get this recovery up and going, keep our people healthy, schools going and get social services up and running to assist our people in this recovery.

We thank Almighty God for all the things He has done for us, for all His mercies to us.

**The Speaker:** The Elected Member for North Side.

**Ms. Edna M. Moyle:** Thank you, Mr. Speaker. I can assure you that my contribution will be to the point and brief.

I have a little book called '*Our Daily Bread*' and when I look at the reading for 24 September it says "Life changing events do not happen by accident. They are not determined by stars. They are not by chance. There is no such thing as chance. The Lord uses every situation in life to accomplish His purposes." Mr. Speaker, I believe these words are very fitting for the Caymanian people today. It goes on to say, "We should welcome them as opportunities to witness, to serve others and to grow spiritually." Today, we as Caymanians must use this Hurricane Ivan to witness for God, to serve others less fortunate and to grow spiritually.

Many may ask why I am standing here today to make a contribution, because the district of North Side, by the grace of God, was in no way devastated to the extent of the other districts of Grand Cayman. I believe that we in North Side, must be ever grateful that we did not have the damage that the other districts had. I believe that we, as North Siders, must be patient, we will receive help and I can assure the people of North Side that I will see that we get help. However, when we look at the district of Breakers and hear about East End, Bodden Town, George Town and West Bay; they are worst off than us.

I would like to thank the Hurricane Committee, who were up for hours and hours and hours. I particularly would like to pay thanks to the broadcasters at Radio Cayman, who helped many people who were frightened. But some of my people said to me that when they heard the voice of Mr. Joel Francis, in particular, it gave them hope and they hung on to that hope. I would like to pay tribute to all those who stayed up the whole night and kept the Caymanian people informed until they could no longer be on the air.

The district of North Side has lost quite a few roofs. The Cayman Kai section sustained some severe damages to houses, but all in all, it is the one district that when you drive in the morning you can see little green buds coming back out on the trees. It makes us realise that all is not lost.

The morning after the hurricane, or the day after that . . . because I did not find my children until late, those in Savannah late on Monday evening and the other in Canal Point, not until Tuesday. They had friends staying with them and a young Irish lady handed me a card that she reads daily. It was so appropriate that morning. It said "Take this as a challenge and not a crisis." I think if we the Caymanian people, with residents of these Islands [should] take the devastation that Hurricane Ivan has brought to these Islands as a challenge rather than a crisis and work together to face the challenge of rebuilding this Island. I have spoken to many in my district, who have lived in the 1932 and 1944 storms and they have all said they were nothing like Hurricane Ivan. Today, Hurricane Ivan has brought the people of these Islands more together; they are more united. I use the example of us here in the Assembly. Prior to Hurricane Ivan, we could all hear from the debate elections were getting near and now we have put that behind us and we have become united to bring about help for our people. I think that speaks volumes.

Mr. Speaker, in the district of North Side, I was eternally grateful that we had the hurricane shelter. Our people - I think we had some 135 people at one point in that shelter—were safe. I was glad that the people listened because it took me some 5 hours to convince my people living on the coastlines to move to the shelter or to families within the district who were on higher and safer ground. Thank God there were no injuries or loss of life.

I would like to commend the Fire Department, particularly, because they walked the streets of North Side, encouraging people to get to a safe place because it was a catastrophic hurricane. We have heard stories of many people who stayed in their homes and survived Hurricane Ivan, by going in the attic. I will be eternally grateful that this Island has a building code, along the lines of the Alabama national building code (I think), because had it been any less, it would have been unbelievable what would have happened to our people.

For months to come, we will be sheltering people in our shelters, but I am happy to say that at the moment we have about 5 or 6 persons who are still in our shelter. As the Minister of Education said, we have to try and get our people back to a normal way of living as quickly as possible.

I have had complaints of looting in North Side, the Cayman Kai area. Thank God, the security by the police and the curfew has made this little or none at all. There are several incidents that have made me angry and one does not know how to deal with it but it must be dealt with. We have instances at the Red Cross handing out tarpaulins in the district and persons going and receiving these tarpaulins and the next day selling these for \$10, while the people in North Side who lost roofs still have no tarpaulins. I am calling on the Governor, or the Government, the Ministers, when the state of emergency falls away.

We must call on every employer who has a work permit, and if he has numbers of 5, 10 or 20 [persons] and he is only using two persons at this time, he must send the others home. When you are up and running it will only take a letter to the Immigration Department to say '*I would like to bring back Tom, Dick and John, because I have the work.*' We cannot have these people walking the streets with idle hands finding problems.

In the district of North Side, some have been asked to help clean up people's personal homes and when that person goes to write a cheque they refuse, they want no cheque; that means they are in this country illegally. It is a problem that is going to grow unless it is nipped in the bud now. If there is no work for these people they must return home. If it happens that we get to the position later on that we need them, they can be brought back without all that red tape.

There is a subject that I have heard little or nothing said about, that is, offering of counselling. Our adults and children have gone through a situation that they have never faced in their lives. I will use an example because it is very close to home. My two little granddaughters, ages 11, 10 with their parents, uncles and aunts stayed in the Sandy Ground Road in Savannah next to the gully. They had 6 feet seas around them all night. Those two children looked in their parents' faces and asked if they were going to die there and they still have nightmares. I am certain there are many other children in the same position and it is a service that we must get and get running.

I believe that these workplaces where our Caymanian people have worked and strived to make those places better must come up to the block and bring in counsellors, if necessary to offer this service to our people and our children.

As I said, I would be very short, but I am calling on the Ministers asking that when they are up and running as the Government, that they work with the representatives of the districts, even if we are on opposite sides, there are no sides here now. This is the

Cayman Islands. I am asking them to keep each Member of this Legislative Assembly informed and let us work together so that the districts can be rebuilt.

The rumours, I pay them no mind because if you cannot find anything better to do at a time like this for your countrymen than to spread vicious rumours, it makes no difference to Edna Moyle. I go about my business daily. I know what I do and what I try to do. So, I pay it no mind and I call on all Honourable Members in this Legislative Assembly to ignore the rumours, move on, let us work together to rebuild Cayman.

I was happy when I heard the Minister for Education say that maybe the North Side Civic Centre will have to be used as a school. To him I say, let us do it. We need to get our children off the streets. We must work as hard and as quickly as possible to get our children back into some sort of school environment.

Before, I sit, I would like to say thank you to the shelter warden in North Side, Dale Hurlston, and the persons who assisted her during this hurricane. They spent many long nights in that hurricane shelter and I am grateful because I have done it by myself in the past and I know what it takes. I am asking the Government to look closely at the North Side district because it is not going to take as much money and time to get the district of North Side back-up and running.

Our supermarket is open and while we have no frozen goods people can get food. Let it be that while you are working in other districts, have work going on in the district of North Side, that we can get that done out of the way and be able to concentrate on our human resources' energies in the other districts. I am asking the Government that while they are working in districts that need it more than North Side, let us also do something in North Side.

I was heartened today when CUC said that they are looking at between two and three weeks to have electricity back in North Side, which I think will be a great help to the people of North Side. I believe we need to locate a vacant piece of property in North Side and the trees people are cutting up in their yards debris can be collected and dumped by them until the Government is in a position to collect it, and this would make the district look a lot better. We need Environmental Health to send a truck immediately to North Side. There is a tremendous amount of garbage on the sides of the road and a tremendous amount of flies. I am calling now upon the Governor to get Environmental Health into the district of North Side.

Last but not least, the Governor of this country must step forward and make a statement on Radio Cayman as to whether the UK Government is doing anything for the people of this country, or are they going to do something for the people of this country?, Have they committed to do something for the people of this country? We need to know. There are rumours that on a radio station, not Radio Cayman, someone

said that England was sending enough food to feed 50,000 people. However, the Governor must tell us if they are rumours or what, he is the only one that can inform the people of this country and if they are not, he must take the decision, and tell England, *'Look, these are your people; you must step up to the block'*.

We can no longer sit here and say England is telling the State Department of the United States that we are their territory step back—but yet England is not stepping forward!

[Applause]

**Ms. Edna M. Moyle:** There is something wrong! There is something wrong! If the United States is prepared to help us, tell England stay up there; if you want to keep your food, keep it there, and US send your help.

I have in my cellular right now the telephone number of a senator who has been trying to come into this country with relief, who cannot get a reply from anyone. Well I am going to call him, Mr. Speaker, and tell him to send it to me. I would be like the Member from East End. If we have to take our people to the airport to collect it we will go and collect it. It is getting out of hand. The Governor must make that statement to this country pronto.

The Honourable Leader of Government Business spoke of a day of Prayer. I agree with a National day of Prayer in George Town, but I believe it is incumbent upon us to have a day of Prayer in every district of this Island. We have been spoken to. We have been bypassed with hurricanes for many years, but Hurricane Ivan has made a serious statement to this country. So, I think we need a day of prayer in every district and I look forward to working with the other Members of this Parliament, as much as I can, to rebuild their districts because as I said North Side should be eternally grateful that they had no more damage.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to Speak?

The Honourable Member for Health.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker. I would just like to say initially that I totally support the Bill that was just passed in this Honourable Legislative Assembly, which amended The Police Law, to allow the Police Commissioner with permission from the Governor to institute a curfew in circumstances when it is considered necessary.

From the 11 September until today, this country is under a state of emergency. It is something with which I disagree because a state of emergency is just that, something very serious when immediate action has to be taken and a curfew is something different altogether. There is no doubt in my mind that the

Governor acted correctly and was advised correctly, to order a state of emergency in the Cayman Islands, when the strike of hurricane Ivan was at hand. For it is in those instances, when the Head of State must have immediate power to do what is necessary. However, when that danger has passed and I say it has passed, then the country should revert to democratic parliamentary process. It is not good enough for it to be said that the only way to have a curfew was through having a state of emergency. The curfew is curtailing for a certain number of hours the freedom of movement of people mostly on the roads.

All of us agree with that, realising it is still necessary because of the lack of electricity in certain areas of the Islands, for certain burglaries that we hear that are taking place, we know that that is necessary. I am glad that today we have come forward in addressing something as we have, by amending The Police Law to have a curfew not dependent on a state of emergency. During the time and up until now, I would like to make the point that I as a Minister, was unable to direct the departments and heads of departments, as I normally would during the general process, which obtained up until the 10<sup>th</sup> of this month because they were deployed in various other areas, and they acted under emergency powers as was provided under chapter 17 of the General Orders and Regulations. Mr. Speaker, you were good enough to bring this to my attention and I saw where that law was contained, because until then I was really not aware of it. However, I think as of today - we should not have to wait until Monday - for the Hurricane Committee to stand down. I think the National Hurricane Committee should stand down as of today because it would mean that the people, who have been doing their regular jobs up until the 10<sup>th</sup> of this month, would naturally go back to doing that, of which they were most familiar and experienced.

The Immigration would be doing immigration work, the people in Environmental would be doing environmental work and the Public Works and the roads would be doing road works and they would not necessarily be deployed in some other area, but by each person and each civil servant going back to whatever they were doing. We would certainly fulfil and achieve the actions which are required nationally with everyone doing what they know best. I do not know what the Governor will do in that regard, and I think the country should be well aware that it is the Governor who is exercising full authority on the Law. It is not me, as a Minister or any others, to the best of my knowledge and belief.

At this point, I would like to add my voice to the facts that not to my knowledge in any instance did these Islands, certainly not its elected representatives, refuse any assistance from anywhere. As far as I am concerned, any such statements are lies. It did not happen. What happened in the diplomatic world between UK representatives elsewhere and the Gov-

ernment of other jurisdictions, I cannot speak to. Certainly, I would stand vehemently opposed to the UK in any respect, whatsoever, should it cause these Islands not to receive assistance that might be available to it for any sort of; '*I am in charge,; this is my territory*' type of mentality. I totally oppose any such thing, if that has happened now or even in the future. This is one act that if it happened, it is one more indicator why nations strive towards their self-determination. Therefore, if they are to lose, or be destroyed, or to gain whatever privilege or ability necessary to improve their lives, such a determination should be made by them. I have always said that Mr. Speaker, and I maintain that today. The events since 11 September have pointed this out even more strongly to me.

There are few countries in the world that have ever been struck by a category 5 hurricane. Most of the hurricanes in the world and most experienced in the Caribbean have been category 2 or 3, but we were hit by a hurricane rated at the very highest fury. I think it was the will of God that we survived because it is my understanding there were no deaths during the strike. My understanding is that persons have died since that time, but I understand there were no deaths during that time.

We should not in truth, say that we have not had any damage, that we are slightly damaged, when the truth is that our country has been devastated. Its physical structure has been devastated. Public buildings, commercial buildings and dwelling homes, everything. My understanding is that up to 90 per cent has been affected, at various degrees. That is not something we should try to hide; it is the truth. Our next door neighbour, Miami, to which we travel to every so often, they did not hide the fact that Punta Gorda (I think) was devastated. They said it was devastated and now it is time to rebuild. I think that is where we are at, at this point in time.

The business of threat has passed and there may be another. We need to remember this is just September 23 and not until November 30, that the season passes. We need to deal with these realities.

As I heard the Member from North Side speak about counselling, I know a lot of people have felt fear and fright. Some will have lasting impressions on their minds. I spoke to two different persons, counsellors, in the Bodden Town shelter—they were bagging goods at the time over there—and they had concerns that it might have a lasting effect. Since they were hired within the Education system, they were prepared to make themselves available wherever needed and whenever contacted.

The trouble has been, as best I know it, that as Ministers of Cabinet, we have not been able to direct anyone. Who do you speak to about food stuff, about customs? Normally, I would say the Collector of Customs. However, some one else may have been deployed within that committee or sub-committee, deal-

ing with that matter. I have seen considerable confusion in that regard. I think one of the things that this whole event should teach us, is that we should have a proper communication plan, as to the most effective way to get the news out. I maintain that the best person to leave in charge of a particular subject is the person who is doing that subject before the occurrence.

There are just a few other points that I would like to make.

Mr. Speaker, relating to the workforce here in Cayman, I share the same view as two other speakers about the number of persons who are on this Island. After interacting with people in the Bodden Town Shelter, it is my belief that they are not necessarily here on work permits. They seem to be here but with no specific attachment to an employer or to any work.

I know my colleague, the Minister for Education, and Labour, will be doing certain assessments or certain surveys and I think we need to ensure that district by district, street by street, we ascertain what the situation is. Mr. Speaker, if there are persons who are not employed now, surely, the Government is going to have to feed them because we are not going to see any one starve. However, they are a cost to us and, I suppose, a threat to themselves if they do not return to their native land, wherever that may be.

I have heard many announcements on the radio inviting various nationalities to go back to their homes; some of these countries have even put on free flights for them to take. I also understand that there are some nationalities that refuse to go. Now that is not good for them, nor is it good for the Cayman Islands. It is as simple as that, in my opinion.

Mr. Speaker, I was heartened to hear the Minister of Labour's idea of surveying and registering workers by their skills. We will know how many carpenters, masons, or common labourers we have, as the case may be. One thing I want to see avoided in Cayman—on the pretext that we need so much labour—is allowing an influx of people who will work for pennies. That whole idea is just to get labour as cheaply as is possible.

My visualization in moving out of this situation is one where every Caymanian who wants to work will be able to find work, including the common labourers and those who stand around by the trees drinking white rum. We know some of them. They could actually get a machete and do a day's work and so on, and they are all caught up in the employment that is bound to happen here.

*[Inaudible comment]*

**Hon. Gilbert A. McLean:** I think the Leader of the Opposition is right: there are no more handouts now for the white rum (*laugther*), they will have to work for it.

Mr. Speaker, one of the things that I have concern about, and have responsibility for, is roads. I do not know what the situation is with roads. I stand here not knowing what decisions have been taken about roads. I do not know. I know there is a Roads Authority; I know Mr. Colford Scott is a roads engineer; I know the people who are working there who are associated with roads. What I do believe, and what I would not hesitate to direct the Authority to do, is to have all roads in the Cayman Islands cleared to the width they existed before. Where roads are destroyed to the extent that they would need some major repair there must be bypasses or go-arounds so that we can access them.

I know Bodden Town and East End, in particular, are affected in a major way. Still, I see trees and cars on the road that block the way. Who is directing it now, I do not know. However, I know the roads need to be opened, particularly in areas where light poles are so that CUC (Caribbean Utilities Co. Ltd.) can have access to them for replacement. This is one of the priorities I would like to see started, as soon as we revert to civilian or to regular governance in the country.

Thousands of trees have blown down here on this Island. I have heard different ideas bouncing around the place about needing to hire barges, from who knows where, to come and take the trees and send them away. Mr. Speaker, you, like myself, know the days when mothers in every house raked the yard and each of us had our little heap to burn and get rid of. There were some pretty ashes left that were good for planting pumpkins.

I think one of the things we need to keep focused on is money. Where is the money going to come from, particularly at this time? Certainly, I would stand opposed to any harum-scarum type of suggestion that we are going to bring big barges here to put our trees on, when we can find big open areas in the districts to burn those trees and there will be nothing but ashes. I think we need to think in those types of practical terms. These are unusual times, and the fact that we had to apply to the Fire Service Department to be allowed to burn, will have to be waived until we get across this situation.

Mr. Speaker, you will know as well, because you were the Minister for Communications more than once, that for about 25 years we have been talking about putting a highway centrally through Grand Cayman. If there is anything that has ever pointed to the good sense of that, it is this strike by Hurricane Ivan. Building the roads along the coastline like our forefathers did was simply because they did not have the heavy equipment and it was the easiest way. We can clearly see now that this is not the way to continue. If we have a central highway through this Island, we can tie in all the districts to it; it will cut down on time and make it harder for tidal waves or hurricanes to reach it; it is rockier and better ground and



everything else. So, Mr. Speaker, I would like to put this forward to the Government without hesitation.

*[Inaudible comments from the Speaker]*

**Hon. Gilbert A. McLean:** That is true. The MGTP (Master Ground Transportation Plan) that was part of it and now more than ever we had better get back to those times when each year we developed and planned our road system. All of us in this country, owe a debt of gratitude to *Radio Cayman* and to the people there. The last thing I heard before the hurricane really took over on Sunday night was Radio Cayman, and then it went down. I think that was the only reassuring sound in the Cayman Islands at that time. The staff there worked extensive hours. I am told they did not sleep, they went on and on. I hope that when we get back to proper governance, we will look at people like that who have been affected and had their homes destroyed, to help them get back to some degree of comfort, through whatever financial arrangement (I suppose most of them who own homes will have them insured) but some kind of quick assistance where Government will help to get them in because they still remain essential services. I know one person who is a well-known personality on the radio, Ms. Paulette Connolly, whose place was totally devastated. In the Tropical Gardens area it is incredible to see how the sea tore that sub-division apart. There are others and those types of essential services; we need to focus on them. There is a need for priorities. We need to see where the priorities are and get those up and going.

The other one is Health Services. I have been basically unable to do anything or direct resources in that regard, but I have been told by the management of the Health Services Authority that 70 per cent of the nurses are homeless. The Permanent Secretary of the Ministry has had her roof destroyed yet she was out there working with that Hurricane Committee.

The doctors and nurses were sleeping in the corridors of the hospital for six days straight, tending patients and on top of that homeless people were actually moving to the hospital to seek shelter, so it was an extraordinary situation. We need to thank them for their services and get them to where they have a shelter so that they can continue the service which they have been given.

The medical service is of even a greater and more critical significance now. What has been said to me on the occasions when I visit the hospital now is that they are on a very high alert for diseases which might or could occur due to faecal contamination, which the sea has washed out and there is a great mix of all the water. That is why boiling water and putting kerosene into standing water all helps and people with cuts should go to the hospital to get treated, because of the possible chance of infection. I can say there have been ten thousand doses of tetanus shots

that on the Island and people are encouraged to take the time to go and get the shot.

The Minister for Tourism and the Leader of Government has on his hands a major job with tourism. Somehow, it has to be kept alive, breathing and well. However, at this time I would draw to our attention that we still have two islands up and going, that is Cayman Brac and Little Cayman and so we can certainly say that tourism is alive. There are persons can come to those Islands and enjoy what they have to offer. So, those services are up and going. It is distressing to see some of the properties on Seven Mile Beach, but I trust that those owners will move swiftly to clean it up and get them back operational.

I think it is outstanding what CUC has done so far, and I applaud them in their efforts. The experience in my life—and I have been through it before on the Brac—but here in Cayman during the hurricane, its strike and its aftermath, the Bodden Town shelter has really been one major challenge.

It would be remiss of me if I did not say what an outstanding job Mr. Charlie Powell did there. He kept that place going during some very nasty encounters of people fussing and fighting and rowing and everything else. He did a splendid job. I understand that he was also the one who got the people out of the Bodden Town Civic Centre when the tidal wave washed over that and actually got them down to the Bodden Town Primary school, which was prepared but not open at that time. I think it is also to the credit of Mr. Kirkland Nixon, about whom he repeated many times that was it not for his training as a fireman by Mr. Nixon, he did not think he would have managed. However, he has done an outstanding job and so did the other four wardens with him and I would simply like to express thanks to those persons.

The last point I would like to make is that of rebuilding. I think that a high percentage of the homes that were destroyed were 25 years or older, that had been handed down from generation to generation. Many of the people in these houses will not qualify, in this day and age for a mortgage. Again, I do not know what has been happening in that regard, what the Financial Secretary, or the Governor, has been doing in that regard. However, somewhere along the line, I feel sure that the Government is going to have to assist with a considerable amount of re-housing of people. Whether or not liens are taken and they repay it over 30 or 40 years, I do not know, but I believe the Government is going to need to find a certain amount of money so that this will be done for them.

Those who have insurance on their homes will be able to rebuild, the rich will always rebuild, but I believe there is going to be that significant number of people who will need direct government assistance. I am not here for one moment suggesting that I want anyone to sit around and wait for handouts. That is the last thing we need. I think it is wonderful to see so many people on their rooftops fixing it, chopping up

trees in their yard and clearing them out, that is what we need to do. Every one of us in the final analysis is responsible for ourselves, and I would like to encourage that. However, I do think that is something the Government is going to have to find the ways and means to assist with.

I would like to once again say that the rumours are regrettable—some of the stupid, ignorant, disgusting rumours that have been around. I hope that our appeal will help that, but perhaps not. However, I look forward to seeing the country go back to normal governance and I think the Hurricane Committee should stand down as quickly as possible to get us on that road. I am also happy to see—not that I am happy to know that the hurricane came and brought that to our attention—that we can have a curfew without having a state of emergency. That was a wise thing that happened today with the passage of the Bill.

One last thought occurs to me and I would like to make that. That is, one should realise that we have in any kind of crisis or disasters; it is an immediate attraction for business scavengers. I have heard of some instances, some entities are coming around with stories straight out of the sky about what they can do, and for frightening sums of money. When a person is under distress and so on, one will act differently than when things are normal.

One thing we need to guard ourselves against (individually as citizens and certainly as government), is to be very mindful, very careful of the numerous offers that are bound to come. It all comes down to that fact that we are a little island, a small island that has done extraordinarily well for itself, but it all comes down to money and we have a limited amount of it and it is dependent on a lot of external forces. We have raised ourselves to the point where we have an appreciable amount of reserves; we would not want to go three times that amount in debt for not helping ourselves in the way that we should. That is, reasonably and soundly as we have been financially prudent in the past.

Mr. Speaker, I thank you and it is very good to see all of my colleagues in the Legislature. I know that we will survive. We will build these Islands back to the way they were and we will be a lot smarter when it comes to building. We will make the buildings stronger. It strikes me that one of the most important part of a building is its roof, so we will do some improvements in that area.

Thank you.

**The Speaker:** Does any other Member wish to speak?

The Honourable Leader of the opposition?

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

As the day goes on and more of my colleagues speak, it leaves just that much less for us to speak about. However, there are a few things that are wor-

thy of mention. Here we are some 10 or 11 days after Ivan and we are hearing today that Ivan is alive again out in the Gulf of Mexico. I guess that is a sign of how terrible Ivan was and perhaps might still be again. Ten days later, and we might be better equipped to make assessments. Information has been gathered. You see, the first few days afterwards, I guess all of us realized that with the devastation that had taken place, the first thing was to make sure people had food and water.

Although that is still a bit of a struggle it is not as bad as it was and every one is continuing to assist and trying to make sure that people do have the basic necessities to survive. As the days roll on we have to be looking forward with the recovery efforts. Previous speakers have touched on many areas, but perhaps with so many things going on and you are trying to get so much done in such a short period of time. I do not think we have done very well to ensure that the public is being informed as to what is happening.

As mentioned before, and without having the facts in front of me, there are literally thousands of people here in Grand Cayman today, who are either without shelter or with very limited shelter of their own remaining. Many of them are in varying degrees of trouble. There are some who are insured but by the time it is over, what they are insured for may well not replace what they had. There are some who are uninsured and the varying degrees of damage they have suffered will depend on how large the problem is for them to rebuild. Some will have some decent earning power and can probably make arrangements. However, there are some who are going to have difficulty and we know that. We also have the other category, that as much as we wish to say they do not exist, we have the indigent, we know the quarters. They may be indigents but that does not mean for one second that they are not good, honest, hardworking and decent people. That is just the way life is, the way any society is and all of us here know many of them.

Therefore, from the Country's standpoint and with the recovery efforts, we have to be looking at a national level. The fatal mistake we would make, in my view, is for us to start looking at a specific individual and to say to them, we are going to try and help you. In their own minds their main concern is themselves, that is self preservation that is the way God made us. What we have to do, after understanding all of that, is to continue to console and comfort while we build a plan. That should not take long and we should be able to say to everybody, "this is how we are going to do it and these are the stages that are going to take place because it is going to be physically impossible to have everyone back in their homes on the same day. It just cannot happen and we all need to understand that.

I am so extremely happy that the position the Elected Members of this Legislature have taken. If we do not accept that we put all politics aside for the time

being and I sincerely mean all politics, then we will not function in the way that we should. What we now need to be doing, is participating in that process, working hand in hand to show the rest of the nation how it should be done, so that the rest of the nation will continue to work hand in hand, because that is what it will take.

Others have said before, and it is a simple fact. If the estimated damage is any where near true, and we were simply to go within the box of the country's resources, then we pack it all up. We simply cannot manage it. In accepting that fact, then we have to look at how we are going to be able to use the external forces to handle the situation.

Thank God I can safely say and, Mr. Speaker, you are aware of some of it, that there are many people, individuals, entities, organizations, countries who want to help. Our job now is to make sure that those entities, organizations and countries understand the level and kind of help that we need, so that we are able to synchronize efforts and gather the building resources, materials, food and clothing necessary for the upcoming months, to be able to ensure that all needs are met with regards to housing.

We are going to need a multitude of equipment, simply to be able to effectively clear debris, not just from damage to structures but also trees, garbage and refuse that have collected. We see this all over the place. So, as we speak, the organization is shaping and as the elected Ministers of Government get back to functioning within their various ministries, we are going to see results taking place. However, besides all of the things we need to talk about and besides all of the anxiety that everyone here feels now, we need to understand that everybody is going to be doing all they can and the country must not lose patience. If the country loses patience, it is going to disrupt all of the good things that can happen and you spend your energies trying to calm people down and to keep them cool, when you should be spending your energies doing the things that would make them better off.

In order to make that happen, we need to ensure that we are communicating with them. It is not something I am absolutely certain of. No one would not like to communicate, but I think we have to take the time and let the agencies that make that happen, make it happen. The individuals who are in certain positions must be able to report on a regular basis to the country, this is what is happening, these are the plans and this is the time line.

Mr. Speaker, the essential services, Caribbean Utilities Company, The Water Authority, The Cayman Water Company, Cable and Wireless are all working feverishly to return those essential services to the nation. Again, however, the magnitude of the destruction and damage is something none of us ever planned for and I am still not sure that all of us appreciate the size of it. Of course, if I live in Northward, my

main concern is to get electricity and water back in Northward. If I did not know better or stop and think, it would not matter to me how it was done as long as I could get it tomorrow. However, these people have to sit and plan out the way they are going to do it so that they can return those services to the entire nation as effectively and as quickly as possible, with only a few priority areas sidestepping what is going to make it be the most efficient task possible. So, I take a few minutes to explain those things because the country needs to understand and appreciate that.

We know there is discomfort. Many of us in here, if we are honest with ourselves—and I am not afraid to be—are just getting over the fright of it. Several of us including myself are still sleeping on the floor! But I am satisfied now that this Nation will rise again. I am satisfied that with all of our frivolous arguments amongst one another, that we love and care about each other, we want the best for each other and we can forget about certain things until the time is appropriate. We can get together and rebuild this country: of that I am truly satisfied.

The people who have come here, done business, done well, by and large are standing by us and I also appreciate that. There are a few who do not fit the Bill, but I am going to tell you what, Mr. Speaker, tomorrow when God spares my life and things get better, I will remember them. That is not a threat, but I promise you that I will remember them and any dollar in my pocket will not be spent with them—under no circumstances. That is the way it has to be because that is the way people will have to understand.

Getting back for a minute to the fear that many people have of the garbage and debris. Mr. Speaker, I am confident we will soon see some real inroads into solutions to that problem. However, the equipment that we have and its workability, plus the human resources available (many of them are just now showing up to work because of all the personal problems they have had), it is a real touch and go situation, but it is getting there. There is equipment and other resources that need to be sourced as quickly as possible and brought to the Island. Let no one believe that next week we will be back to where we were. If we can accept certain things in our minds and just move along as quickly as we can but as carefully as we can, then we will be okay.

I know how people feel; I was tempted not to come to the Legislative Assembly to make sure to go to the insurance company because I wanted to make sure they did not run out of money, before they pay my claim. I am not ashamed to tell anyone that, but then you stop and think about it for a minute. You then realise they have reopened their offices, some of them have had to relocate and they have publicly instructed people, how they want them to function with regards to their claims. So, you have to allow yourself a certain amount of trust that these institutions and

corporations are going to function in a way that will satisfy the claims in the best way they know how.

Mr. Speaker, mention has been made in certain instances about goods and services being sold at ridiculous prices. We all know the law of supply and demand, and as demand increases and supplies lessen, prices increase. We keep hearing it around us that these are extraordinary times, and this is not the time for that law of supply and demand to kick in. I am not going to shout or rant and rave this afternoon, because I am not going to express how I feel deep down. However, I am going to send the message very clearly and I am absolutely certain my colleagues will agree with it. If there is any more sign of that that can be proven, I am certain, Mr. Speaker, you will don your gown to come to this Legislative Assembly, to call a meeting for us to create the legislation to outlaw such activity. We have stayed clear of that because of the way our economy has been fuelled and the way the economy functions. However, if we have to create legislation to prevent that from happening in times like this, then we will do that.

Of course, I am knowledgeable of some rumours of price gouging that are not true, not factual, some of it through misinformation and some by the time it gets to the tenth person it is exaggerated ten times. However, there are other experiences that speak to that fact. It could be an item as small as a roll of toilet paper or as large an item as a new washing machine or refrigerator. Mr. Speaker, the entire country has to be in the same recovery mode and there is no one at any level who must have a mindset to take advantage of anyone under these circumstances. It is not godly, and is not human of us to do so. I hope that every one who listens will check themselves if they are in a position to do so to ensure that they do not allow themselves to do it. I know my God will hold it against them, and I will too if I find out.

Therefore, we need to get that message out but I would not say that we must do that tomorrow because we still need to have some faith in our own. However, as I said if evidence mounts in that direction, I believe that is exactly what we will have to do. It will be months and months before we see a semblance of the life we used to have; we simply need to accept that. It is not the end of the world but the longer we take to accept that, the more miserable our daily lives get. It will take a little while; first it has to be a good shower. We are used to a warm shower. It is going to be a cold shower first, Mr. Speaker, and when we would refuse to take a cold shower until we could get a warm one, we will be glad now for a cold one. After a while we will get a warm shower.

The lines at the supermarket will get less and it is amazing how all of that has normalized in such a short period.

All we need to do is to take stock of what has occurred in the past eight or ten days and understand that if we just keep cool and take our time, every day

something better will happen to all of us. That is the mindset in which we need to get our people. We need to get people back out working. Some people do not have vehicles, so we carpool. The Government will sit down and meticulously go through the remedial measures that it has the ability to pass on to help the citizens of the Country to get to where they were. The Leader of Government Business mentioned how we have to look at housing and all of us will be looking at that. We will not be sitting down and fight that this one must get this and that one must get. If we do that then we are more foolish that I believe and I do not think we will do that. The approach has to be at a national level and I see that direction clear in front of us and we have to steer the course. However, everyone else has to steer the course too and we need to see more of neighbours helping each other and I know we will see less and less of it because people have to go back to work.

Friends helping friends do this and that because that is what it is going to take because the Government will not have every answer for every problem that every single person faces. It is not meant to be a joke, but between last night and before I came into this building today, I checked my voice messages and of course it was full—because you really cannot be up 24 hours of the day. The requests were for a little food right up to a new vehicle. I am not saying that in jest. I speak of the expectations of the elected representatives of this country. I will not go off on a tangent with that. I say that only to make the point that as hard as we try, our resources are not going to satisfy the demands of the constituents at this point in time. We just have to keep working at it. People will have to be understanding because lots of it cannot simply happen.

As a society we need to line up the priorities. Everybody must eat, everybody needs water to drink, everybody needs some clothes (not the ones that you used to shop for in Miami but decent enough to wear) and then we will need transportation. If we have to deal with that through car-pooling and more public transportation for the time being, that is what we will have to do. We need to get the schools going and I am not even going there this afternoon, because we will probably stay here tonight and we do not want to do that. I mean that in itself, for all the arguments I would have had on the Floor with my good friend the Minister for Education and the Minister before him, where we are right now with that, all I can say to him is if I can help, just let me know.

That is how it is because I know the first time he took stock that he felt jumping back on the plane to go back to where he had come from since he had been away on official business. I did not mean he would do that but just meant that is how difficult the task is and any one would feel that way. However, we are here and we are going to make it. Every morning of our lives when we get up, that is how we must begin. For

all of the adversity, remember there is a God helping us and with us helping ourselves, we will make it.

I am not going into a lot more of the details about the things are happening because time is of the essence. I can say safely there are things happening and if people are just a little patient they will see more things happening daily.

Many people have concerns about their homes being destroyed, yet I cannot tell them to phone a number and the money is readily available, all you have to do is buy the material, get somebody to fix your house and everything will be okay the next day. What I can say is that every one of us recognising the situation that exists will not leave that alone and we will find a way. However, we cannot be distracted from the purpose of that. So, as we go through the daily sufferings, they will get less and less and we will see light at the end of the tunnel. I sincerely hope that as we take stock of what has physically happened to us and I am going to leave this one like a parable, that we understand the message that God has sent us.

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 make some remarks to show my understanding of the severity of the devastation which was visited upon Grand Cayman and some on Cayman Brac, by Hurricane Ivan.

There is not much happening on the Island that I can tell that others have not mentioned already or that people themselves have not experienced. I would like the public to know however, that the Elected Government is thankful to the performance of many members in the private and public sectors of this country.

I would like to especially thank those people who manned the National Hurricane Committee, those who assisted the NHC and thanks to the emergency services, in particular the fire service. I believe those who might hear me and not hear others should recognise that these thanks come from all Elected Members of the Legislative Assembly and our families.

I think that I will be very satisfied when the Elected Government of this country is again in control of making the decisions that are implemented by the Civil Service. It has been a very difficult time to know that the country is in such a serious state and not being able to be at the forefront, at the helm. knowing exactly what has been happening.

I believe the people of this country must seriously look at the type of constitution we have in this country that allows us, as Elected Representatives who are answerable to this Parliament and to the people, not to play a major role in the preparation for

disasters and in terms of being able to function immediately afterward in order to bring some relief to the general public. It amazes me that we continue to take pride in the fact that we are a British Overseas Territory, yet we get no concrete assistance from the Mother Country. When we discuss the issue of constitution we are divided, in that we do not seem to agree that the elected representatives regardless of whom they may be, should have the necessary authority to act on behalf of the people that have elected them.

I have found myself as an individual, but also as an Elected Member of Government, powerless over the last few days. This is due not only to Ivan, but also to the political structure which exists in this country. So, I would like to lend my voice to the voice of those who have spoken already to amplify the fact that there is and will continue to be dissatisfaction among Elected Members, as to how we are involved in the decision-making process.

The fact that the Governor, using his emergency power, was able to feel the stress and the burden of this country on his shoulders is not good for him or for us. I said to him last Tuesday that the burden was not only on his shoulders but on all of our shoulders but the point was that he had at least some mechanism to work with, whereas, I had none. I recognise that all my elected colleagues had no mechanisms to work with. Yet we are the ones who bear the blunt of the criticisms from those who are asking: What are you doing, what is happening here? Enough is not being done. The mere fact that we must say we do not know, frustrates and angers people and we must remedy the situation.

My message, as the Minister responsible for Community Services, is that we hope to be up and running by Monday to be able to better deal with the needs and requests of our citizens. This debate in the Legislative Assembly is to amend The Police Law, in order to have a curfew, without a state of emergency and in order not to have that type of organization that divests the Elected Government of its power. When this is concluded today and within a short time after that, we hope the Governor will assent to this and will suspend a state of emergency allowing us to return to our lawful positions to serve our country the best way we can.

Mr. Speaker, I have been in my Ministry and our offices have not been damaged too badly. I am happy to report that our computers are up, our telephone is working and we have some degree of comfort there. We thank the Caribbean Utility Company and the Public Works, for their speedy action in assisting us to recover and to come back to serve the people. We can say to those people who are receiving financial assistance, veterans' benefits that the cheques have been processed and they should be able to collect their money at the bank by Friday. One of the ladies from the Ministry will pass out cheques

to those persons without accounts that normally pick up their cheques from the Glass House.

We are also happy to say that dealing with the question of housing, first, we are looking at making available, our affordable houses that were under construction to be completed before Ivan struck. Most of these houses have of course, survived and are in good condition, especially in the district of West Bay and Windsor Park. We had more issues on the Eastern Avenue site simply because of containers from Thompson Shipping, lumber and objects that might have flown as missiles during the heavy storm at Cox Lumber. We are happy to say that we are trying to get those houses and will be dealing with those persons who have made applications for the houses and who were already assessed by the social development workers and who qualify at this time. We are trying to get that up and running.

My Ministry will also be responsible for assisting the Ministry of Communications and Works and Planning and helping to make assessments of individual needs, repairs and reconstruction of premises. The Government will do whatever they can in assisting people in rebuilding their homes. We have not been able to get new persons that have qualified for financial assistance and seaman's benefits on the list for this month. However, we will work very hard to make sure they begin receiving their \$450 in October.

I am saying that we will continue to do what we have always done, what is best for this country. I am happy we received the approval of the Opposition and their support of the Elected Government continuing to function as an Elected Government, rather than for us to be dictated to in this country. Regardless of how good the intentions might be of the Governor of the Cayman Islands and the representative of the United Kingdom here in the Cayman Islands, as far as I am concerned not very much has been done that is tangible that I can see to assist these beautiful Cayman Islands.

Mr. Speaker, my wife and son are here on the Island. We were all here during the hurricane and will continue to be here for as long as we can be here and alive here. We will say to the people that if you do not see all of us, it is simply because we cannot be all places at all times but we are trying our best to get around to see people. However, if we should return to administration on Monday, it means that people will see less of us again because we must take charge of the administration of the affairs of this country and the first priority is the recovery process within the these Islands.

I will not say anymore but I am very, very philosophical in a way and so much so that I believe all that can be said in this Legislative Assembly today can be altered. We have now experienced that regardless of how much we plan as human beings, those plans can be altered by events that we have no control over. We only have to go to when that storm

was blowing, when the tempest was raging, to recognise that we had no control; we played no role in what was happening. That is the epitome of the human life.

However, we learned something. We learned that because we cannot stop Nature from taking its course does not mean that we give up planning; does not mean that we give up saving; does not mean that we give up individuality; does not mean that we give up being depended upon ourselves and our own individual efforts.

Sometimes people ask what is my country doing for me at this time and my answer is what are you doing for your country at this time? All of us have been impacted in some way and no one of us is more required to come out and help to assist those in need than the other.

There are hundreds, thousands of civil servants that have not shown up for work and there are some that are at work like the Clerks here in the Legislative Assembly and we do not know how much they have at home to do but there is probably enough to do at their homes as is at mine. Yet we find time to come to work, to help other people in our community and others must do this and not simply think of themselves. If they are , they must do five hours for themselves and five hours for their community because we will not rebuild or repair in one day. It will be a long process.

I think it is very important that those who are not showing up for work also show some kind of faith, some kind of concern and show that old Caymanian spirit of sharing and caring. I have seen and lived to see the old Caymanian spirit of sharing and caring reign once more.

Thank you.

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

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

I too would like to stand and add a few comments on the state of affairs here since 11 September, with the passing of Hurricane Ivan.

As saddened as I am when I drive through our beautiful Island, I am heartened and happy today to be a Member of this Legislative Assembly during a time like this when the Islands have been so tested. I am proud to be a part of the 15 Elected Members, Members on both sides of this House to see the type of camaraderie and unity that I think the Island has been missing for a long time. As leaders of the country I think it is evident and the example that is being set during this time is a testament to the Cayman Islands.

After some of the many disagreements and arguments that have occurred in my short time in this House it was so moving when we had our first meeting after Hurricane Ivan, to see the genuine concern expressed by the Members of the Opposition and the Government at that first meeting and to see how re-

lieved everyone was when they saw that their colleagues had survived and made it through the storm safely.

Mr. Speaker, I get to see a bit more than the outside world gets to see. They hear us talking on the radio and hear some of the comments that are made and they see the politics of the day, but when we go into the Common Room and experience the friendship and respect shared, it is evident now that as a Parliament, like the Leader of the Opposition said, it is obvious that the concern of all Elected Members is only what is best for the people of the Cayman Islands.

During this time, Mr. Speaker, it is one of those days when I want to be a part of everything that has been said by both sides of the House. When my colleague from East End was making the point as to how difficult it has been as representatives to assist our people, it was only yesterday, or the day before, that my colleagues and I were out at the dock fighting to ensure that our constituents received their fair share of what had been sent specifically from a donor. I have heard since then that we took some stuff to West Bay. I make no apologies and whatever it takes to ensure that our people get their basic needs fulfilled, I promise that I intend to continue doing that part.

Mr. Speaker, it goes beyond—we sat in a meeting and one of the points made by the Elected Member from East End was that a lack of communication prevented him from finding out what happened after the storm. It was not that we were on any different sides but he had to drive from East End to the Leader of the Government Business when he wanted to know what he had to do for his people. We have often said that as terrible as Ivan was, we will rebuild our beautiful Cayman Islands, and that we will be better and stronger than ever before.

I think that the resilience and unity shown, starting with the Elected Members of the Legislative Assembly, shows that the future of our beautiful Islands is bright. First of all I commend all the Members of the Legislative Assembly for all the work they have done in attempting to assist their people. I commend all the members of the National Hurricane Committee. After having gone up there and hearing some of the stories that existed during the peak of the storm when they were away from their families, we owe a debt of gratitude to so many people. The radio station has been mentioned and what a beacon of light that was during the storm. It was so reassuring to hear familiar voices of our commentators there giving support and assistance after the storm as quickly as possible.

A caller from East End said we will build it back and not necessarily by ourselves but with the help of those who have stepped forward so far and offered their assistance. Hopefully that will be with the assistance of our Mother Country. I am not sure why it is taking so long to get that help but they do say 'good

things come to those who wait'. I guess that may be a lesson in patience that we are being given and I can only hope that is the situation—that they are a bit slow off the mark—but when it does come it will be significant enough to have been worth the wait.

I also commend the utility companies, both CUC and C&W. They have done an unbelievable job in a short time in getting us back to where we are and giving us hope. I am happy that during these times we have also had the two new companies, AT&T and Digicel, step forward, and as corporate citizens they have offered to assist us.

As the Leader of the Opposition said, I am also happy for all of the new citizens or residents that have remained with us through the thick and thin and helped us reach this stage. As has been said, many have gone and were fair-weather friends. However, together we will persevere and rebuild and rise from the ashes like the phoenix.

We have all spoken about the utility companies and the radio station but we have not mentioned the loyal staff and management of our national airline, Cayman Airways. If there was ever a time or question regarding the value of our airline, I think Ivan has cemented in all our minds the reason we have to continue and the value of that investment. I have seen the conditions under which the staff and management operated after the storm: hot hangars, long lines, very limited resources and seeing our pilots standing in lines for three, four and five hours for fuel so that they could get to work.

All of those things make us a stronger and more determined Cayman Islands. In light of the time, there is so much more that we could say but I just want to commend all of those who have been working so hard and to say that we do need to exercise patience. Each day things are getting better. When I was out in my district yesterday passing the store that houses my barber, he called me over and told me to come in to get a haircut because he had just gotten [electrical] power. That in itself was a ray of hope, Mr. Speaker, because those little things taken for granted you recognise now are the indications that we consider normal living. The things like not being able to go to the barber or not being able to take a shower — or like the Leader of the Opposition said, not even worrying about a warm shower— just having a shower, shows that Ivan has brought us back down to realise that life is so uncertain. We each need to do our part to ensure that we leave our mark and make Cayman a better place for all people to live.

As was said earlier, there will be much time to recount and recollect all that has occurred, so I will not take any more valuable time in order to allow people to return home.

Mr. Speaker, I just want to end by saying that after having to deal with getting re-elected, then September 11, and having to go through Hurricane Ivan sometimes you question why you chose this time to

be an elected official. Particularly, during those periods when you felt that you were not doing enough for those people after the storm. However, after seeing the display that has occurred during this hurricane and seeing the unity that has been exemplified, I am happy to be a part of the Legislative Assembly and hope that I can continue to play my part with rebuilding the beautiful Cayman Islands to be better than before.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak?

The Honourable Minister for Communications.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Perhaps I should commence by saying that the people of Cayman Brac and Little Cayman would indeed wish for me to convey to their brothers and sisters in Grand Cayman, their sincere wishes and prayers.

We have felt some of the wrath of Hurricane Ivan on Cayman Brac but by no means to the extent of that experienced by the residents of Grand Cayman and the extenuating circumstances in which they are still enduring. As a result our heartfelt prayers continue to be with all residents, but in particular with our people of Grand Cayman. We know that we indeed serve a God, who yea is still yea and whose nay is nay and we can stand on His promises without fear of being forsaken.

Mr. Speaker, I should also express publicly our thanks unto Almighty God. As the Member from North Side whose district, I understand perhaps feared the best as it related to Hurricane Ivan, we too in Cayman Brac and Little Cayman will have to give thanks to Almighty God for the way in which He spared us. Being the God that He is, He obviously allowed two of the Cayman Islands not to be completely devastated in order to assist in areas as little and as much as we can, depending on the areas at this time of need with our big Sister. Things may have been much difficult, from a personal perspective, had it come through all three of the Islands.

I would like to first explain briefly on the situation of Cayman Brac and Little Cayman. We have experienced some property damage to coastal premises, in particular and less than ten personal properties have been destroyed. I believe that they can be dealt with through the ordinary course of business. When one looks at the damage on Grand Cayman and takes it into priority listing, I believe that I can stand the criticism that I have been receiving.

Perhaps some of my competitors are going around the constituency and saying that I have abandoned ship on Cayman Brac and Little Cayman, to assist my sisters and brothers on Grand Cayman. Mr. Speaker, I trust that rumour will soon be put to rest

because we have to operate as brothers and sisters of the Cayman Islands.

For many many years we have been assisted financially by our big sister, Grand Cayman, and will continue for some time. I have always been taught in all aspects of my life that wherever there is a need, we must respond to that need and have compassion and assist with that need. If that is one of the criticisms that I have to take, then so be it. I have been throughout every district in Grand Cayman and your heart would have to be, harder than rock to not stay on this Island to assist at this time. This may be to assist with distributing water, food or praying with people or taking them into your home, in whatever capacity you can. I am prepared to stay at this post as long as I can make myself available and assist any of the Honourable Members in this House. This will be under their direction in their districts as they see fit or on a more personal or individual level. As I come across the needs from one end of Grand Cayman to the next that is not to say that I do not have care and concern about Cayman Brac. Perhaps, this is one time I wish I had shares in the telephone companies because I spend many hours at night to Cayman Brac, to try to assist with organising there. I do say that I did come across to Grand Cayman with a level of comfort.

Having been on the Brac during the storm there were insufficient shelters as on Grand Cayman. Therefore, since I have had my residence, during every hurricane I have opened it up as a shelter. This time I have accommodated 75 persons within my home ranging from an infant to an ambulance patient within my own personal bedroom.

I said that to demonstrate to the small number of persons that are spreading this rumour that the constituents on Cayman Brac and Grand Cayman have surely seen (as the Bodden Towners have said) that actions speak louder than words. I am still committed to the residents of Cayman Brac and Little Cayman.

Within a few hours of the raging of Hurricane Ivan, we lost communication with Little Cayman Grand Cayman. The last to go was the government radios and I was very grateful to have a radio from the respective department. Although I could not communicate directly with the National Hurricane Committee (NHC), it provided a very useful tool for getting communication out to the residents of Cayman Brac and Little Cayman. Many of them had loved ones and friends here and were a bit anxious, after seeing what we had endured and knowing that it was coming much closer to Grand Cayman. They prayed and were in trepidation throughout the night and had hours of agony as to what would happen here. Within a short time that radio went out and it had to be the wisdom of God for some of the directions and decisions I took within a short space of time. Perhaps my colleague in Public Accounts Committee (PAC) may call me up later, because I can say they have been in



contravention of the conventional rules. However, I found it very necessary and perhaps I will just say take a brief moment to explain.

Radio Cayman was our dear friend and brother over on the Cayman Brac and Little Cayman and the last communication to go off. I discovered that a pastor had transmitters there for Heaven 97.7 and I gave them the directive for them to go on to C&W antenna to re-feed the broadcast of Radio Cayman so that my constituents could hear what was happening in Grand Cayman. Many of them feared that we were undergoing the 1932 storm and that it was going to turn around and come back. That was one of the first fears I had to try to allay..

I also wish to express my profound gratitude to Cable & Wireless, in particular the Cayman Brac branch, the staff of Ms. Yvonne Walton and for the role in which they played. They happened to have a satellite phone and when I approached them, they allowed me to use it because I immediately I realised that Grand Cayman would need aid. It was with their kind assistance I was able to utilise the satellite phone to contact various clients I knew overseas. Without mentioning too many names Mr. Hughes a resident of Grand Cayman, without hesitation even before the storm began its full rage and without hesitation, he instructed his staff in Houston and in Stuart, to bring in their Lear jets completely filled with aid. I did not know the condition of the airstrip in Grand Cayman and directed them to land on Cayman Brac. This posed another problem because in normal circumstances this would have been somewhat illegal.

However I discovered that our air traffic controller had no communication with the main tower in Grand Cayman or his immediate boss, Mr. Richard Smith. Therefore, eventually when I was able to make contact with Mr. Richard, I was able to get C&W under the ministry obviously, I hope paying for it at some stage. The directors in civil aviation were given cell phones with phone cards and that is how we directed the first aircraft into the Cayman Islands airspace. This was done in order to stockpile for transition to the Island of all other Honourable Members, Grand Cayman.

Mr. Speaker, the unfortunate part of that was that perhaps the aircraft of my client was the first to land and due to emergency powers were in and so they were commandeered. I say "unfortunate" because many of the Brackers within George Town, have heard by now that I brought the aircraft in and have not yet distributed the goods. I want to make it abundantly clear that Mr. Colford Scott was the receiving agent here in Grand Cayman. It went to the priority areas as they saw fit and I understand to the designated shelters on Grand Cayman.

I also saw the need to call an emergency meeting at 10 o'clock in the morning at the Government Administration Building with all of the senior heads of my department. That in itself was a chore. I was

grateful for the NHC radio because I was able to have contact within Grand Cayman and Little Cayman. The District Administration Commissioner, his Deputy and the District Officer in Little Cayman, quickly summoned the relevant staff and we were able to have a meeting about the way forward. The way forward was that I saw it necessary to call an emergency meeting with all residents on Cayman Brac at the district hurricane shelter.

It was amazing to see how necessity is the mother of invention. Having been a physical education teacher before, I never thought that some of that knowledge would assist. Indeed I quickly recall having to speak on a megaphone to get some control. I sent out some of my assistants to contact the PE personnel and we went to various parts of the districts, announcing from the cars with the megaphone, that there would be an emergency meeting. It was to bring constituents up to date, to state my intention of coming across to Grand Cayman to assist and also to set in place teams for food, construction, clothing and what was necessary. Therefore, I could leave with the knowledge that the groundwork had been laid.

Mr. Speaker, I think perhaps it was one of the most moving experiences to see approximately 1200 persons congregate within an hour and a half, at the Aston Rutty Centre. We commenced and ended in prayer, joined hands and prayed for all of you on Grand Cayman. We also fully committed to assist in whatever capacity we were able. I know we have been assisting in many ways and not only from our hospital, our dock, airport, and educational institutions. Many thanks to the Honourable Minister of Education who has been facilitating this with his respective staff.

I know certainly my brothers and family have been killing cows (up to two per night), cooking it and sending it across on the plane to feed people. We had a new export from the Brac, namely ice, before Hurley's Supermarket was able to get it on the Island. It has been little things like that coming across.

I also wish to express sincere gratitude to Captain Kennedy Pantan. Once I realised what was happening I knew from my other hat (as Director of Cayman Airways) that our two smaller aircrafts were away in Honduras with Mr. Tom Guyton; one in Houston; one in Ft. Lauderdale; one in Tampa; and one in Miami for obvious reasons. My good friend and fellow director Mrs. Moses Kirkconnell and I got together to form perhaps not a quorate board, but to take decisions as to what to do. We were able to contact him and negotiate again with Mr. Richie [Richard Smith] to get permission to fly over Cuba not only for the national airline but for the private jets coming into the Brac.

I should also say that as far as the private jets were concerned, I did have to make a commitment in two instances that my Ministry would pay for the fuel, provided they would bring in the aid. That was what

was done. So, I am giving notice in advance to the Chairman of the Public Accounts Committee (PAC) and hope that it will be understood in that regard.

Mr. Speaker, I can also say that we have already sent construction crew teams from the Brac, who will assist some of their relatives first but every little bit counts. My grandfather's favourite saying was 'work cannot stand work', has been put in motion and we will rise again. We serve a God that says of we humble ourselves before God that we will hear from heaven he will heal our land. I believe that if there is one lesson we can learn from Hurricane Ivan, is that Cayman has undergone quite quickly, a humbling exercise. I have seen the neighbourly principle being carried out in a manner that is inexplicable from words. I know that even on my street we had become so busy we hardly knew who our neighbours were and it was quite refreshing to be sharing medicine, batteries, water or whatever.

I am grateful to my neighbours, Pastor and Mrs. Meghoo, who came to my aid with a small item but it has become essential. That item was a five gallon bucket and has actually assisted me to be here to be used to bail water from my cistern for showers or other domestic uses. Those small things mean a lot and I hope that if there is a lesson to be learned it is that we continue on the way we have embarked on this *modus operandi* of the unification of our soul, our body, our aspiration and indeed our desires to take it onward because truly that is the Caymanian spirit.

If there is any one good thing it is perhaps the reconsolidation of our people, the synergy, the energies that have just come to a most conspicuous surface that the Caymanian character, the spirit is alive and well. (There is another good thing which Ivan has brought which I will mention at a more appropriate time).

I wish to give thanks especially to the Fire Department (not just here in Grand Cayman but also on Cayman Brac). I know that there were many services such as the Public Works and the Police, but the Firemen really came together. They displayed strength, character, confidence and courage; they were really admirable traits. Even in the height of the storm they were out rescuing and bringing people, together with our emergency services at Faith Hospital. In that respect, I should also thank the emergency services. As I endeavoured to conduct the emergency meeting on Cayman Brac, our platform was completely utilised for all our aged, from the hospital and rest home. So, they assisted me quite quickly to remove all patients that had heart conditions. I did not want them to hear exactly what the condition was on Grand Cayman.

I know that time is going and there are many people I would like to thank. There are the utility companies, both Brac power and light because we lost power approximately 10 or 11 o'clock but by the next morning we had it restored on the Brac. I see the val-

iant effort that CUC is displaying on Grand Cayman, so I am sure you would wish the same for me. Mr. Speaker, having been a former Minister, I wish to express collective gratitude to them for the great task that they have before them.

I would like to quickly refer to the good Book, which never lets us down regarding guidance. In the interest of time, I will cut short the balance of what I wish to contribute I believe that every experience we endure, is one that the soul needs. That I believe we can see in 2 Corinthians 1 verses 3 to 11. It says: **"Blessed be the God and Father of our Lord Jesus Christ, the Father of mercies and God of all comfort, who comforts us in all our affliction so that we will be able to comfort those who are in any affliction with the comfort with which we ourselves are comforted by God.**

**"For just as the sufferings of Christ are ours in abundance, so also our comfort is abundant through Christ.**

**"But if we are afflicted, it is for your comfort and salvation; or if we are comforted, it is for your comfort, which is effective in the patient enduring of the same sufferings which we also suffer; and our hope for you is firmly grounded, knowing that as you are sharers of our sufferings, so also you are sharers of our comfort.**

**"For we do not want you to be unaware, brethren, of our affliction which came to us in Asia, that we were burdened excessively, beyond our strength, so that we despaired even of life; indeed, we had the sentence of death within ourselves so that we would not trust in ourselves, but in God who raises the dead; who delivered us from so great a peril of death, and will deliver us, He on whom we have set our hope. And he will yet deliver us, you also joining in helping us through your prayers, so that many thanks be given by many persons on our behalf for the favor bestowed on us through the prayers of many."**

Finally, Mr. Speaker, I believe that we can encourage our nation to join heart and hands together as we embark upon nation-building and perhaps to get it right with the second chance that we have been given. If we do as we are told in 1 Peter 5 verses 6 to 11, where it says: **"Therefore humble yourselves, under the mighty hand of God, that he may exalt you at the proper time, casting all your anxiety on Him because he cares for you.**

**"Be of sober spirit, be on the alert Your adversary, the devil, prowls around like a roaring lion, [and the devil takes many forms], seeking someone to devour.**

**"But resist him, firm in your faith, knowing that the same experiences of suffering are being accomplished by your brethren who are in the world.**

**"After you have suffered for a little while, the God of all grace, who called you to His eternal**

**glory in Christ, will Himself perfect, confirm, strengthen and establish you.**

**“To him be dominion, forever and ever. Amen.”**

Mr. Speaker, my concluding remarks are that if we repent and return to the God that has taken us thus far, we indeed can come boldly to the throne of God, knowing that his hand has indeed not shortened and he has never seen his righteous forsaken nor his seed begging bread.

May it please you, Mr. Speaker.

**The Speaker:** I invite the Honourable Minister to move the suspension of Standing Order 10(2), so that we may complete the proceedings this afternoon.

### **Suspension of Standing Order 10(2)**

**Hon. Juliana Y. O’Connor-Connolly:** Mr. Speaker, may I now move the suspension of Standing Order 10(2), to conclude proceedings of this afternoon?

**The Speaker:** The question is that the Standing Order 10(2) be suspended to allow for the completion of the Order Paper. All those in favour, say Aye. Those against, say no.

**Ayes.**

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

**Agreed: Standing Order 10(2) suspended.**

**The Speaker:** Does any other Member wish to speak?

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

I would also like to offer my support to this Bill that would allow the Police Law to be amended so that the Commissioner can impose a curfew, whenever it is deemed necessary.

The passing of Hurricane Ivan, the people in the Cayman Islands have never experienced something like this before and hopefully never will have to do so again. It has been like the First Elected Member for Cayman Brac and Little Cayman, has said, it has been a very humbling experience. Words fail to describe the true feelings of that experience. However, I think in many ways it has been a wake up call for these beautiful Islands. I think it will make us even stronger and more resilient than we have ever been.

Mr. Speaker, it would be a perfect a time for the members of the community to get together, to work together, help one another and the truth is I have seen a lot of that in my district of West Bay. Neighbours have been acting like neighbours again, the way they used to do. As a little boy I remember it. It is really good to see people in small communities

getting together and sharing and helping one another. So often we get away from the true values of friendship, neighbourhood and camaraderie. It would be so good if when we are back on our feet that could continue. I hope that will be the case. Throughout the whole ordeal of Hurricane Ivan and the aftermath, (which we are still experiencing), and during the initial three or four days after, it was really good to see so many of the community, who were fortunate to still have a roof over their heads, come out to help to pack and distribute food items.

It would be remiss of me if I did not give the West Bay District Committee, a special public thank you. They have shown remarkable courage and willingness to help one another. It would be great if the declared candidates for the upcoming election would come out and help out some more. They could even use some of the money set aside for the campaign and try to help the more needy ones to get a speedy recovery.

I would like to say that this brings the whole Island closer more than we have ever been before. It would help us to be more appreciative of the things we took for granted. Simple things like a warm shower, ice cold glass of water, to be able to flick your light switch and get light. For many years we did not give it a second thought and in a matter of hours that whole way of life would change for us. I hope these are some of the things that will help us to appreciate what we have and also help us to be more willing to share with those who are less fortunate.

I just want to encourage the people of West Bay and the rest of the Island to unite, come out, do your part in the recovery of the damage and do not be selfish. Share with those who need and those who do not have. I have listened intently to the speakers before me and I too would like to say that we have much to be thankful for and the fact that there have been so few fatalities, it is nothing short of a miracle. When we look around at the devastation, you have to shake your head and wonder how many more people have not lost their lives.

I know that it is getting late in the afternoon and I would like to say that I give my support to the passing of this Bill.

Thank you.

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

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

We, the Members of this Honourable House know that we have trespassed ever so slightly, over the time that you have allotted. As the last to speak, I will ensure that that trespass does not go much further.

What does one say to one’s countrymen, to one’s colleagues, indeed to one self at times like this? First, we must in all things give thanks to God in a

real, sincere and tangible way. I too would like to thank the people of the Cayman Islands thus far. However, I implore them that much more perseverance and patience will be required if we are indeed to emerge a stronger country and a stronger people.

I would like to thank all the emergency staff and personnel, who have thus far, courageously and selflessly assisted with all the great work that has been done and all of the central service personnel.

I must offer these few and brief remarks. Many persons, deep down inside, will doubt the love of God because often when one conjures the image of love, all must be peaches and cream and all must be a bed of roses. However, I must remind us all to reflect on my favourite book, the Bible, the Book of Job. In the Land of Uz who was blameless in the sight of God. That is in itself, the greatest acknowledgment anyone could dream of in life and the devil came to God and God himself pointed out Job to him. God allowed the devil to destroy Job's entire family, all of his worldly possessions. In fact, his seven sons and three daughters were all killed. After that calamity, Job still remained steadfast in his love for God he still remained a man of integrity. Satan visited God again and God again pointed out to Satan this great man on earth from the Land of Uz, this man named Job. God again allowed Satan to wreak havoc in the life of Job but telling Satan that he must spare his life. Satan inflicted Job from head to toe with boils, yet through all of this Job remained steadfast in his love for God.

Mr. Speaker, we have to thank God. When we look at the calamity that was rained upon the life of this servant named Job, I think our calamity pales in comparison. Mr. Speaker, can you imagine having ten children and losing every single one of them? I say to everyone who hears my voice, we must ever be so thankful that our lives have been spared and for the mercies of our true and living God. As I have said from the day after this hurricane that passed through with its wrath on 11 September, when there is life there is opportunity to rebuild because we have to recognise that is the big picture. God has spared our lives.

Mr. Speaker, I would just like to remind all that we must continue to help each other, to be our neighbour's keeper not our neighbour's critic. We do not need critics now, we need workers, we do not need people who are going to look idly by and ask what is what child doing on the street? We need people who are going to do something about it. We do not need to ask why is the front of that person's house still a mess? We now need people who are going to assist and clean because we do not know what is going on in the personal lives of everyone. We need to be focused on the tasks at hand. The task at hand is to, through also say that there will be a time for all of us to reflect much more deeply on what has happened and in the ways we are going to improve as a country.

There are many lessons, those that we have each learnt personally, as a nation, collectively as a Legislative Assembly and as a Government. As the Elected Member of East End and many others have said; that we Caymanians built this country and we have had others who came along over the past thirty years to assist us and many of whom are still here. It is us that are going to have to rise each day and look ourselves in the mirror and rebuild this country. If we are going to sit down and think that we are going to get all this outside help that may never come. Let us do what we can control. We can control our own strength, our own effort and yes, I will implore all of us and the Government (when normal governance is resumed) that we should seek a disaster recovery firm to assist us.

Disaster recovery is a science; it is not something that any of us in here are experts in and that is critical. While thanks have gone to the National Hurricane Committee, it is a preparatory committee and none of them are disaster recovery specialists. So, I believe that we must swiftly engage those services because they will have to stand side by side with the Elected Government and Elected Representatives, to assist us with where we need to reach. Let us not lose focus of that important fact. Some monies will be spent in that area but I believe that if we search carefully and diligently over the next few hours, few days we will be able to find the type of assistance we need.

I want to reiterate the point that ever since the state of emergency has come into play, the Elected Government has not run this country. We have been under the auspices of the Governor and he has taken advice from wherever he so chose to take advice from, on all the decisions he has made thus far.

It is important for us to understand and remember that fact. We must now focus on the task at hand and must do whatever we need to do. I also implore that Ministers and Members of Cabinet to ensure that the non-Members of Cabinet, who are Members of this Legislative Assembly are expeditiously kept abreast of what is happening. The people come to us and say 'you are the Government'. That is how people understand it. They do not see Opposition versus Government Backbench versus Ministers; they see us as all Elected Government. So, I say that along with disaster recovery assistance, we need to find focus and efficient means of getting information out to the Elected Representatives so that we can be managers and assistants in this rebuilding process within the individual districts and the country in general.

I will tell you that I am unwilling at this time, unless someone can show me otherwise, to have any formal committees formed. Mr. Speaker, death comes with sitting in too many committees. Work needs to be done but at the same time we need to find a way to get information fed to us, plain and simple. We stand here today and we thank God for the strength and endurance of our forefathers. Whilst many doubted

the younger people are, the passage of this national catastrophe has proven that we are also strong. We are strong also. We are here to prove and build and confident that one day history will look back on us that have lived in this time and look positively upon us. In the same way we look at the seamen and the women who stayed here during those times to have provided the platform that we were so thankful for and we will now have to build a new foundation that will allow for the new Cayman to be rebuilt and be stronger and move forward.

Mr. Speaker, I say to all of us, when we are about to despair, feeling as though we cannot wait another day or week, for power or water to reach our homes; remember Job. None of us have lost ten children and none of us have been stricken from head to foot in boils. I bring that up and say it in that tone for effect. We have to understand that God did not promise us a bed of roses, God only promised that if we are faithful, he will give us opportunity. I believe it bodes well of us as a country that we were not stricken by mass loss of life. It tells me something about what God thinks about the Cayman Islands. Ultimately, he could have wiped us off the face of the earth. When we look at the carnage that lay on Grand Cayman it is a miracle that we did not have massive loss of life. I believe that anyone who has seen this country will have to say to himself that there had to be thousands of lives lost. Yet, at the height of this storm, as far as I know, not one was swept to his death. We had a few related deaths but not directly during the storm.

I would like to say there are going to be many things that will come over the next days, weeks and months. Certainly, there will be many protocols that may not have been followed perfectly and will still not necessarily be followed perfectly but, Mr. Speaker, action is what is necessary. So, any member of government who had to take action will have to be looked at favourably. So, I can tell every Member of this House and this country, that I will not be involved in any witch hunt. I can tell any agency in government, I do not care who they are protected by or how they are protected within the Constitution, they are not going to steer the Public Accounts Committee down that road. I can promise every Member of this House that and I can promise the country that. Mr. Speaker, at the end of the day there is proper procedure but then there is saving lives and making lives liveable. We had to get food, water and medical care to people.

Mr. Speaker, in hearing the Elected Member for East End speak, we do have an image conjured up in all of our minds, that the country would bode well to think about to gravitate toward the phoenix who rose from the ashes. Many in the outside world may look at our plight and some may unfortunately revel in it. I am not saying that for a fact. However, when one sees the lack of assistance and the lack of the disconnect between the United Kingdom and the people of the

Cayman Islands, and when one looks and realises that what we get is a letter from the Minister who is responsible for the Foreign and Commonwealth Office that speaks of compassion but says nothing of assistance, one has to be awfully suspicious of the motives of people. I implore all of us and every Caymanian let us not forget that. We as Caymanians often are so easygoing that we forget very quickly. Within seven days or so, we forget and we forgive and we move on. Let us forgive but we cannot forget. This must be a wake up call for this country and for all of us to reflect and think carefully of who we are. We are Caymanians first and foremost, Mr. Speaker.

Mr. Speaker, again I wind up by saying that while all that was sent, as far as I know, was a letter with kind wishes, we are strong and God willing we will be like a phoenix that will rise from the ashes and rebuild a bigger and better Cayman Islands.

Mr. Speaker, those who may have revelled and believed that somehow we would not return, I think will be sadly mistaken. Mr. Speaker, man may appoint, but God will disappoint and I can say that we have a kind and loving God. The evidence of his love for us is that we were left intact with our health to rebuild. Mr. Speaker, I say to our citizens we need patience, patience, patience; we need workers, workers, workers. We need for all Caymanians to spread their wings to help their neighbours; to assist everyone. It is not time for simplistic bickering; it is not time for showmanship; it is not time for that sort of nonsense. It is time for putting all of our shoulders to the wheel and getting the work done of rebuilding our country and rebuilding our lives.

Mr. Speaker, I am glad, I consider it a blessing to have been born and living, and a representative of the people in these times.

I thank you, Mr. Speaker.

**The Speaker:** This Honourable House now stands adjourned until a date to be set.

**At 5.07 pm the House stood adjourned until a date to be set.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**27 OCTOBER 2004**  
**10:49 AM**  
*First Sitting*

**The Speaker:** I would now invite the Honourable Third Official Member responsible for the Portfolio and Economics to lead us in prayer.

**PRAYERS**

**Hon. George A. McCarthy:** Let us pray.

*Eternal Holy God and Father as we gather here this morning as Parliamentarians, we give you thanks for life, health and strength and the privilege of entering into this day, to be of service to you. We ask Heavenly Father that your Holy Spirit will grant us wisdom and guide us in all matters that are before this House today.*

*We pray especially that wisdom will be granted to our Speaker and Father God Almighty, individually and collectively that we will be used as your Servants this day to serve you and to serve the people of the Cayman Islands. We ask your blessing upon this country; we ask your blessings upon all residents of these islands Grand Cayman, Cayman Brac and Little Cayman, and Father God help us not to take the life that you have given us this day for granted. Father God we have the assurance of your word that is an absolute promise that those who dwell in the shelter of the most High will rest in the shadow of the Almighty.*

*We can confidently say of the Lord that Jehovah God is our refuge and our fortress, our God in Him we trust. He will deliver us from the snare of the fowler and from the deadly pestilence. He will cover us with his feathers and under his wings we shall take refuge. His Truth shall be our shield and buckler. We shall not be afraid of the terror by night or the arrow that flies by day nor the pestilence that walks in darkness, nor the destruction that lay waste at noon day. A thousand may fall at our side and ten thousand at our right hand but it will not come near our dwelling. Only with our eyes will we look and see the reward of the wicked. If we make the Most High our dwelling heeding the Lord who is our refuge then no harm will befall us, no disaster will come near our tent for Jehovah God will command his angels concerning us to guard us in all our ways; they shall lift us up in your hands lest we dash our feet against stones. We shall tread up on the lion and the cobra, the young lion and serpent we shall trample underfoot. Because we have set our love upon on Jehovah God therefore will He deliver us, He will set us on High because we have known his name; we shall call upon Jehovah God and he will answer us. He will be with us in trouble, He will deliver and honour us and with long life will he satisfy us and show us his Salvation.*

*Eternal God we ask your special blessings today upon Her Majesty Queen Elizabeth II, Philip Duke of Edinburgh, Charles Prince of Wales and all the Royal Family. We ask that you will give grace to all who exercise authority in our Commonwealth that peace and happiness, truth and justice, religion and humility may be established amongst us. Especially we pray for the Governor the Cayman Islands, we pray for the Speaker of the Legislative Assembly, Official Members and Ministers of Cabinet and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of the High Office in which you have placed us. We ask these blessings in the name of Christ Jesus who taught us to pray by saying-*

*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 are resumed.

**Proceedings resumed at 10.53 am**

**ADMINISTRATION OF OATHS  
OR AFFIRMATION**

**Oath of Allegiance**

*Mr. Donovan W F Ebanks, MBE*

**The Speaker:** I now call on the Temporary Member to be sworn in and ask all Honourable Members to please stand.

**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.

**The Speaker:** On behalf of this Honourable House I welcome the Honourable Temporary First Official Member and would invite him to please take his seat. Please be seated.

## READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

### Apologies

**The Speaker:** Honourable Members I personally would wish to apologise to all Honourable Members for the short notice that was given for the convening of this Third Meeting of this Session. We know that these are not normal times so I am sure that Members will be most understanding. Because of the short time that was given to Members I am prepared to accept a motion at any point to suspend the Standing Orders to allow Members to bring their questions and or motions to be brought outside the normal time stipulated in the Standing Orders. Time stipulated in Standing Order 21 for questions is some 10 days prior to the commencement of the meeting and five clear days prior to the commencement for Motions. Therefore we would be prepared to suspend that period.

Honourable Members I also have an apology from the Honourable First Official Member, who as you know is presently the Acting Governor thus the reason we have just sworn in his deputy as the Temporary First Official Member in this Honourable House. I also have a letter that he has written to me and he is requesting that it be read and admitted into Hansard therefore I would like to read it at this time. It is dated yesterdays date and it comes from His Excellency the Acting Governor who is Mr. James M Ryan, CBE, JP dated 26<sup>th</sup> October, 2004-

**“Honourable Linford A Pierson, OBE, JP  
Speaker of the Legislative Assembly  
P.O. Box 890GT  
Grand Cayman**

**“Dear Mr. Pierson,**

**“As you are aware I will retire from the Public Service on the 31<sup>st</sup> of October 2004. I had hoped to have had the opportunity during the September meeting of the Legislative Assembly to say goodbye to everyone, however, hurricane Ivan changed those plans. As my deputy will be sitting in the Legislative Assembly tomorrow when you meet and as I will not have a chance to speak I shall be grateful if you would say goodbye to the country on my behalf and that my hope and prayer is that the Island will make a speedy recovery from the destruction of hurricane Ivan.**

**“I should also like to express thanks to everyone for all the help and cooperation that I have received and to say that it has been my pleasure to serve this country for over 39 years.**

For those Members that have just arrived, this is a letter from the Honourable James M Ryan, CBE,

JP, continuing: **“On a personal note I would like to thank you all for the help and encouragement I have received from you, going back to my first stint in Executive Council in July 1990 and on subsequent occasions there. My thanks also goes out to you in your capacity as Speaker of the Legislative Assembly for the very pleasant times I have spent there under your leadership and for the help and cooperation you have given me.**

**“Finally, I should like to express my good wishes to you, the Clerk and entire staff of the Legislative Department and to wish you all everything that is good in the future.**

**“With kind personal regards to you and family.**

**“Yours sincerely**

**“James M. Ryan, CBE, JP”**

That is a letter from the Honourable James M Ryan.

I have another letter that I have been asked that the details be brought to your attention and this is from the President of the Veterans and Seaman's Society of Cayman Brac and Little Cayman. This was written on the 16<sup>th</sup> October, 2004 and it is addressed to me and also to my wife. It says-

**“Dear Mr. & Mrs. Pierson,**

**“The Veterans and Seaman's Society requests the presence of your company at its annual picnic on Monday, 15<sup>th</sup> November, 2004 [and this is the area that he has asked that I bring to your attention] We will appreciate if you will extend this invitation to the Members of our Legislative Assembly. This event will be held at the Veterans and Seaman's Center on Cayman Brac from 10 am—5pm on Monday, November 15<sup>th</sup>, 2004. It will be a pleasure to have you attend this annual event as your presence will truly make this a special occasion.”**

I would invite all Honourable Members that can attend that event to please do so, unfortunately I will not be able to go due to a prior engagement but I will be contacting Mr. Eldermire personally.

## STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

### Letters of Support

**The Speaker:** I now call on the Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I do have a statement that I gave notice of but which has not reached you nor myself as yet, therefore I would like to do that at an appropriate time during the day. However, I have received some letters of support and I would like to read them into the record at this time.

This letter comes from MN Hamaty & Company, Attorneys-At-Law and Notaries Public from Savannah Lamar:

**"My Dear Leader,**

**"I wish to express my sympathy for the damage done by "Hurricane Ivan" which brought about unprecedented destruction with winds up to 200 miles per hour.**

**"I thank God that there was no reported loss of life and trust that in a short time life will return to normal as the rebuilding proceeds. This hurricane season has scarred Islands across the Caribbean, interrupted life for many and will likely mean years of rebuilding. Frances, Ivan and Jeanie tore through the region with ferocity not seen in many years.**

**"I am confident that you and your government are equal to the task of rebuilding your lovely Island and pray that God will strengthen you all in this exercise.**

**"With every good wish,**

**"Yours faithfully,**

**"F.C. Hamaty, CD, Q.C."**

This one comes from the Ministry of Foreign Affairs, in the country of Guyana:

**"The Ministry of Foreign Affairs of the Republic of Guyana presents its compliments to the Ministry of Foreign Affairs of the Cayman Islands and has the honour to request that the following sympathy message from His Excellency Bharrat Jagdeo, President of the Republic of Guyana, be transmitted to the Honourable W. McKeeva Bush, OBE, JP, Leader of Government Business of the Cayman Islands.**

**"On behalf of the Government and people of Guyana and on my own behalf I wish to extend sincere condolences to you, the Government and people of the Cayman Islands on the widespread damage to personal property and infrastructure caused by Hurricane Ivan.**

**"Please be assured of our support in your resolute endeavor to rebuild from this disaster."**

This one comes from the Office of the Chief Minister, Isle of Man Government.

**"Dear Sir,**

**"We here on the Isle of Man have watched the ongoing destruction of Hurricane Ivan with shock and horror. The devastation you have experienced is difficult for us to comprehend.**

**"As you set about rebuilding your lives and homes in the wake of this disaster our thoughts are with you and the people of the Cayman Islands.**

**"I know you will recover and the Government and the people of the Isle of Man wish you well with your endeavors.**

**"Yours sincerely,**

**"The Honourable R. K. Corkhill, Chief Minister"**

This comes also from the Isle of Man, Chief Secretary's Office:

**"Dear Minister Bush,**

**"On behalf of myself and the Isle of Man Civil Service I would like to offer our thoughts and sympathy in this time of terrible loss and destruction suffered by you all.**

**"As island people ourselves we can appreciate the dangers of adverse weather and the tragedy that can result from nature's fury unleashed. Our prayers and best wishes are with you.**

**"Yours sincerely,**

**"Mary Williams, Chief Secretary"**

This letter, Mr. Speaker, comes from the Jamaica Foreign Service.

**"The Ministry of Foreign Affairs and Foreign Trade of Jamaica presents its compliments to the Head of the Government of the Cayman Islands and has the honour to request the following message from the Most Honourable P. J. Patterson, Prime Minister of Jamaica be forwarded to the Leader of Government Business, the Honourable W. McKeeva Bush.**

**"I extend my deepest sympathy at the extensive destruction which Hurricane Ivan has unleashed on the Cayman Islands. Having also experienced the devastating fury of Hurricane Ivan the Government and people of Jamaica share your grief and shock and are thankful that no casualties have been reported.**

**"We are particularly dismayed at the widespread damage to homes and property affecting virtually the entire Caymanian population.**

**"As both our countries proceed with the challenging process of recovery and reconstruction, I am particularly pleased that collaboration is already taking place and facilitating travel as well as the evacuation of affected persons.**

**"I assure that our thoughts and prayers are with you during this difficult time.**

**"The Ministry of Foreign Affairs and Foreign Trade of Jamaica avails itself of this opportunity to renew to the Office of the Head of Government of the Cayman Islands the assurances of its highest consideration."**

Thank you, Mr. Speaker. As I said, I do not think the statement has arrived as yet from my office; once that happens, at some point during the day I should like to deliver that statement.

**The Speaker:** Honourable Leader of Government Business we will return to your statement at a convenient time on the Order Paper.

Madam Clerk.

## GOVERNMENT BUSINESS



## BILLS

### Suspension of Standing Orders 45 and 46 (1), (2) and (4)

**The Speaker:** Honourable Leader of Government Business would you move that suspension please?

**Hon. W. McKeeva Bush:** Mr. Speaker I move for the suspension of Standing Orders 45 and 46 (1), (2) and (4) to allow the Bills upon the Order Paper to be read a first and second time.

**The Speaker:** The question is that Standing Orders 45 and 46 (1), (2) and (4) be suspended to allow the Bills upon the Order Paper to read a first and second time. All those in favour, please say Aye. All those against, No.

**Ayes**

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

**Agreed. Standing Orders 45 and 46 (1), (2) and (4) suspended.**

## FIRST READINGS

### The Health Practice (Amendment) (No. 2) Bill 2004

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for second reading.

### The Public Management and Finance (Amendment) (No.2) Bill, 2004.

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for second reading.

### The Price Gouging Control (Emergency Circumstances) Bill, 2004

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for second reading.

## SECOND READINGS

### The Health Practice (Amendment) (No.2) Bill, 2004

**The Speaker:** The Honourable Deputy Leader of Government Business and Minister for Health.

**Hon. Gilbert A. McLean:** Mr. Speaker, I wish to present a Bill for a Law to amend the Health Practice Law, 2002 and for incidental and connected purposes.

**The Speaker:** The Bill has been duly moved. Does the Honourable Mover wish to speak thereto?

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker. Members of this Honourable House would be aware that the Health Practice Law 2002 grants the Ministry of Health Services the authority to insure that the health of the public is protected through regulation of health professionals and institutions in which health services are provided.

Members will also recall that the Health Practice Commission was recently established to carry out regulatory functions as outlined in the Law. The Commission was advised that health practitioners who are members of the Medical Protection Society could be in breach of the Law because the society is not an insurance company and does not offer malpractice insurance coverage. Most doctors in the Cayman Islands are members of the Medical Protection Society of the United Kingdom and certainly all of those at the Health Services Authority are members of that particular society. After receiving legal advice I accepted the Health Insurance Commission's recommendation to amend the Health Practice Law 2002 permitting it to be legally acceptable and sufficient for health practitioners in the Cayman Islands to have medical indemnity.

Section 15(2) (a) of the Health Practice Law 2002 requires a person operating a health care facility to provide malpractice insurance for employed practitioners. The Bill laid on the Table of this Honourable House would amend this section to allow an operator of a health care facility to obtain as an alternative to malpractice insurance, indemnity cover approved by the Health Practice Commission for registered practitioners employed by the health care facility.

The Bill also seeks to clarify that malpractice insurance, liability insurance, medical indemnity and any other insurance required by the Law shall be obtained from an authorised insurer. The definition of authorised insurer has been amended to provide that such an insurer may include any person or organization approved by the Commission to provide medical or any other type of indemnity cover in the Islands.

This Bill achieves the objective of insuring that the public is protected while allowing practitioners to access cost effective malpractice insurance coverage. This Bill is one which, to my mind, is extremely straightforward in what it is attempting to achieve and I recommend this Bill to Honourable Members. Thank you.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

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

Mr. Speaker, in listening to the Honourable Minister for Health presenting the Bill, it seems to us on this side that it is fairly straightforward. There is a point that we would like to make sure that we are very clear on. The amending Bill refers to Section 15 where in the

amending Bill it reads- **“The principal Law is amended in section 15 by repealing subsection (2) and substituting the following...”**

With your permission I just want to refer to the subsection 2 which exists in the current legislation, Law 25 of 2002. Section 15(2) speaks to a person who operates a health care facility.” **A person who operates a health care facility-**

**(a) shall provide malpractice insurance for the registered practitioners employed by the health care facility;”**

The way the Law reads now it is the person who operates the health care facility who shall be responsible for providing malpractice insurance for the practitioners employed by such facility. What is being proposed here is that a person who operates a health care facility shall provide malpractice insurance or indemnity cover approved by the Commission for the registered practitioners employed by such health care facility. Subsection(b) of the proposed Bill speaks to that individual ensuring that the health care facility is covered with adequate liability insurance and subsection (c) says that that individual must ensure that persons who work at the facility under a contract of services with the health care facility have adequate malpractice and other relevant insurance.

What is being proposed as we understand it, gives the individual an option for the practitioners who are employed by the facility. The existing legislation does not provide an option as we see it because the existing legislation speaks to the individual who operates a health care facility. It says: **“shall provide malpractice insurance for the registered practitioners employed by the facility”** whereas the proposed Bill speaks to **“provide malpractice insurance or indemnity cover...”**

We would very much like for the Minister to just clarify that point. I heard what he said in presenting the Bill about not being able to provide such coverage but the onus now is shifting from the malpractice coverage being provided by the individual who operates the facility. If we look at the proposed subsection (c) in the amending Bill it says that such persons shall ensure that the persons who work at the facility under a contract of services with that facility have adequate malpractice and other relevant insurance. Therefore as we understand it, instead of the operator of the facility providing malpractice insurance for the practitioners who work there, it is now saying that the operator must ensure that these people have adequate malpractice insurance or other relevant insurance. It seems to me that there is also a question of malpractice insurance and indemnity cover as to what the cost of each of these are and the availability of each of them.

Perhaps in the Ministers winding up, if he has the information available, to just expand on that a little so that we are very clear understanding what he has said but so that we are very clear with regards to once this is approved and becomes a part of the existing legislation where the responsibility lies. Because we do

know that while such insurance is absolutely necessary we certainly want for all parties to be properly covered and to ensure that if anything goes wrong that everything can be sorted out because each side of the coin is covered properly by whatever insurance is necessary.

Again, just to make absolutely sure, I do believe the way it reads, is that if the operator of the facility is to ensure that the people who practice at the facility have proper coverage it does not clearly say as to who is responsible for the payment of the coverage. I do not know whether the objective of the legislation is to be clear as to who shall be responsible for the payment or whether that is not a consideration for the Legislation and that is a matter that one should sort out on his own as an operator or as a practitioner. I do see, unless that is made clear, a potential problem with regards to people being employed, as to where the onus lies. Perhaps we would want to give some consideration to that.

Mr. Speaker, I am assuming that this Law also applies to any Government facility. I do not presume for a second that Government is exempt from this legislation. So perhaps the Minister could just for our information and for purposes of clarity just give the House a quick explanation as regards to how Government will be operating under the guise of the new legislation once it is approved.

Those questions were simply just a matter of clarity. We certainly understand the intention of the Bill and we support that intention but we would like if the Minister would just clarify those issues so that we are all clear as to the way forward with regards the entire process and the vote. Thank you, Sir.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If not would the Honourable Mover wish to exercise his right of reply?

**Hon. Gilbert A. McLean:** Thank you Mr. Speaker.

Honourable Members of this House will understand clearly what malpractice insurance is supposed to provide. It is a requirement that is put in place where if a doctor through misconduct or mistake, or whatever, should injure a patient whom they are supposed to help, the patient should have the right to sue for damage and the medical practitioner should be in a position to pay the cost of those damages and this is done by way of malpractice insurance. It is the term that is regularly used that we are familiar with which stems largely out of the United States. We have heard of major settlements in malpractice insurance.

Of course in the United States there are so many lawsuits that a certain percentage of doctors are stopping the practice of medicine simply because they cannot afford the premiums anymore. They rather simply not take the risk so they get out of the profession. Others publish on the door a notice ‘We do not have malpractice insurance’; it is an option there to have it or

to not have it and the public should notice, not that it hinders them from being sued, but I think it is a consideration that is given in any such litigation if it was a published notice and someone going to that person knew that they did not have malpractice insurance.

In meetings with the representatives of the Cayman Islands Medical and Dental Services (CIMDS) there were those who attempted to persuade me not to put this requirement in the Law. I was not persuaded in that regard because I think that it is better to have that requirement in the Law as incidents do happen and it is better that the doctors are covered, and the person who may have to sue for damage knows that he is not suing a medical practitioner who can declare bankruptcy or does not have any coverage or money to pay them. It was put in the Law for those reasons.

Now, what I came to discover was that all of the doctors at the Health Services Authority (HSA) are covered by the Medical Protection Society of the United Kingdom. It is in fact an organisation which serves doctors across the Commonwealth and the Government has been paying the fee for this coverage for medical practitioners. I enquired into that situation and I learnt that that society, in effect, paid for and defended practitioners when they decided to take actions against Government or the HSA as the case may be. There were about two or three cases like that. I thought it was fundamentally flawed for any one or any entity to be paying or picking up the tabs so that somebody could turn around and sue them. It was after learning about this particular situation that I asked the Legal Drafting and the staff in the Ministry to look at a way forward in this regard.

What is possible now and would obtain now if the Government continued to pay the coverage for the doctors who work at the HSA, that coverage would not be allowed by the Society to be used to take action against the management of the HSA. It would cover the doctors in the practice of medicine but it would not cover them if they wanted to take action against their employer, they would have to go and pay for that themselves. So, the way the Law is worded now places the responsibility on the HSA or any person who operates a health facility, because they shall see to it that they provide malpractice insurance or indemnity cover approved by the Commission.

We ran into a flaw and the legal people found that the indemnity offered by the Medical Protection Society is not malpractice insurance as malpractice insurance goes. Therefore it was necessary to amend the Law in a way that doctors on a whole in this country could continue to get the benefits of coverage by the Medical Protection Society or malpractice insurance specifically, if they so chose. It had the option of one or the other.

It is my understanding that for them to get the malpractice insurance here it would be exceedingly high and it makes more sense for them to stay covered under the Medical Protection Society. Sections (a), (b) and (c) basically speaks to this requirement by anyone

who offers health services or who operates a health care facility. Whether or not the doctors themselves are asked to contribute would be a question of policy. If a facility chose to go and say to that person *'look you are covered, we initially will pay it, you pay us back'*; it is an option but it is a policy decision. The operator would have to see that the insurance was in place whether they paid for it and it became a part of their administrative expense or whether they asked the doctors to contribute. It would be left to them to work that out amongst themselves.

That is the objective in this amendment that is before this Honourable House and I guess it could sail under the big umbrella of malpractice insurance although we also have in this the concept and the term 'indemnity cover' which can be and is offered by the medical protection society. Mr. Speaker, I trust that the explanation has been sufficient for the Member raising the subject and I recommend the Bill to the Honourable House.

**The Speaker:** The question is that a Bill shortly entitled the Health Practice (Amendment) (No.2) Bill, 2004 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 Practice (Amendment) (No.2) Bill, 2004 given a Second Reading.**

**The Public Management and Finance (Amendment) (No.2) Bill, 2004**

**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 Management and Finance (Amendment) (No.2) Bill, 2004.

**The Speaker:** The Bill has been duly moved, does the Honourable Mover wish to speak thereto?

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

Mr. Speaker, as will be evident to yourself and Honourable Members the purpose of the Bill is to make two small amendments to the Public Management and Finance Law (2003 Revision). The first amendment is to section 12 of the principal Law to allow Cabinet to approve expenditure for which no appropriation exists but this will only be allowed for in exceptional circumstances.

The second amendment is to section 13 to allow the extension of the budgeting and reporting deadlines subsequent to a state of emergency or what is described in the Bill as 'exceptional circumstances

such event being declared.' For the benefit of Honourable Members I would like to briefly outline the rationale for each of these amendments. The Public Management and Finance Law provides Cabinet with the authority to authorise executive financial transactions, however before doing so, Cabinet must obtain an appropriation from the Legislative Assembly. Those appropriations effectively provide Cabinet with a budget, which it can use to purchase outputs, fund transfer payments, make equity injections and purchase executive assets. The current Law contains two provisions that allow executive financial transactions to be authorised without appropriation.

The first is to be found in section 13, which allows the Governor in Cabinet to authorise executive expenditure during a proclaimed state of emergency without the prior approval of the Legislative Assembly. This provision only applies during the state of emergency itself therefore it is not applicable in the period after it, such as this Hurricane Ivan recovery period that we are now in.

The second provision is section 12(a) which allows Cabinet to authorise expenditure in advance of appropriation being provided that the prior approval of the Finance Committee has been obtained. The section 12(a) process is appropriate and satisfactory in normal conditions. However, it involves a relatively lengthy budgeting process and is not flexible enough for the current circumstances. Clause 3 of the amending Bill therefore inserts a new subsection (5) into section 12 of the principal Law. This new subsection allows Cabinet to approve expenditure for which no appropriation exists. In order to preserve the sovereignty of Parliament and the sanctity of the appropriation process the amendment contains three important restrictions as to when and how Cabinet can use this power.

First, the pre-appropriation authorization authority is limited to five percent of the budgeted executive revenue. This amounts to 14.6 million dollars for the current fiscal year for which we are now in. Secondly, the authority is limited to what is called exceptional circumstances and clause 2 of the Bill defines exceptional circumstances and inserts this definition into the principal Law. Honourable Members will note the specific wording of clause 2 reads-

**“The Public Management and Finance Law (2003 Revision), in this Law referred to as “the principal Law” is amended in section 3 by inserting the following definition in its appropriated alphabetical place-**

This is the definition of ‘exceptional circumstances’ **““exceptional circumstance” means an event which occurs during a financial year and which –**

- (a) is beyond the control of the Governor in Cabinet;**

- (b) could not have been reasonably anticipated at the time of enactment of the Appropriation Law for that financial year;**
- (c) has an economic or social impact that is significant enough to necessitate executive financial transactions different from those planned for that financial year; and**
- (d) requires the executive financial transactions to be entered into in a timescale that makes compliance with the procedure established by section 12A impractical;”.**

It may be useful to give some additional information as to the specific wording in regards to the first amendment under section 12A. This is where it provides the limitation in terms of how much Cabinet would be able to expend without first obtaining the approval of the Legislative Assembly or Finance Committee. The specific wording reads- **“Clause 3. The principal Law is amended in section 12 by inserting after subsection (4) the following subsections-**

**(5) Where an exceptional circumstance has occurred during a financial year, the Governor in Cabinet may authorise executive financial transactions for which no appropriation exists if-**

- (a) the executive financial transactions directly relate to, and attempt to remedy the effects of, the exceptional circumstance; and**
- (b) the total amount authorised is no more than five percent of budgeted executive revenue for the financial year.**

**(6) Where the Governor in Cabinet has authorised executive financial transactions in accordance with subsection (5)-**

- (a) a member of the Cabinet appointed by the Governor in Cabinet to do so on his behalf shall, at the next sitting of the Legislative Assembly after the exceptional circumstance has occurred, make a statement to the Legislative Assembly advising of-**
  - (i) the exceptional circumstance, its nature, and how it complies with the definition of the term “exceptional circumstance” set out in section 3;**
  - (ii) the type and amount of the executive financial transactions authorised or likely to be authorised; and**
  - (iii) the effect of the authorisations, or likely authorisations on compliance with the principles of**

**responsible financial management specified in section 14; and”**

This item no. 3 is a very important requirement to observe as there will be life after the exceptional circumstance. For example, the Government recognises that there are certain expenditures that were necessary to be incurred during this period of the aftermath Hurricane Ivan. However, we still have to be very prudent and cautious in this expenditure because unless such is done we could find ourselves in a situation where fiscal imprudence could emerge.

Immediately following the hurricane and while these expenditure requests were being considered by the Government, the Government took the decision that it would request departments to start reviewing the likely impact that the event of the hurricane would have on general revenue and also to start revising their expenditure needs, recognising that there would be re-prioritisation of expenditures to look specifically at the time that we are now in. This is to ensure that where there is a reduction in general revenue taking place that if it is that the expenditure for the fiscal year is going to be exceeded if such cannot be contained, early warning notice will be given to the Cabinet and to the Legislative Assembly as to the fiscal impact that will emerge as a result of the exceptional circumstance. At this point in time it is not a question that the Government is callous or insensitive in terms of asking controlling officers, recognising that they have to be attending to their homes and their specific needs, but at the end of the day we have always been a country that has been very prudent in our fiscal policy and irrespective of the circumstance, we would want for this to continue into the future.

The requirements of section 14 as now set out in the Public Management and Finance Law were well considered when it was put there. As a result of this the amending Bill contains item (iii) which I will read again giving consideration to **“the effects of the authorisations, or likely authorisations on the compliance with the principles of responsible fiscal management specified in section 14;”**

Mr. Speaker, as alluded to earlier, the Government of the day is required to advise this Honourable House when it has declared an exceptional circumstance and to justify why the event in question is indeed exceptional. This means that careful consideration must be given to the specific event that will be labeled **“exceptional circumstance”**. The provision is given effect by a new section 12(6) which is inserted into the principal Law by clause 3 of the amending Bill.

As Honourable Members are aware the Public Management and Finance Law requires that Ministries, Portfolios and Government as a whole provide quarterly reports to this Honourable House. This first such report for the 2004/2005 financial year would normally be prepared around this time. However, as I am sure Honourable Members can appreciate the demands on

Ministries and Portfolios subsequent to the recent hurricane has been extremely extensive. As a practical matter therefore, it is difficult for quarterly reports to be prepared at this specific point in time.

Clause 4 of the Bill therefore inserts a new subsection into section 13 of the principal Law. This amendment allows the extension of the reporting and budgeting deadlines after a state of emergency or an exceptional circumstance has occurred. Regular reporting is an important managerial discipline and essential for effective accountability. The power to defer reporting deadlines is therefore vested only in the Legislative Assembly which would give effect to it by way of a resolution. The intention in the current circumstance is to complete the first quarter report with the half years report which will be prepared for the six months ended 31<sup>st</sup> December, 2004 as normal.

Therefore in conclusion the Public Management and Finance (Amendment) (No.2) Bill, 2004 makes simple amendments to the principal Law. The first is to allow Cabinet to authorise executive financial transactions when an exceptional circumstance occurs. This allows the Cabinet of the day to respond swiftly as demands and needs arise in post Ivan type circumstances. This amendment contains a number of safeguards to ensure that the sanctity of the appropriation process is maintained.

The second amendment is to allow this Honourable House to extend budgeting and reporting deadlines. It is assigned to reflect the practical realities that budgeting and reporting timelines will often need to change as a result of exceptional circumstances.

Mr. Speaker, I would like to thank you very much and commend this amending Bill to Honourable Members.

**The Speaker:** Does any other Member wish to speak?  
The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

I had to go deep within myself when the Honourable Third Official Member proclaimed in presenting this Bill that the Bill contained two small amendments. It seems to me as if what we are talking about here is really much more than ‘small’ amendments.

Before I really begin my short contribution let me make it absolutely clear that we on this side are with full understanding that there are circumstances which become extraordinary circumstances and would require certain action of Cabinet, sometimes almost instantaneously. We do not for a minute argue against that and we are not going to present any arguments to try to suggest that that should not be possible. That is not the line of argument I will be putting forward, but there are some questions in my mind with regards to the entire process; with regards to the entire existing legislation and the whole reasoning and rationale behind the legislation itself that exists and what the objective of the legislation was.

There are also a few questions which we need to seriously consider when it comes to the role of the Government in a Democracy and the role of an Opposition, and how any existing or proposed legislation will affect the operation of both sides of the House. Now, perhaps it is easy to say that a government will consider a government's position, regardless of which government that is, and an opposition will consider the Opposition's position regardless of which opposition that is. However, whether that is the case or not I still believe that we have to take a look at it so that we are sure and satisfied that whatever process that is going to be called allows for the checks and balances which the Democratic process calls for to take place. So that is the plank that I am going to walk on for a while.

Getting back to the two 'small' amendments that the Honourable Third Official Member says are contained in this Bill for a law to amend the Public Management and Finance Law (2003 Revision). As he explained the rationale behind the two amendments and as we compare what is being proposed to what exists, I think we have to flesh out a few things, and with your permission as I proceed on rather than stop every two seconds if you would just allow me to refer to the existing legislation and quote from it and also the proposed amendments.

**The Speaker:** Please continue.

**Hon. D. Kurt Tibbetts:** Thank you, Sir. The Memorandum of Objects and Reasons of the proposed Bill says that the main purposes of the Bill are-

- (a) **to allow the Governor in Cabinet to authorise executive financial transactions for which there is no appropriation, where exceptional circumstances occur; and**
- (b) **to allow the Legislative Assembly, by way of resolution, to defer the reporting and budgeting deadlines established by the principal Law after a state of emergency or an exceptional circumstance has occurred.**

And then almost as a footnote-

**"The Bill also validates any unauthorised"**... although I would not be presumptuous and perhaps they have reason to be presumptuous, but I certainly would not have worded it like this. I would have said the Bill also seeks to validate any unauthorised executive financial transactions carried out between the 27<sup>th</sup> September, 2004 and the date of commencement of the legislation.

The first purpose of the Bill which, to speak to the specific amendments, section 2 of the Bill reads- **"The Public Management and Finance Law (2003 Revision), in this Law referred to as "the principal Law"**...so we will refer to it as the principal Law from hereon in...**"is amended in section 3 by inserting**

**the following definition in its appropriate alphabetical place-**"

Mr. Speaker, it is as the Mover of the Bill presented, it is important to understand what the definition of "exceptional circumstance" means. In the new definition it speaks to an event which occurs during the course of any financial year, which is first of all **"beyond the control of the Governor in Cabinet"** which means beyond the control of all the Legislative Assembly. Section 2(b)-

- (b) **"Could not have been reasonably anticipated at the time of enactment of the Appropriation Law for that financial year"** [which is fine]
- (c) **has an economic or social impact that is significant enough to necessitate executive financial transactions different from those planned for that financial year; [or by inference those approved for that financial year...and]**
- (d) **requires the executive financial transactions to be entered into in a timescale that makes compliance with the procedure established by section 12A impractical;".**

Mr. Speaker, what is impractical? Impractical, if we look at the situation at hand. I want to impress in my line of debate that I am going to try to be as objective as I possibly can because it could be either way when we are looking at the situation. If we look at what is at hand and we speak to what is impractical it would seem to me that perhaps we site some specific situations which would be deemed to be impractical to follow the existing legislation and be able to act swiftly enough or to make decisions swiftly enough to take whatever the corrective measure is.

Regardless of those situations there are still some fundamental principles and certain procedures which, I take the position, are very difficult to simply bypass if we are going to be satisfied that the democratic process still continues. When the Mover of the Motion was pointing out the circumstances under which executive transactions can take place now without the appropriation that is required by the Law, he pointed those situations out and he spoke to a state of emergency and then he pointed out that the Law does not cover the time period after the state of emergency is lifted. So, the purpose of this legislation is to allow for that.

In the existing Law, both circumstances which allows for the extraordinary expenditure to take place have their own checks and balances inherent in the specific section. The two circumstances when such can happen, Mr. Speaker, occur in section 12 and section 13. Section 13 which was the first one referred to by the Honourable Third Official Member speaks to when a state of emergency is proclaimed. We look at that piece of legislation and we know that if and whenever a state of emergency is proclaimed the legislation

allows for what has to happen and it speaks specifically in subsection 2:

**“13(2) Without affecting the validity of any executive financial transactions entered into under this section”...that is under a state of emergency. “A statement of such transactions that have not been appropriated but (apart from this section) are required to be appropriated,” Notice it says “but apart from this section are required to be appropriated shall be included-**

- (a) in the first entire public sector quarterly report under section 28 after those transactions have been entered into;
- (b) in the first entire public sector annual report under section 29 after those transactions have been entered into [What is important also, it says] and the cost of those transactions shall be included in the first Appropriation Bill introduced to the Legislative Assembly after those transaction have been entered into.”

While the Mover of the Bill is taking his notes, I want to just pause a second here and just ask him that when he is replying if he would carefully, because for the love of me what may seem obvious does not seem too obvious to me. The existing legislation under section 13 speaks to the costs of these transactions being included in the first Appropriation Bill and then what is proposed as the amending legislation it speaks to. . . I am just quickly finding it Mr. Speaker. It speaks to in the first supplementary Appropriation Bill, one speaks to an Appropriation Bill and the other one speaks to a supplementary Appropriation Bill.

[Pause]

**Hon. D. Kurt Tibbetts:** Yes, Mr. Speaker. In the amending subsection 3 where it says- **“(3) The principal Law is amended in section 12 by inserting after subsection (4) the following subsections”** [6(b) that is being proposed reads] **“6(b) the authorised executive financial transactions are to be included in the next supplementary Appropriation Bill introduced in the Legislative Assembly after those transactions have been entered into”**.

This amends section 12, but section 13 speaks to the first Appropriation Bill introduced in the after these transactions have been entered into. As I said, it may have seemed to be obvious what the reasoning's were behind it but it is eluding me, therefore I would like that to be clarified as to exactly why that is the case. It must have something to do with timing but I am not quite sure exactly what that is. In the existing section 13 it tells the conditions under which this expenditure can take place we look to section 12 and we see where section 12 reads:

**“12(1) Subject to section 13”**, which is what I just spoke to, Mr. Speaker. “. . . the executive financial transactions in respect of a financial year may be authorised by a resolution of the Legislative Assembly in advance of a law making appropriations for those transactions if-

- (a) the resolution is arranged according to each of the appropriation types specified in section 10(3); and
- (b) the resolution provides that it shall lapse after a period of four months from the date of the resolution.”

Maybe that is part of the answer for the supplementary Appropriation Bill and the next Appropriation Bill, however, the Mover can explain that. I was just thinking about it as I was reading it. It also speaks to:

**“(2) A resolution referred to in subsection (1) may contain conditions and limitations subject to which the authorisation is made.**

**“(3) All financial transactions authorised under a resolution referred to in subsection (1) shall be subsumed by the amounts respectively provided in the law making the appropriations in respect of the transactions when the law comes into operation.**

**“(4) Where the Legislative Assembly is dissolved before provision has been made for carrying on the business of government, the Financial Secretary may authorise such of the executive financial transactions as he may consider necessary for that purpose until the expiry of three months from the date on which the Legislative Assembly next meets following that dissolution.”**

That is similar to what we now have as an election year and there is a period of time before the next budget is approved where you have to have approval for Government to continue to run; you have to have approval for a certain level of appropriation and that would be included in the budget itself once the budget is presented. It is all part and parcel of the same operation. So, that part is fine. However, when we look at what is proposed and here is where I want us to seriously consider how it is being proposed, and while I understand the logic that has been applied I would very much like if they would seriously consider what the constraints are and how it applies to the operations of the elected membership in Legislative Assembly.

In section 3 where it says in the proposed subsection (6)- **“(6) Where the Governor in Cabinet has authorised executive financial transactions in accordance with subsection (5)-**

- (b) a member of the Cabinet appointed by the Governor in Cabinet to do so on his behalf shall, at the next sitting of the Legislative Assembly, after the exceptional circumstance has occurred, make a statement to the Legislative Assembly advising of-

- (i) **the exceptional circumstance, its nature, and how it complies with the definition of the term “exceptional circumstance” set out in section 3;** the definition which was read
  - (ii) **the type and amount of the executive financial transaction authorised or likely to be authorised; and**
  - (iii) **the effect of the authorisations, or likely authorisations on compliance with the principles of responsible financial management specified in section 14 of the principal law; and**
- (b) **the authorised executive financial transactions are to be included in the next supplementary Appropriation Bill introduced in the Legislative Assembly after those transactions have been entered into.”**

What physically happens, that is that the Law will then allow for Cabinet to act under these extraordinary circumstances and then the justification of the action is simply by way of a person designated from the Cabinet to simply come to the Legislative Assembly and make a statement. Albeit, it may be looked at as a biased opinion, as I am in the Opposition but it has to me no allowance for the existence of the Opposition in the entire process. You are giving the Governor in Cabinet to act fine and when it is all over a person is designated then to come and simply make a statement “this is why we did this, this is why we did that” and that is basically the end of the story.

In subsection (b) it is added in to the next supplementary Appropriation Bill. In this instance like most instances supplementary Appropriation Bill will mean as is usual, it is already spent and it is simply going through the process of ratification. If the Government considers that that process, as just outlined, is how a process should be when it comes to expenditures and national expenditure and the checks and balances, in my view, as I see, what is being presented here does not exist with regard to expenditure albeit the extraordinary circumstance. I am not arguing about that principle of extraordinary circumstance. However somewhere along the line in the process there should be some allowance for scrutiny and discussion before you get to the point where it literally is all over and it is just a matter of ratification. One could again say that to have a government it calls for the majority of the elected membership to be on the side of the Government. Yes. However, if you speak to the principle of majority rules then whatever the Government does is what the majority does, then therefore it should be allowed.

If one wants to think of it from that position then one can take that position but certainly the process itself must allow for the scrutiny of the Opposition, regardless of whether that is one person or however many people. I just do not see that process being included in what is being proposed in the legislation.

What I just outlined could be looked at in several ways but I truly believe that somewhere along the line, in the process, we really need to have the ability for some type of discussion to take place. It is not about holding the process up or tying the hands of the Government or anything like that, but it is a matter for the process to allow for the elected representatives of the people to all have some type of participation when it comes to the country's expenditure.

That has been the purpose from the beginning of Finance Committee. That is why we all hold dearly to the fundamental principle that Finance Committee should only constituted of the elected membership and when we hold that fundamental principle we speak to all of the elected memberships. Therefore we are forced to bring that view forward and the Government will say what it will about that. Mr. Speaker, right above that in the proposed amendments, another amendment to section 12 is subsection 5(b). It says: “**5. Where an exceptional circumstance has occurred during a financial year, the Governor in Cabinet may authorise executive financial transactions for which no appropriation exists if-**

- (b) **the total amount authorised is no more than five percent of budgeted executive revenue for the financial year.**

Mr. Speaker, a while back there was some discussion about Government being given the latitude to spend, I believe, it was six per cent of the projected executive revenue for the year, and I do not think that proposed amendment actually came about. Now this one that is being proposed under these extraordinary circumstances is proposing the amount that is allowed to be spent is no more than five percent.

Let us physically look at how we are dealing with this situation because this piece of legislation is specifically referring to ‘beyond a state of emergency’ and we do not know what kind of expenditure may be incurred during a state of emergency. We can perhaps have this situation as our own experience to draw from but we may have some difficulties trying to imagine what else could happen; I guess most of us would not want to think of it for fear that it may happen. It is difficult to physically apply numbers to the time during which a state of emergency exists and the extraordinary circumstance which continues to exist beyond the state of emergency and as the presenter of the Bill spoke to, is during the recovery time.

If the executive revenue that was projected in 2004/2005 budget was 292 million dollars, I think the Mover spoke to some 14 plus million dollars, which would have been five per cent. I need to understand clearly the rationale with that figure. I do not want for a second to presume or presuppose that it was plucked from the sky, and assuming that that is not the case then how do we arrive at that figure, whether it is enough or exactly what the figure should be. If five per cent is not enough, depending on the circumstance, then whatever else is done will have to fall back into the same normal procedure that we have in the exist-



ing legislation. Therefore we have to say why is it we want to use that figure as a figure. If the principle that we are applying is because no more than that amount should be allowed to be spent without the proper checks and balances then we want to hear that. We need to understand why this figure is used.

With regards to what I mentioned earlier on, what seemed to just be stuck in there as an afterthought, the Bill validating any unauthorised executive financial transactions carried out between 27<sup>th</sup> September, 2004 and the date of commencement of the Legislation, here again, is where the same problem occurs. To validate that expenditure via this Bill simply means that the Governor in Cabinet incurred the expenditure, end of story! It was not money that was appropriated. There has to be a way for funds that are spent which are not appropriated to be able to be scrutinised. There must be a way! I must tell the truth, I did not have time to make any inquiries from other jurisdictions that may have such experience or to discover what methodology may be used elsewhere; I simply did not have the time to do that. However, I have to believe there must be some way to do it. I do not have all of the answers but it seems to me that if we are holding on to this principle of why we do what we do; they way we do it, and why we have moved away and have our new Public Management and Finance Law, then even under the extraordinary circumstances there must be extraordinary ways to allow some type of scrutiny; that is all I am saying. What is being proposed here does not allow for that.

Whatever position the Government takes they have a right to take that. Whatever position the Opposition takes they have a right to take that also. It is our contention, not trying to placate or anything but simply looking at the facts that there must be a way for scrutiny to take place. What is being proposed does not allow for it. The very last proposition in the Bill, which simply validates expenditure that has been incurred, does not go down right with us, just for it to happen just like that. Therefore as the Bill is worded it is impossible for us to support the Bill. I simply will look forward to listening and hearing the logic that is put to bear on the situation and then we will have to vote the way we see fit. Thank you very much.

**The Speaker:** Does any other Member wish to speak?

The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, in any democratic country there is an important balance that has to be achieved between the powers the executive branch needs in order to manage the country's affairs effectively, and the ultimate authority vested in the legislative branch as the elected representatives of the people. As we all would agree nowhere is that balance more evident than in the control of government expenditure.

Section 8 of the Public Management and Finance Law prohibits the Government from incurring expenditure or undertaking other executive financial transactions unless it has an appropriation. That provision places the ultimate responsibility for determining the level and purpose of government expenditure with the Legislative Assembly. That is exactly as it should be! The Opposition leader is saying exactly. I wonder if he was in government at this time what would he be doing. There is no need to shake heads because the fact is when action needs to be taken it has to be done. The appropriation process is very much an important constitutional and financial safeguard.

In normal circumstances and these times, whether the Leader of the Opposition recognises it or not, are not normal times. In normal circumstances it is quite reasonable to expect Government to manage itself within the parameters established by their budget or if necessary to come back to the legislature to request changes to that budget; to those appropriations. That is as we did when we came to Finance Committee in late August or September, but before Hurricane Ivan.

The Public Management and Finance Law allows for this through the supplementary appropriation process provided for in section 25 and the finance pre-approval process provided for in section 12(a). The Government fully supports these provisions and in normal circumstances, and I repeat that, in normal circumstances, is very willing to comply with them. Indeed as I said earlier this year, to be exact it was 6<sup>th</sup> September that we bought a request to Finance Committee for appropriation changes under section 12(a), normal circumstances.

Post Ivan, as I said, is not a normal circumstance; These are not normal times. It is a period of great challenge for our country; it is a period where the Government needs to act swiftly and with a degree of flexibility to address the many urgent needs of our community and it is a period where there is an immediate need to make previously unplanned and unappropriated expenditures in order to recover from the impact of the hurricane.

The aftermath of Hurricane Ivan has been a learning experience for all of us. One of those lessons is that restrictions on government expenditure brought about by the appropriation constraint are preventing the Government from progressing on the recovery effort in a timely manner. While we stand here and quibble about the Government coming back to them, needs are mounting and people are hurting and we are making endeavors to rectify some of those needs. We are being prohibited because of this Law and you know what, Mr. Speaker, if you check back you will find out that many of us raise those concerns; what will happen in an emergency! To pacify the situation that the Financial Secretary knew would be raised by the Opposition, he said leave the Law alone and bring it as it were. Back then many of us wanted to put in a situation where we could act in emergencies. In these very

exceptional circumstances the Government needs a small amount of additional— well perhaps I would not say a small amount because we might say we might need more, but the Government needs additional financial flexibility in order to govern effectively. The amendments to section 12 of the principal Law contained in the amendment Bill are designed to give the Governing Cabinet that flexibility.

The business of managing the Government's finances is a very important matter and one that this Government takes very seriously. We do not want, and are not seeking, a blank check from this legislature. As the Honourable Financial Secretary outlined, the amendment Bill places some important restrictions on the Cabinet's authority to approve expenditure in advance of appropriation. For a start, the authority is limited to exceptional circumstances and the term is well named. The definition in the Bill makes it clear that these are not everyday occurrences that the Government should have planned for rather, as we all know, they are events that are outside the control of the Government and that could not have been reasonably anticipated at the time the budget was approved.

Further they have to have a significant economic social impact and require expenditure that cannot be dealt with through the normal section 12(a) Finance Committee process. One of the hallmarks of this Government is openness and transparency, whether it is admitted by the Opposition or not. We are not afraid to stand up and explain what we are doing and why we are doing it. We can see this yet again in the provisions of this Bill. Clause 3 of the Bill requires a Government that has declared an exceptional circumstance and authorised expenditure in advance of appropriation to justify it. I know that the Leader of the Opposition complained about that but if we had to call the Assembly or call Finance Committee before we took the quick action that was needed then we would not see the need to change the Bill. We would not see the need. The scrutiny and discussion that he mentioned, how do you do that in times where you need to act quickly?

In the times that solutions are needed, quick action must be taken. The Cabinet is charged to act and to act quickly and the country expects the Cabinet to act quickly, then we must have the wherewithal to move quickly. The new section 12(6) requires a member of the Cabinet to make a statement in the House explaining what the exceptional circumstances are, its nature and how it complies with the definition contained in the Bill. The statement must also identify the type and amount of expenditure to be approved and the effect those approvals are likely to have on the principles of responsible management; in other words if we are spending a huge sum of money, are we going to balance the budget, where will the money come from, that sort of thing and we have to give an account for it.

These are powerful provisions and they are designed to ensure that Government does not abuse its exceptional circumstance powers. As for the safe-

guards, the Bill limits the extent of approvals to five percent and as I said, perhaps that needs to be looked at, because what I see facing us and sometimes the urgency that you have to act, it is the urgency that is needed, five per cent of the current Budget, let us say \$300 million, we can see.

It is to pay some of the bills—the Member from East End is asking us who we are going pay; we are going to pay the bills that the country incurs at the time, whether they are for sheetrock specialists or wood carriers. While this is an 'after the event' action, it still requires a Government to front up and explain our action.

The amendments contained in this Bill are few by number but vitally important to the wellbeing of this territory. In exceptional times, the need for the Government to govern effectively is at its greatest and they cannot complain about lack of action if they stop us from getting the money quickly to do it. You cannot even make a commitment. It is not saying that if we need something immediately we can go and get it without changing the Law because whatever the Government does in those circumstances if we went and credited something it is a commitment; we cannot do it, we have to come here first. We do not have that ability.

So, the Bill ensures that the Government of the day, whoever it is has the authority and flexibility it needs in such times. I encourage all Honourable Members of the House to unanimously support the Bill so that we may progress our recovery effort and the Opposition still has time to redeem itself and support us in this matter.

**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 my contribution to the amending Bill that is before us to amend the Public Management and Finance Law. I think I should first begin by saying that \$14, almost \$15 million is not a small amendment, particularly when it is the resources from the people of this country. Whilst I too have had my spell and my experiences in management, not necessarily the Government, but certainly management, and understand the difficulties that management is presented with during extraordinary circumstances and this one may be an extra extraordinary circumstance. I understand all of that and being handcuffed in not being able to effectively reduce the hardships that it causes to the country and the people of this country, in my case it was on a number of occasions to the company and its economic base, and to the country also, but from a different perspective.

As a member of this Legislature I have an obligation to ensure just like I had in my managerial experiences and position before, to ensure that the checks and balances are in place in order that there is equity in the distribution of resources that is for the people of this country. Therefore in the absence of such checks and balances it is my responsibility to

speak to and question that absence, especially when I see that there are already provisions that will cover those checks and balances, and there are already provisions that will allow Government to effectively run the country in these extraordinary circumstances, which is mandated by law.

I have recognised that under section 13 of the existing Law the Governor in Cabinet has the right to make expenditures and financial transactions to meet the emergency as it thinks fit whether or not they have been authorised by an appropriation. I now understand that that emergency is over therefore we could argue that during that period the Government was capable of doing it but because that period is over we now need to put some provision in place. And I understand that, unfortunately we did not act fast enough and it does not matter to me whose fault it is but during that period maybe we did not act fast enough to ensure that finance was available other than that that was budgeted for to effectively transfer or be carried over into this period and maybe we can interpret it that that is not the intent of that section also.

When we look at the Law as it relates to now, which is under normal circumstances, there are a number of provisions in the Law that can allow Government to effectively run this country without an emergency section to allow them, under exceptional circumstances, to utilise five per cent of the Budget. The Leader of Government noted that one of the hallmarks of Government is transparency, and that on the 6<sup>th</sup> September this year (2004) they bought supplementary expenditure to the Finance Committee. As I recall that was after the fact that the monies had already been spent or had been transferred to other sections within the different entities.

Mr. Speaker, I see the Third Official Member shaking his head, maybe I am subject to correction there, but if it was not after the fact, the fact is that provisions are made to transfer from one output to the other. If such is the case, then why is that when we opened today, your good self quite readily apologised for the short notice of the calling of the legislature? As we noticed, we are all here with the exception of a few. Why is it that is one provision that we could run the country by, calling the Finance Committee on short order and transferring whatever needs to be transferred? Because, as we speak of the extraordinary circumstances we must take it in its entirety; extraordinary circumstances and let us start with the extraordinary circumstances and the ordinary circumstances, and a budget for an ordinary circumstance in this country. Some \$300 million has been budgeted and likewise revenue.

Now, Mr. Speaker, that is under normal circumstances. Under normal circumstances that Budget is supposed to run this country. Now this is not normal circumstances; these are extraordinary ordinary circumstances so I am sure that much of that Budget has now been derailed. Many of the intended expenditures will not be expended; many of the outputs will be de-

railed because we are not under normal circumstances. Certainly, I know the counterargument is going to be that the revenue is not there to match it either, but we can argue that the revenue would not be there to match the five per cent either. Therefore that one sort of balances itself out.

Monies can be transferred from one entity to the other quite easily, thus I see someone has not explained to me the need for the five per cent; I have not heard what it is going to be used for. Further, I have not heard, I have seen in the papers because we must remember that I have not been in George Town too often over the last six weeks therefore my information is through the papers and the radio. As I understand it, Government has transferred 6.5 million. [Pause] Five million? Whatever it is, Mr. Speaker, it is bigger than most of us can comprehend and I appreciate the amount but at the end of this amendment Bill we are asking to legitimise also; I suspect that is the one we want legitimised.

Now I have not heard what it has been spent on; that is what my focus is on. There is no breakdown so that I as a representative responsible to the people of this country can say "Yes" a little money went to East End, a little went to George Town and a little went to West Bay—equally distributed. That is my responsibility as a representative, as I see it. I do not believe that my responsibility encompasses doing it after the fact all the time. Now here we are the Government asking us for five per cent of the Budget to do the recovery. Yes, Mr. Speaker, I see the need and five per cent may not be enough. We may be looking at a 100 million. However, as representatives I believe that we should have the right to see how it is going to be distributed, that is to the people.

One of the things I will never forget, coming from my dear cousin, the doctor, the Minister responsible for Community Affairs and that was that there was a time when he and I got into a political discussion and he said to me: "**I want you to remember that government is responsible for the distribution of resources in any country.**" This is true but it was very profound because of the way he said it to me, and I will always remember him for that, if for nothing else.

However, while Government is responsible for the distribution of resources, it is also the responsibility of every Member of the Legislature, of any country, to have an equal say in whether or not they agree to how government allocates those resources. I certainly understand how we are strapped, but it does not take six months or even a quarter to get the Finance Committee together. I trust that the argument will not be that Arden McLean or the Opposition, for that matter, is trying to derail the process of recovery and relieve the people of this country of the hardship, because I am the last person that should be said about. I am the last person to be accused of that since I have been working 20 hours a day for the last six weeks.

I just want to ensure that I am comfortable that the people of this country are comfortable with the dis-

tribution of the resources. As I understand it, and I am not pointing any fingers at anyone, and I do not want to come across as if I am accusing the Government of anything; it could have been another Government over there and it would not have mattered to me. I do not want the jealousy that has sprung up all of a sudden because East End has a benefactor. I really want to ensure that there are some equality in the distribution of these resources.

**The Speaker:** Honourable Member if this is a convenient time for a break in your speech, I would wish to take the luncheon suspension at this time for us to return at 2:30 pm?

**Proceedings suspended at 12:59 pm**

**Proceedings resumed at 2:47 pm**

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

The Elected Member for East End continuing with his debate.

**Mr. V. Arden McLean:** Thank you Mr. Speaker. When we took the luncheon break I was talking about the situation as it exists with expenditure and ensuring that there is some degree of equality in the distribution of resources. I was also speaking on the position of this little jealousy that has been raising its ugly head when it comes to Members of this Honourable House who get donations from private individuals and the likes; it may very well result in Government feeling like there may be no need to extend that distribution of resources into those particular areas, and we need to ensure that that does not happen.

In moving on, I have a few more areas to touch on, but one in particular that I would like to touch on in the new amendment is amendment 3(6).

**“3(6) Where the Governor in Cabinet has authorised executive financial transactions in accordance with subsection (5) –a member of the Cabinet appointed by the Governor in Cabinet to do so on his behalf shall, . . .**

I stop there. Mr. Speaker it escapes me how a Member of Cabinet can be appointed by Governor in Cabinet, which as I understand it is Cabinet and that Member of Cabinet will be acting on the Governors behalf. As far as I am concerned it should be on Cabinets behalf or its behalf. Now there may be some explanation for that but I would like to read that again and it says **“a member of the Cabinet appointed by the Governor in Cabinet to do so on his behalf shall, at the next sitting of the Legislative Assembly after the exceptional circumstance has occurred, make a statement to the Legislative Assembly advising of-**

**“(i) the exceptional circumstances. . .”**

Now if Governor in Cabinet is made up of all persons in Cabinet, then it cannot be the Governor that

Member of Cabinet so appointed is acting under the instructions of the Governor; it is under the instructions of Cabinet; it cannot be the Governor. I too, want to see the elected arm of Government being in charge because they are more responsible to the people. What this says to me is that that Member is going to be acting on behalf of the Governor when it was the Governor in Cabinet who appointed him or her. Maybe I am missing the whole thing here, but then somebody needs to explain that to me.

As I said before, I understand the need for Government to operate in an effective and efficient manner. Thus far, according to the press and the radio Government has utilised or transferred some 5 or 6 million dollars, as I said before. I now come back to touch on section 5 of this Bill. Section 5 (1) says: **“The carrying out of any executive financial transaction for which no appropriation exists, between 27 September, 2004 and the date of commencement of this Law, in purported exercise of powers conferred by the principal Law, is validated and is to be taken to have been lawfully carried out.”**

The very least that Government should have done, was to come to us and tell us what those monies were spent on. Here I am being asked to rubberstamp an expenditure that I know nothing of, which is going to be the case once this five per cent is approved. However, already there have been expenditures and this is my fear of what will happen in the future. I certainly do not expect a detailed report of such, as is required under section 4 of this amendment, but certainly, we need to know the position of the recovery since Ivan. Albeit that the Executive must have control, I for one am not seeing to any great degree where we are recovering in a speedy manner, or in a manner that I think would be reasonable by this time, which is six or seven weeks after the hurricane.

Now I know we were talking about and contemplating the hiring of some company to do clean up around the country, but as I see it we are still hopping along with the little resource that we could afford prior to Hurricane Ivan. I ask the question: If we had such monies available to us what are we doing with it? Is it only to pay those who are currently working to do the clean up? Are we still in the process of short listing companies to clean up after Ivan? These are questions that I believe are reasonable to ask since we are here to legitimise expenditures as of 27 September, 2004.

What plans are in place for the speedy recovery of this country since we have had the certain amounts of financial resources transferred from the general reserves? How are they being used? I think it is fair that the people of the country know how the Government plans to do this. I have seen nothing other than what we can do on our own, and I must congratulate those who are doing that because it appears to me that we may not need a contractor to come in here. Is that what these expenditures are for, that were incurred since 27 September, 2004? How much money have we expended on the recovery process? I know

we hired consultants and specialists to take down sheetrock; is that part of the process to hire someone to come and put on a mask to take down sheetrock? These are the questions that we have to ask when we are being asked to legitimise all expenditure in this process since 27 September, 2004. I think the people need to know. I need to know because I do not. I have no knowledge of what has transpired and that is no fault of mine. I believe the Government is yet to explain these expenditures to us, to the country, and at what stage we are at in the process.

I know this is a difficult process; I know that, but it has reached that stage now where we need to ensure that the people of this country can enjoy a few successes in the cleaning or whatever it may be, to let them feel a sense that something is being done and they can see it and have ownership in the process. I have always believed that politics is about measurability, tangibility and visibility, but we are not seeing a lot of that right now, we are really not. I must say that the people working in my district, the Public Works people who are working in my district are doing an extraordinary job to get the roads back and to clean up and since we had the last meeting of the Legislature these guys are even volunteering after hours to go into certain areas to clean. However they are also handicapped because they do not have sufficient equipment to get the job done in an expeditious manner.

Have we bought equipment to facilitate a more efficient and effective recovery process? I do not know. The Leader of Government Business spoke of the hallmark of this Government of being transparent and while I do not think that it necessarily applies to this instance, certainly, we need to let our people know. They see that monies have been transferred but they do not know what it is being used for because there are very little tangible results since the hurricane.

We still see Mariners Cove piled up on the other side of the road. We still see Ocean Club and all the wrecked cars still along the road. It is unsightly and we are a tourist destination and we need to get that up as quickly as possible. I do not see any trucks out there trying to remove the debris. Have we bought trucks with the 5 or 6 million dollars? Have we contemplated borrowing money and coming to the Finance Committee and getting approval to borrow money to get this process going? What are we approving five per cent of the Budget for when we know we need more than that. What are the other plans? These are the things that the country is begging to hear. The people need to know.

What part does the Opposition play in it? Where are we? We talked earlier on in the aftermath of this hurricane about us working together but there seems to be a disconnection now. Yes, Government has to run the country but we are here, ready, willing and able to assist the process. I am not going to come here and vote against monies that will be used to facilitate the recovery process so that our people can get out of this hardship in a speedy manner. I would not. It

would be against the green to do that, but certainly, I want to know how it is going to be expended. I have heard nothing of what is being done. Is the country expected to wait until they see it done? We hear of the fund. I do not see any money being expended, at least not in East End. I have seen none! It is six weeks into the process, and I have roofs on everyone's house, albeit temporary. What are they going to do with this \$10,000 per house? I have already dried (????) in the homes in East End, those that are quote on quote **"habitable"**.

Where is the money? Where is the beef? Somebody has to show us the beef. There has to be something that our people can hold on to; they can see and they can say "Yes!" we are coming. Not corn beef, corn beef is over now. The relief process is over. We need to inject money into our country and I know I am going to be beaten about **"there is life after"**. I have heard that one million times, Mr. Speaker, and life after Hurricane Ivan and we have to ensure that there is revenue coming in, and we operate in an efficient manner. 'Yes', I support that because I know there is going to be life after we are all here. However, this is an extraordinary circumstance, and whatever it takes for us to get our people up we need to do it but not just giving a blank check; no blank check of five per cent without knowledge of how it is going to be expended. That is not fair to the people; it is not fair to the process and it is not fair to the Members of this legislature who has the responsibility to scrutinise expenditures on behalf of the people. Let us know. Let us hear what it is going to be used for. Let us hear the additional plans to see where we are going to get the finance in place to get this country moving.

Is the Government going to be satisfied with the 14 or 16 million dollars, because we know it is going to pass? Is that sufficient? No, the Leader of Government Business said 'no', but there are no plans: I did not hear of any plans to go any further than 14 or 15 million dollars plus the five that is 20 and we have a few million dollars in the fund. I did not hear of any plans to go any further. Where are those plans? Perhaps we are going reallocate some resources, but are those resources sufficient? We are calling a meeting of the legislature to talk about \$15 million when we have been devastated by a hurricane. What are the other plans? Where are they?

I can assure the Government that the monies given by the benefactor in East End is not a drop in the bucket to restore that district to some semblance of pre Ivan. It is not a drop in the bucket. It will provide a lot of relief for the people and we are stretching it as much as we possibly can, but there is going to be the need for Government's involvement, there is. There is going to be a lot of need in Bodden Town, South Sound, George Town, maybe to a lesser extent in West Bay and North Side, but a need and \$15 million is not going to do it; \$20 million is not going to do it, not by a long stretch. We need money. So, coming here about \$15 million to operate with in an emergency, the emer-

gency is over; it is over! The time is to get the country back under normal circumstances. People have been fed; the businesses have been coming back up. The time is to clean it up and get it back to some sense of normalcy.

This little pittance; we are talking about \$15 million, is not a drop in the bucket for this country, but here we are coming asking for \$15 million. I would have preferred to see a bill in front of me for 50 million dollars to be borrowed and I will go out and defend that to the people of this country and say, 'we have to do it on your behalf'. It is better to put the country in debt and then we can pay that off over a period of time to get it built back up so we make the money, than to talk about a little five per cent of the Budget so that the Government can spend it; that is a fallacy. There is no need for \$15 million; we have that in overdraft, spend it there! The Government came here with their little five per cent; we need money to get this country back on its feet. I know there is some detractors out there talking about how I went at England in the last meeting

**Honourable Member:** No!

**Mr. V. Arden McLean:** You know if it is that anyone out there thinks that I was doing it to embarrass England, they are correct. It did not work, but that is why I did it and I have no apologies either, to no one. That is how it works. We need this; we really, really need some injection into this country now. If we are talking about us getting together to do it, Mr. Speaker, all the Members of the Opposition can see the need, but I certainly cannot see the need to give Government a blank cheque and not know what they are going to do. I do not know how much it is but certainly there must have been expenditures if we are trying to legitimise it since the 27 September, 2004. I do not know where it went, maybe the Financial Secretary can tell us. It is his responsibility to ensure that the purse string of this country is controlled so maybe he can tell us, or he will, not maybe! I am sure he has an account of it. Let us hear what has been expended on the recovery process in order that our people can get back to some degree of normalcy. I hope it was not only the million dollars on consultants because I have not seen anything from there either. I hear a lot of talk and a lot of meetings. There is no time for meetings; I have said that before, action time now!

There is a lot of talk about bringing in temporary housing but I have not seen one house yet. I have not seen one trailer yet. What is the money being spent on? What has it been spent on? Let us find something that we can see. Do we have a ship on the way with housing for 5000 people? That is what I understood the survey said. The survey says! As for the survey, I did three of those in East End and am on the fourth one now Mr. Speaker, but the survey said we had to cover the homes and the homes were covered.

The survey now says how much material we are going to need to repair 100 homes and as soon as

the survey is finished, the survey says! We are going to do it! I do not know who the weakest link is, but there is someone in this process who is weak because the chains have been broken and nothing is being done. Or let me put it this way, very little is being done, very little. I should not go out there and say 'nothing' is being done but I want to know and I am sure the enquiring minds out there want to know where the money is being sent. Government needs to come out and tell us that; let us know.

Government talks about their \$89 million in reserves; where is it? Or \$42 million in the total reserves in the country; where is it? What are we doing to further manage that and use that to the benefit of this country? That is what I want to hear. Do we need \$15 million more on top of that? Let us get something done. Being in the Legislative Assembly and talking about it is not going to get it done. It is depressing! It is becoming depressing to drive around this country now and, if it is for me, it has to be for everybody else. Every other person in this country must be depressed now. It is long past the time when they should see a few successes, it is long past that and now we are talking about getting \$15 million. We should have had this money a long time ago; we should have had more money.

I think I have made my case that there is no need for us to approve a cheque of five per cent of the National Budget for Government to spend. If we are going to spend money we are going to spend it to rebuild the country. We are not going to just give Government the five per cent without accountability. They may know, but I do not know where the money has been spent. I do not know where it is going to be spent and nobody can convince me that I should accept a blanket position that is on recovery. I do not think that is fair because I do not trust any government that they are going to do it properly, whether it is this one or any other. It is my job to ensure that I have a say, I might not get my way, I will never get my way, not being on this side, but at least I will have my say in how it is expended.

I trust that the Third Official Member in his reply will address some of the issues that I brought up. I await his explanation, in particular, as to how monies have been spent under the executive expenditure since the 27 September. If that is executive expenditure then the least we need to know is what it was spent on because under the amendment of exceptional circumstances we are approving what the Bill is proposing, then that means that those were spent under exceptional circumstances; that is, the monies since 27 September, 2004. It would be nice to hear from the Government where and how it was spent. 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:** I rise to make a short contribution to this Public Management and Finance (Amendment) (No.2) Bill, 2004. Whilst the impact of the amendment itself may be argued to be a material change in the underlying legislation it is from the length of debate that the Members have had thus far, a relatively short amendment.

Much has been said about whether or not it was a small amendment. The Elected Member from East End has outlined positions and made points, some of which are legitimate points. However, I still was unclear when he wound up, as to whether or not he was supporting the section 3 amendment in the proposed Bill, which amends section 12 to add a subsection (4). I was not sure whether he was supporting the five per cent of the budgeted executive revenue or not and whether or not he was calling for there to be a number that was higher, which would give effect to greater funds to be available to the recovery exercise as he saw it.

When we look at what is being proposed in this short amendment to the Public Management and Finance Law, given everything that has happened within our country over the last six and a half weeks, we do see the need for the executive branch of Government to be able to utilise funds in areas that were not budgeted for in the original 2004/2005 Budget, which we voted on just a few months ago.

If we look at the definition of exceptional circumstance we do see that that definition is tight in that it clearly outlines the circumstances that would qualify as an exceptional circumstance and those four criteria must all be met. They are an event which occurs during a financial year, which are beyond the control of the governing Cabinet, which could not have been reasonably anticipated at the time of the enactment of the Appropriation Law for that financial year; has an economic or social impact that is significant enough to necessitate executive financial transactions different from those planned for that financial year; and requires the executive financial transaction to be entered into in a timescale that makes compliance with the procedure established in section 12(a) of the main law impractical.

Given that definition, we then get into what is proposed in terms of the amount of money that can be spent in the Governor in Cabinet's attempt to remedy or at least stabilise the effects of the situation. Section 3 of the proposed Bill states that the principal Law is amended in section 12 by inserting after subsection (4) the following subsections-

**“(5) Where an exceptional circumstance has occurred during a financial year, the Governor in Cabinet may authorise executive financial transactions for which no appropriation exists if-**

**(a) the executive financial transaction directly relate to, and attempt to remedy the effects of, the exceptional circumstance; and**

**(b) the total amount authorised is no more than five per cent of budgeted executive revenue for the financial year.**

**(6) Where the Governor in Cabinet has authorised executive financial transactions in accordance with subsection (5)**

**(a) a member of the Cabinet appointed by the Governor in Cabinet to do so on his behalf shall, at the next sitting of the Legislative Assembly after the exceptional circumstance has occurred, make a statement to the Legislative Assembly advising of-**

**(i) the exceptional circumstance, its nature, and how it complies with the definition of the term “exceptional circumstance” set out in section 3;**

**(ii) the type and amount of the executive financial transaction authorised or likely to be authorised; and**

**(iii) the effect of the authorisations, or likely authorisations on compliance with the principles of responsible financial management specified in section 14; and**

**(b) the authorised executive financial transaction are to be included in the next supplementary Appropriation Bill introduced in the Legislative Assembly after those transactions have been entered into.”.**

When we look at the definition, a part of the definition of 'exceptional circumstance' and that is criteria 'd' states that the executive financial transactions that are entered into need to be in a time frame that would make compliance with the procedures set out under 12(a) impractical. Just earlier this year, I think it was the 6 September, 2004 we dealt with a request in Finance Committee to make certain appropriation changes under section 12(a) of the principal Law.

It is quite obvious when we look through the document that guided the proceedings in Finance Committee, which we all received as members of Finance Committee, we will see that a lot of work went into creating that document and therefore, if a lot of work went into it that would mean a lot of time went into preparing it. The Portfolio of Finance would have to have received certain information in regards to what the end position would be for Government once the changes have been made, and therefore they would have had to go out to all the Ministries and Portfolios; they would have had to have gone out statutory authorities and found out what their up to date projected revenues would be so that we could have arrived at a comprehensive position and that position is outlined in part 'c'

of that document, which were the revised, summarised financial forecasts.

I understand that some four to six weeks of work went into the preparation of the document that we had before us, in Finance Committee, to have dealt with the changes that were being requested of us under section 12(a). Obviously the change in the Law being requested now is to get Cabinet, the executive arm of Government, in a position to be able to act and react to an exceptional circumstance and not have to wait some four to six weeks in order to do so.

If it is an exceptional circumstance and looking at the definition, one would have to assume that quick response to that event is necessary for the good governance of the country and to benefit the welfare of the people of our Islands. I think the principle behind what this Bill seeks to achieve is one that all Members can agree on.

Now, where the rubber meets the road is always about information, resources and access to information and resources and access to the Authority to be able to effect how resources are spent and allocated. In other words it is all about which of us as the elected members have the constitutional ability to decide how those resources are spent and distributed; that as I understand it is the crux of arguments that have been put forward thus far.

The Honourable Leader of the Opposition in his contribution spoke to the role of Government and Opposition, in particular, in a democracy. While I understand what he was saying I still rather look at the role of the executive arm of Government versus the Legislative arm of Government because in a lot of debates we seem to co-mingle or wrap up in the term 'Government', Members of this Legislative Assembly, of which I am one, who are not Members of the Executive.

I am a Back-Bench Member who has a sympathetic voice toward the Government but I have no right to go on a Tuesday morning at 10 am and sit in on Cabinet meetings. I have no right because I am not a member of the Executive. Therefore, when we paint that picture of Government versus Opposition we have to always remember, and include in that, that there are other Members of this Legislative Assembly who are in neither of those two particular positions. I then understand from what he said and from what the Member for East End said that they are looking at a situation where they want more information to flow to the legislative arm of Government via a normal or more normal process, which normally would be Finance Committee.

As I pointed out earlier, in the very definition of an exceptional circumstance section 12(a), it has been deemed that once you vote in support of this amendment that section 12(a) of the principle Law is impractical. I think all of us accept that 12(a) is the most expeditious route to get appropriation changes to Finance Committee. If we also accept the word of the practitioners, the civil servants in the Portfolio of Finance who

tell us that it takes some four to six weeks to be able to effect a 12(a), that is still in the mode of normality.

Now, Mr. Speaker, the issue of five per cent has been raised by all previous speakers, and whether or not five per cent is adequate or inadequate, I think that the argument also ought to include what happens—and let us just say five per cent has been picked because it is a low number that does not cause for great alarm, and we are at a stage in our history where we are up to some \$292 million in revenue so five per cent, at this particular time, does equate to a reasonable sum of money to react immediately to a crisis.

Once you have reacted, the call as I understand it is now for 'how do we as a legislative assembly come up with a way in which we have an input and a voice as to how resources are going to be spent'? How is it that we are going to have system that allows for greater transparency or transparency in the normal mode of the Public Management and Finance Law?

The question is that if you take and accept the five per cent as being, relatively speaking, a nominal amount to deal with an exceptional circumstance, is there further amendments that need to be made to this Law that would allow us to convene a meeting of Finance Committee and be able to have the type of input that those Members of the Opposition who have spoke thus far are calling for?

If we accept that under 12(a) which is the most expeditious route currently in the Law, it takes four to six weeks, I think all of us would also accept that Government has spent the five per cent. If they have reached the five per cent ceiling and need to make further expenditures, that given an exceptional circumstance where if you then had to wait four to six weeks at that point in time just to get documentation in place for us as a Finance Committee to meet that is too long a period to react to that circumstance and to continue to do what is necessary to ensure good governance and ensure that the people of these beautiful islands are able to be put in a situation to live, to survive, and be relatively comfortable.

If we have a law where the most expeditious route to get to Finance Committee takes four to six weeks it is not practical therefore to expect to come up with some sort of system that we can have regular or something that is akin to regular finance committee meetings without a further amendment. If the Portfolio of Finance is to be burdened with the task of going to other Portfolios in an exceptional circumstance and ask a question such as "How has your revenue been impacted?" Do you know the type of research that should have to go into to that answer? In the wake of Ivan, let us use an example: If the Financial Secretary wrote the Collector of Customs in the wake of Hurricane Ivan and said "What is the impact on revenue?" We know that customs duties represent a significant portion of our budgets revenue, some 100 plus million dollars. If he was asked, that has to take time, it has to take research and there will be a lot of unknowns.



Perhaps what is required is for thought to be put to look at an exceptional circumstance and we have a horrific experience as an example that is fresh and is ever present in all of our minds. Perhaps we need to look at this Law and see if there is a way to be able to do that. Perhaps not having requirements, we perhaps need to not have to have a section in this Law that does not have requirements that are onerous like having to collect data on revenue, which in a time like this is sketchy at best anyway. Anyone's guess on revenue at this particular point in time is not going to be any sort of scientific measure.

So, if we need to spend money on a particular area let us use an example: Temporary rental assistance; I would have to venture to guess that Social Services must be inundated with requests for rental assistance at this particular point in time. There must be people who are out renting who no longer have a job and may not have the ability to make money at this point in time if they are involved with tourism, et cetera. If we devise a very clear and succinct system whereby specific requests are made and presented to Finance Committee, therefore there would be distinct areas where monies would be sent without all the formalities that would go into a normal 12(a) presentation to Finance Committee. Perhaps we could arrive at a situation where we could utilise the entire legislature to look at certain expenditures.

I believe all Members have full cognizance of the fact that for approximately two weeks after the passage of Hurricane Ivan we were in a state of emergency. We came to this Legislative Assembly and amended the Police Law to allow for a curfew to continue because we all accepted that the state of emergency was not something that was healthy to continue for a prolonged period of time.

I suppose the legal minds and the legal luminaries could enlighten me and other Members of the House, but as I understand it from my reading of the Emergency Powers Law (1997 Revision), the powers in that Law are powers that are conferred on His Excellency the Governor. However, when we look at section 13 of the Public Management and Finance Law (2003 Revision) we see that the powers and duties in that section refer to the Governor in Cabinet and section 13(1) states- **"13(1) Notwithstanding any other provision of this Law, where a state of emergency is proclaimed under the Emergency powers Law (1997 Revision) the Governor in Cabinet may approve such executive financial transactions to meet he emergency as it thinks fit, whether or not those transactions have been authorised by an appropriation, and those transactions may be entered into accordingly."**

It then goes on to an accounting process of those expenditures. However, there seems to be an inconsistency because as I understand it, when emergency powers are enacted by His Excellency the Governor, His Excellency the Governor under the Constitu-

tion has assumed the running of the country, not the Governor in Cabinet.

As I said, I am sure that someone with a more legal mind will explain why that is not the case and why is it that section 13 of this Law is not in conflict with the Emergency Powers Law and the situation, as I understood it, to exist up to 27 September, 2004.

I will wind up by reminding all of us, including myself, that ultimately in our system of government some persons have to be the Executive. Under our current system we style it the Governor in Cabinet. There will be certain separations of powers and whether we are in normal times or we are in a time of crisis management, the executive arm of government has to be given the possibility to be able to affect the types of policies, changes in policies and changes in budgets that are necessary and critical to the good governance of these Islands, and to ensuring that the people of these Islands are able to live a comfortably as possible and to be able to restore normalcy to peoples lives. I know all of us certainly agree that we cannot have a situation like that that is totally unchecked and there is no possibility for the entire legislature to be able to look at how the resources of Government are proposed to be spent and not have a voice in that process. As I said earlier, if we are going to have that I do think that we do need to resist whether or not this Law has any enabling provision that can adequately deal with that situation.

The distribution of resources by government and whether or not every Member of the Legislative Assembly should have a say about whether they agree with the way that distribution is done, of course, I think under normal circumstances that certainly is what holds true in the Public Management and Finance Law (2003 Revision). However, we will always have a situation where there are Members of this Legislative Assembly who make up the Executive and Members who do not. So, I hope that none of the arguments that are being put forward are to suggest that there is any way around that particular situation. Because there must be a Cabinet and there must be non-members of Cabinet in the Legislative Assembly. However, as I said earlier, if a request is being made for the Portfolio of Finance to look at this Law along with the consultant that has been used in the creation of this Law and amendments to this Law to come up with an enabling provision that would allow once that first period after exceptional circumstances have passed, then that is a whole different story. Perhaps that is something that they should be asked to do. At the end of the day it must be, and I think all of us would agree it has to be, a situation where we have the possibility to be able to do things efficiently and effectively for the people of this country.

I would have to say that in looking at the proposed amendment, I give my support this and I encourage all Members of this Honourable Legislative Assembly to do likewise and give their support to this, I

believe, most worthy amendment at this point in time. Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you Mr. Speaker.

Just to rise to give my contribution and having been a Minister for probably six years I have no major problem in supporting this amendment.

As we look around and see what is going on in these Islands, it is time that we take the necessary action. In my district there is a 97 year old lady and several in their plus 80's who are sitting and waiting. I was one of those MLA's who filled out the application form so they could get assistance and I have no problem with that because it is my responsibility. I am the one that they called and I know other Members here possibly also helped. I was not bashful to do it. I went to a meeting where it was suggested that we should not be doing that, but I had no problem trying to help these people.

Many of these people are suffering psychologically and I have been reliably informed by one of the undertakers that since Ivan hit these Islands in such a ferocious manner that they themselves had buried over 20 something people, and literally everyday we hear of these people. We have to alleviate the hurting of these people. As one of my colleagues said earlier on, without a doubt in my mind, the 5 per cent, or approximately \$15 million, will certainly not be enough to deal with this. However, whatever amount, we need to get out there and relieve to a certain degree and get these people covered up with roofs on their homes, I am prepared to support whatever is necessary if we have to borrow or whatever. Let us stop talking and let us see some action.

**An Hon. Member:** Hear, hear!

**Mr. Anthony S. Eden:** I am imploring for all of us coming from the Eastern districts, and I have said this from day one when I cross Spotts straight, literally every morning, sometimes two or three times a day. There is Mariners Cove; there is Ocean Club, and I am begging that when this approval or whatever is done and this is going to be dealt with, that we deal with it expeditiously. Every day we cross [there] there we are bringing back the memories of 12 September 2004, on that fateful day. Let us do what we can.

As I drive and move about within the district of Bodden Town, central Bodden Town, especially down in Manse Road, Breakers, Cumber Avenue and Belford Estates (where I was at on Saturday), it is obvious that the people are hurting. We need to take whatever necessary action and if we have surplus in the Budget there is no better way to use it than to help the people

who have made their contributions in taxes and whatever areas.

I would say that I would be grateful if as representatives we could be part of the understanding of how this money is spent and the decision-making of how it is equitably shared per capita throughout the districts. We need to be kept informed. Sadly, for whatever reason over the past five or six weeks, this has not happened to all of us.

Finally, in closing, we talk about exceptional circumstances. I would urge the Government to look at the Town and Communities Law where this nonsense about not being able to burn trees and certain bushes and stuff . . . it is utter rubbish! Especially in times like these! I am not saying burning stuff that is toxic, but as I was flying in on Tuesday, two weeks ago, from Miami I saw the famous North West Point burning heap and I am not saying that we do this close to peoples' homes, but there are secluded areas where this can be done. I see no logical sense in taking brush down to these garbage dumps when it can be disposed of in a much closer area saving time and money.

*[Inaudible comments]*

**Mr. Anthony Eden:** Absolutely!

When you look at Spotts straight, that is exactly what is happening with the rodents and everything else. They are as big as a mongoose. *[Laughter]*

Mr. Speaker, as we go forward I am asking the Government and the powers that be . . . and as I said earlier, I served as a Minister for probably six years and there were times when this kind of power was needed, so I hope and trust it will be used as indicated in exceptional circumstances. Thank you.

**The Speaker:** Honourable Members before I call on the next speaker I just wanted to let you know that earlier on the Order Paper I had promised the Honourable Leader of Government Business that I would allow his statement to be read today, so after the Second Reading on this, even if it goes a little beyond 4.30 pm I intend to allow that to be done. I now call on any other Member who wishes to speak on this Bill before the House.

Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Education.

**Hon. Roy Bodden:** Mr. Speaker, in any organised system of government there must be the ability of the leadership to take decisions in times of exigency to expend monies and take the steps necessary for the preservation of the state for orderliness and for the upholding of the principles of good administration. The Bill before the House purports to do just that and that there should be any misunderstanding under the Westminster system of government as the model we have in the Cayman Islands, is but one permutation that puzzles me because the Bill, quite rightly, is seek-

ing permission for the Government to an unusual and emergency situation to be able to take the steps necessary to preserve and protect the society.

While it is true (as some Members of the Opposition argued) that there should be some accountability, I do not think (at least I have not heard to this point) anyone is suggesting that the Opposition should not have the right to raise their concern. Under normal circumstances the Public Finance and Management Law would allow that; but these are not ordinary circumstances, therefore it would be most impolitic for any government to only agree to such expenditure after coming to have that debated in the Legislative Assembly because the Government could not be certain that its request and, by inference, the immediate needs of the country would be serviced. After all, there is always the possibility of stalemate and filibustering in any debate. The Government must be allowed to carry out this expenditure as they see fit and to the best of my knowledge such a mechanism exists in all democratic societies.

I have heard arguments laid out by the Honourable Leader of the Opposition, but have heard no convincing reason as to why this Bill should not be supported. There were others who took varying tangents, that is, at least one other person speaking from the Opposition bench who took varying tangents, but again, no convincing reason was given why the Government should not have this request for this variation granted. After all we are talking about five per cent. In some jurisdictions under these circumstances the percentage requested is greater than five per cent.

There is urgency for us to get on with the recovery. The last speaker like myself, hails from one of the worst stricken constituencies, and not only is there a threat from what might emanate from the physical rubble but there is the psychological devastation of living everyday with disorder, chaos, which stems from an unusual devastation, a devastation that our people have not been accustomed to. This carries with it in addition to the threat of disease and unhealthiness psychological depression, despondency, a sense of forlornness because we were not accustomed to these things in the Cayman Islands. The quicker we get on, the quicker the Government is allowed to do what the Government needs to do and the better it will be for us.

I do not necessarily subscribe to the notion that this is going to be an exercise that the Government is going to use to take advantage of the Opposition or any other entity, because it cannot. The Opposition can also be rest assured that there will still be the opportunity for the post mortem of the Government's behavior in this exercise of rebuilding and in the expenditure of this money.

It is a fundamental tenant of the Westminster system that the government because it is the government, must have the ability and the authority to take these kinds of decision unencumbered by the Opposition while at the same time acknowledging that the Opposition has the right to call into question and in

extreme cases to indict the Government if indeed, incidents of misconduct have been alleged or can be proven. However, the Government cannot in all practicality wait to address these needs until a protracted debate and an uncertain vote is taken in the Parliament. It would be counterproductive; it would be too great a risk; it would carry no advantage to having the majority member and being a government. In the meantime the worst scenario would be that the society would continue to suffer and be mired in a state of hopelessness and despair.

There is nothing in this proposed Bill that should lead the Opposition to believe that they are forfeiting any of their democratic rights by supporting this. There is nothing in this proposed Bill, which should lead the Opposition to believe that they are surrendering any of their authority and the ability to do what Oppositions are commissioned to do. On the contrary, I would contend that were the Opposition to mount a protracted war against this Bill they would be abnegating their responsibility as a constructive balance in a Westminster system and being purely mischievous and irresponsible.

I believe that the position taken by the last speaker and my colleague from the constituency of Bodden Town is a reasonable position to hold in these times. I might say that the Opposition on these sorts of occasions almost has the best of both worlds because if the Government does nothing the Opposition can lambaste the Government and say that the Government did nothing, and at the same time, the Opposition can hold the key as to whether they will support or object to what the Government is doing.

I say that time is of the essence, the quicker that we get on with the business of recovery the better it is for all in the society, and let us not forget in this business, this challenge we that we are facing, both Government and the Opposition have equally important roles to play because if we do not get this formula right I would venture to say there will be little or nothing for us to fight over. There will be little or nothing for us to debate over except that it will be a purely academic exercise. I believe that my understanding of the Public Finance and Management Law is as sound as any other Honourable Member and I certainly lend this Bill my support and hope that we can get on with the business of rebuilding the Caymanian society.

I would footnote that by saying we have an opportunity now, in spite of this devastation, to right many wrongs that have been committed in the past. Let us concentrate our efforts on righting these wrongs rather than tearing down one another efforts. It is a time for understanding, for collective effort and for commitment. Let us seize the opportunity to be constructive. Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Second Elected Member for George Town.

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

The Bill which is before this Honourable House provides an opportunity to discuss what it is or is not being done by the Government in relation to the recovery process following the passage of Hurricane Ivan because we are at a point now where the Government has for some month now resumed responsibility for the administration of the affairs of the Country. One of the, perhaps unintended consequences of that resumption of responsibility is that expenditures which have been made by the Government following the lifting of the state of emergency on the 27 September, 2004 have been made really in many instances it appears, without legislative authority, to the extent that they were made outside the provisions of the annual plan and estimates, which had been previously approved by this Honourable Legislative Assembly.

So, the Government comes as it must, I believe, to this Honourable House today to ask for approval of a Bill, which among other things would validate that expenditure occasioned as a result of the passage of Hurricane Ivan. The Bill goes further in that it seeks to create provisions now to deal with extraordinary circumstances such as hurricanes and to enable the Government to expend essentially what sums it deems necessary up to five per cent of the budget to deal with exigencies following such an event.

If I can first take the validation of expenses by the Government for the last month, there is no question that the Law, as it stood, did not contemplate that we would have a situation whereby the aftermath of a hurricane or other disaster would have to be managed by Cabinet outside the provisions of the Emergency Powers Law, and it is therefore understandable that significant expenditure would have to be incurred during that period. The big question though is whether that expenditure ought to have been incurred without the approval of Finance Committee, and even in that case whether we ought as a legislature now to be making provision in the Law to allow any Government to spend money without being accountable immediately to Finance Committee for that expenditure, which is outside the provisions of the annual plan and estimates.

The Public Management and Finance Law has been aimed and we have boasted about it and debated it over and over again; aimed at accountability; aimed at management of Government finances. What we are proposing now, in my view, fundamentally undermines those provisions even though I acknowledge right up front that these are, to say they are extraordinary times is to make an understatement of sorts. However, what is necessary in my view, are provisions which would allow a Cabinet to move swiftly to spend money but also allow Finance Committee and by extension, Members of the Opposition to scrutinise what Government is spending this money on.

We are not talking now about a short period; it is at least six weeks now since the passage of the hurricane. There is, in my view, absolutely no reason

whatsoever why monies that Government is proposing to spend now, if we leave aside what they have already spent, ought not to be scrutinised by members of Finance Committee. I accept right up front that all of the provisions of the Public Management and Finance Law in relation to the information that is given to Finance Committee in normal circumstances would not likely be available. If we are going to amend the legislation let us amend it in a way which reduces the amount of information in terms of the budget projections, revenue projections and the like that needs to be given to Finance Committee, but at least, let Finance Committee and by extension, Members of the Opposition know what it is that Government is proposing to spend money on and how much Government is proposing to spend.

There are huge questions out there (and I have many myself) about how much money the Government has spent in the immediate aftermath of the hurricane and how much it is proposing to spend in the next six to eight weeks on the recovery process. Absolutely! Money needs to be spent—and lots of money—but as a responsible Member of this Legislature and of Finance Committee I have a duty to enquire what the Government is spending this money on and how much it is proposing to spend, and to indicate why it is I support or do not support that expenditure.

Clearly Cabinet can do pretty much as it wishes because it has the support of the majority of the Members of this House and of Finance Committee. So, it is not a question that they cannot do what they want, but constitutionally, democratically, in every respect there ought to be scrutiny; there ought to be accountability and there ought to be information not just for the benefit of Members of Finance Committee and this Honourable House, but for our country at large. We need to know as a country what it is that the Government is spending the money on.

There are many questions out there about consultants that Government has hired, equipment that Government has or has not bought, what is it doing in relation to the collection of debris, what is it doing about assisting people with getting roofs back on their homes; all sorts of questions abound. As an Elected Member I am in a straightjacket; most of the time I have to say I do not have a clue what the Government is doing. I am just a Member of the lowly Opposition. I hate to have to say that because I have a responsibility to my constituents and I have a larger responsibility to the country as a whole.

It seems to me that from the outset, even when Cabinet was not in control, that this whole system is either designed or is being manipulated in a way to ensure that the Elected Members, particularly those of the Opposition, have not a clue about what is going on. Not only is that a major slight to the Elected Members; that is neither here nor there, but you are denying the country of the benefit of a tremendous resource, that is, the resource of five of the Elected Members of this Honourable House. Because we do not know what is

happening; we have no input into what is going on and we are unable to tell our constituents how they can access this, access that or when it is likely they will have this or that; you simply do not know. You are outside the information loop, outside the input loop, outside the whole system of governance and there must be, in my view, something fundamentally wrong with that from a commonsensical point of view, from a constitutional point of view, from every point of view that one can bring to bear on this matter.

The National Recovery Committee, as I think it was called, had as one of its Members the Leader of the Opposition; this committee has been terminated or expunged or has been caused to cease to exist; it simply does not exist. That was the only basis on which we, Members of the Opposition, got any information as to what was really going on. So, we are entirely out of the information loop.

Now with no specific statement having been made; with no real discussions with members of the Opposition except the occasional talk when we meet in the hallway or outside somewhere, the Government is now proposing to put into legislative form provisions which will validate the money they have spent, without telling us what they have spent it on, proposing that they can continue seemingly indefinitely to spend money, up to five per cent of the Budget with no input, no questions, no scrutiny by the Opposition. There is something fundamentally wrong with that, as I said, at the risk of repeating myself. I have no objection to provisions being in the Law which allow Executive Council in extraordinary circumstances as so defined to expend sums of money to deal with the aftermath of the hurricane or any disaster. That is not the point at all. However, they ought to have a responsibility immediately to bring to Finance Committee details of what it is they are proposing to do and how much it is they are proposing to spend, and for us to have an opportunity to ask questions and receive responses to it. That, I do not believe can be considered an unreasonable view or position.

Again, at the risk of repetition, I concede right up front that the general provisions which require a whole legion of information to be given to Finance Committee in usual circumstances ought not and cannot be expected to apply. At a minimum we ought to know what it is Government is spending the money on and how much it is they are proposing to spend.

We all recognise on this side that no one in this Honourable House, indeed in these Islands I do believe, has ever lived this experience before and no one is expecting miracles and everyone understands that sometimes you have to suspend the usual provisions of legislation simply because exigency demands it. I am not seeking to persuade anybody in this Honourable House that we are living in normal times and that we can have all of the frills and fancy things that go along usually with administering the affairs of the country. That is not my point at all but I protest, I object fundamentally as an elected member to being left out

of the information loop when the monies of this country are being expended. I do not want to wait as the Honourable Minister for Education has suggested, for a post-mortem; the money will already have been gone without my input, that is a denial of my duty, my responsibility and my right as an elected member to say something about that expenditure when it is happening.

I am asking the Government to look again at what is being proposed. Redraft those provisions to enable Finance Committee to have sight of what is being proposed in terms of expenditure even if it is not before. I accept again that there are times when Government might simply have to spend money today. Now those times ought to be less and less frequent, the further out we get from the event and we are now six weeks or thereabouts away from the event. So, the occasions on which that should happen, should be less and less.

**The Speaker:** Honourable Member we have reached the hour of 4.30 pm.

I know it has been requested that we should continue until the Second Reading debate has been completed on this Bill and also the Honourable Leader of Government Business has been able to read his statement. Therefore, I would ask the Honourable Leader of Government Business if he would move the suspension of Standing Order 10(2) in order that we may continue beyond the hour of 4.30 pm to complete the Second Reading debate on this Bill and to receive your statement.

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

My statement, as you know, may be quite lengthy, so we will see how much time we have saved after the debate and, once the Second Reading has been taken, whether I will do my statement now or do it tomorrow morning.

Mr. Speaker, if I could explain . . . Members are already grumbling, why do they want to grumble about everything Mr. Speaker? Nobody said anything, because, certainly, I thought that we would have been finished a long time ago on this Bill. Anyway Members need to say their piece and since they are grumbling, you cannot do anything to please them so let us adjourn.

I move the adjournment of this Honourable House until 10 am . . . it should be at 10 am, Mr. Speaker, but there is an update for Members to meet here at 9.30 am with Mr. Connor to be briefed. Mr. Connor and others have been briefing Members of this House on several occasions about several matters and although they are grumbling about not being briefed, tomorrow morning is another opportunity where they will be briefed by Mr. Connor.

*[inaudible interjection]*

**Hon. W. McKeeva Bush:** Mr. Speaker, I move the adjournment of the House until 11 am. I cannot do anything to please them.

**The Speaker:** The question is that this House do now adjourn until 11 am tomorrow Thursday, 28 October. All those in favour, please say Aye. All those against, No.

**Ayes**

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

**At 4.38 pm the House stood adjourned until 11 am, 28 October 2004.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**28 OCTOBER 2004**  
**11.28 AM**  
*Second Sitting*

**The Speaker:** Prayers. I will call on the Honourable Elected Member for North Side to lead us in prayer.

ogy from the Honourable Chief Secretary who is unable to attend due to official duties.

**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 Cabinet 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 11.30 pm**

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

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

**Apologies**

**The Speaker:** Honourable Members, I have received apology from the Honourable Leader of Government Business who will be arriving late. I also have an apol-

**STATEMENTS BY HONOURABLE  
MEMBERS AND MINISTERS  
OF THE CABINET**

**The Speaker:** I have also received notice from the Honourable Leader of Government Business of a statement that he wishes to make, but due to official business he is running a little late. I have agreed with him that I will take this up at the winding up of the Second Reading debate on the Bill now before the House, which is the Public Management and Finance (Amendment) (No.2) Bill, 2004.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READING**

**The Public Management and Finance (Amendment) (No.2) Bill 2004**

*(Continuation of the debate thereon)*

**The Speaker:** The Second Elected Member for George Town continuing with his debate.

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

When I commenced my debate on the Bill before the House, the Public Management and Finance (Amendment) (No.2) Bill, 2004, yesterday evening, I spoke briefly and outlined my concerns about some of the provisions of this Bill. In summary those concerns relate to the draconian nature of what is being proposed. That is that the Executive, the Governor in Cabinet, be permitted to depart from the Budget that has been approved by this Honourable House and Finance Committee, and to spend up to five per cent of the budgeted executive revenue for this financial year or for any financial year in the wake of exceptional circumstances without reference to financial committee.

My other concern was in relation to the provision which seeks validation of all executive financial expenses, which have been incurred since the 27 September 2004, and the passing of this Bill. The im-



portance of the 27 September, 2004 being the date on which the state of emergency ceased to exist and Cabinet resumed authority for the administration of the affairs of Government.

I had acknowledged that where there are circumstances such as the passage of a hurricane, like Ivan that the Government needs to have the ability to quickly access and spend money to deal with relief. My contention, concern and my opposition to what is being proposed does not have to do with that. However, the state of emergency has passed and we are now almost seven weeks post Ivan. I am standing in the Legislative Assembly to which power has been returned and we are operating as usual, phones are working, Members are able to be contacted and if money is needed to be spent other than in accordance with the Budget there is, in my view, absolutely no reason whatsoever why a meeting of finance committee cannot be held. The Government explained what the circumstances are and seeks the approval of the Committee to depart from the Budget in whatever respect is deemed necessary. That in a nutshell is my principle concern with that provision.

The second is the validation of monies spent since the 27 September, 2004, over the course of the last month, exactly to date because today is the 27 October. Now, Mr. Speaker, there are, and continue to be concerns expressed about what the Government is or is not doing; what the Government is spending money on; I have concerns myself because concerns are expressed to me on a daily basis from members of the private sector as to what it is that the Government is doing and spending money on.

There are concerns about the hiring of consultants: What precisely are they expected to do? What is their mandate? What are they costing? Are they necessary? There is growing concern about the lack of a coordinated approach to debris collection. There are even greater concerns about the prospect of Government hiring some foreign company to show us how to pick up the debris. I know in many quarters they do not give us much credit for having ability to do many things, but I would have thought that even our gravest critics would accept that we are able to pick up our own garbage and our own debris. We do not need to hire a foreign contractor to show us how to collect the debris.

We are going to have a major controversy if Government proceeds down this road and we have foreign contractors or a foreign contractor coming here, bringing in heavy equipment to assist with this collection while leaving local operators unemployed. This is not a speculation of mine, I have spoken with a number of them who have called me and they have said to me, in no uncertain terms, that the Government needs to understand that if they need to blockade the Port to prevent the importation of equipment by a foreign contractor to do jobs, which they can do here, they intend to do so. If further equipment is necessary, the local heavy equipment operators are able,

they assured me, to access that equipment and to import it. The relevance of that to this debate, and I come back to my insistence on Government not suspending the constitutional authority and right of members of Finance Committee to scrutinize what it is that Government is spending on. If the Government is going to hire a foreign contractor to show us how to pick up the debris, as a member of Finance Committee charged with the responsibility, charged with stewardship of Government's finances, I want to know; I want to have the ability to ask questions as to what are the special qualifications of this contractor which are not available locally and why is it that in these hard times and potentially harder times to come, we have to bring in foreign contractors to spend Government resources on something which can be accessed here, and would give the ability to local contractors to have the use of those funds.

There are rumours all over the place about Government spending money *willy-nilly* here; this Ministry employing people to collect debris in George Town; some other entity or agency of Government employing people in other districts to do this that or the other; there is no coordinated effort. There are major areas that are still disaster zones and still look like disaster zones and the main thoroughfare is that there is no coordinated approach. We are approximately seven weeks from the event, why is this, in my view, inefficient use of Government funds occurring? I want to know and I want to have the ability to ask the Chairman and Ministers responsible in Finance Committee to explain what it is that Government is or is not doing, how much is it costing, is this the most efficient means of expending Government funds in this difficult time. That is a constitutional right, a constitutional function, a constitutional responsibility and duty of all Members of this Honourable House who are members of Finance Committee and with the greatest respect to all those who urge otherwise, it is not one that I am prepared to concede. That is the effect of what is being proposed here, you are cutting the members of Finance Committee who are not Members of the Government and its supporting Backbench, otherwise known as the lowly Opposition, out of the information loop again. I am not going to accept it without protest.

Mr. Speaker, everywhere I go in the community people ask me, what is Government doing about this or what is Government doing about that? There is a general impression that the Government is in some sort of leadership crisis; that there is no direction; that schizophrenia prevails with one ministry out there doing this, one ministry out here doing that, no direction, no recovery program but money is being spent hand over fist. I want to have the ability, as a member of Finance Committee, to ask the Ministers what is it that they are doing? Please show us your recovery program, show us the coordination between what the Ministry for Community Services is doing in relation to what the Ministry for Education is doing. I want to know. That is not because I am inquisitive by nature,

which I am, but that is because that is part of my constitutional function as a member of Finance Committee. So, when the Government comes two months or thereabouts after the event to say they need to the right to spend money as they see fit, without reference to Finance Committee, without anybody having the right to question anything, I must tell you that I have fundamental problem with that.

The other question I have, which is not addressed in the Bill, is, how long is this authority to last? Or is it the intention of Government to do as it thinks fit in terms of expenditure right up until the elections with the Opposition placed in such a hobble that we cannot even ask a question because as the Bill currently stands that is certainly what they have been entitled to do up to the five per cent.

There is another major question that needs to be addressed, and that is: Where is the money going to come from to do all the things that Government needs to do to aid the recovery process? Thus far, I have heard nothing about any substantial foreign aid, and in my view creates a huge problem for us. I have felt from the very beginning that Government has gravely mishandled this whole disaster recovery process.

One of the hugest mistakes I believe that has been made is to send the message internationally that all is well in Cayman, business as usual. In fact, I was in a meeting a few weeks ago when one of the key players, I hasten to say not a member of the Government, acknowledged that that is a huge issue and that we are now faced with the dilemma of trying to create some sort of mixed message which conveys the impression that the financial industry is up and running and all is well there but the people are still in dire need and in dire circumstances in many instances. That is precisely the sort of schizophrenic message that I do not think anyone is going to pay attention to and I believe in large part the absence of any foreign aid, thus far, is the result of a mishandling of this criticality important issue. I can also say that the further removed we are from the 11<sup>th</sup> and 12<sup>th</sup> of September, 2004 the less likely it is that any international agency or foreign government is going to come to us and say *'you guys took a hard knock, here is 100 million dollars to assist in the recovery process'*.

The point of that is that the tourism industry has taken a huge beating and as valiant as the efforts are, and will no doubt continue to be, to get the tourism industry up and running again as quickly as possible, the reality is that we are going to earn significantly less in terms of revenue this year than we did in years past. That is a reality! The financial industry, thank the Lord, appears to be holding its own, but the jury is still out as to how significantly revenue to Government derived from that industry is going to be impacted. The net result as the Leader of Government Business has acknowledged in the recent past, is that it is unlikely in the extreme that the Government will be able to present a balanced budget the next time

around. That is not their fault; that is a consequence of the event called 'Ivan'.

The relevance to my debate is this, how is Government going to fund its recurrent expenditure from now through to the elections and post? The money has to come from somewhere. It is part of the function of Public Management and Finance Law for Government, which requires Government to make statements, present reports and give the ability to members of Finance Committee to ask questions relating to expenditure and revenue.

Now, this Bill, which is before this Honourable House, among other things makes provisions for the Government in exceptional circumstances to suspend or defer the presentation of any of these financial reports. It even provides for the Government to have the ability to defer the budgeting process.

Again the consequence of that is to prevent members of Finance Committee from having the ability to ask questions about these issues. In my respectful view, there is absolutely no basis why seven weeks removed from the event called Ivan, for the Government to now seek and suspend, because that is what we are talking about, to suspend the function of Finance Committee for the indeterminate future. The fact that they are proposing to pass this Bill into law, some six or seven weeks after the event, tells me that we are not talking simply about validating what Government has expended thus far, but Government has decided that they are going to continue to spend money and to put it bluntly, they simply do not want the Opposition and the country to have the ability to question what the money is being spent on.

This is a dangerous precedent for us to think about setting. There is absolutely no need for Government at this stage to be operating in the dark for the country not to know the financial situation of Government is, to cut the Opposition out of the information loop, to gag us to a point where we cannot even ask a question about why money is being expended in this way or the other. Nothing that I have heard gives me any basis whatsoever to believe that this is necessary at this stage. As far as validating expenditure, which Government has made over the past month, I am happy to do that as long as I have the ability to scrutinize what the money has been spent on. I believe that the Government is unwilling at this stage to have anyone scrutinize some of the expenditures that have been incurred in this past month. If some of the stories that I have been told bear any relation to the truth they have every reason whatsoever to come with this sort of legislation at this point.

In my respectful view, this proposal, in this form, undermines democracy, transparency, open government and accountability. In my view, it is not sufficient to say, as the Honourable Minister for Education has said, that the Opposition will have their opportunity to perform a post mortem in due course. Post mortems are performed on dead bodies. I want the ability as an Elected Member and as a member of

Finance Committee to ask questions while the body is still alive and to see what we can do to allow it to live a little longer.

We all know that the financial circumstances of Government have been and will continue to be negatively impacted for the foreseeable future as a result of Ivan; no question about it and nobody, least of all me, is trying to suggest that the Government can just waive a magic wand and make everything right. However, at times like these it is even more critically important that good stewardship is exercised and that money is not wasted. Anecdotal evidence that I have indicates to me that money is not being spent in some instances as it should. That there is duplication of effort; that there is wastage of Government funds; that certain ministries are behaving as though they are islands to themselves with no regard to what central Government is doing. There is a complete and total absence of any national policy in relation to disaster recovery. I want to be able to ask questions about these things.

This calls into question the whole issue of management of the disaster recovery process. Why has Government not established a ministry responsible for disaster recovery? Why is there not a coordinated effort? I want to know what Government's program is. I want to know why money is being spent here and not there. I want to know why six to seven weeks after the event, as far as I am aware, not one single roof has been put back on anybody's house as a result of any of the Government's programs. Where is the money being spent? I have constituents coming to me on a daily basis saying, *'Mr. Alden you told us that Government was going to assist, you helped us fill out this form, you told us where we had to take it, but when I call the lady told me yesterday that my name is not even on the list'*. I need to know where Government's money is being spent. That is my constitutional duty, responsibility and right and I am not, I am not going to abdicate that by voting for a Bill which gives Government a pass and the lawful right to exclude me from the process altogether.

I am used to be excluded from the process, I am used to operating in the dark, but at least I have the right to complain about it. If I vote for this they will get up and laugh, I can hear them saying now: *don't know Mr. Speaker, how the Second Elected Member for George Town can complain, he sat here and voted for Government to have the right to spend money as it wishes without reference, so what is he complaining about now?'*

No, Mr. Speaker, the Government will have its way as it always does, but they will not get their way as a result of my voting for this draconian and dangerous piece of legislation. I will have the right now and henceforth to complain bitterly about what Government is doing, the absence of transparency, the lack of accountability, the lack of focus, the unexplained expenditure; I will preserve that right because this Elected Member takes his responsibility as a

steward of Government's finances, as a scrutineer of Government's finances very seriously, and I intend to say it anywhere and as many times as I possibly can, how very wrong this is and how very unwilling Government is to tell the people what it is they are spending money on. How unwilling they are to explain why seven weeks after the event there is no tangible evidence of any recovery program of any expenditure being made to help people bring their lives back to some semblance of normalcy, why they have hired foreign consultants, why they are proposing to hire further foreign consultants to tell us how to pick up the debris.

I want to have the ability to tell my people that I pointed this out to the Government, that the Government sat in stunned silence and when they finally did find their feet they were unable to proffer any reasonable, any rational explanation as to what they have done with the money since the 27<sup>th</sup> September, 2004 and what they are proposing to do with the money they are going to spend thereafter.

I thank you, Mr. Speaker, and I will listen with bated breath to hear what, if anything the Government has to say, in response.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

May I say at the very beginning that I rise to speak to the Bill before the House, a Bill which I support, a Bill which I believe needs to be supported and which has come about because of a major change of life and environment in the Cayman Islands, as a result of Hurricane Ivan.

This Bill asks that in exceptional circumstances and in times of disaster that the Government Executive may act and act quickly following a disaster or a special circumstance. In particular, it is asking that a specific amount of funds be allocated to a government, any government that might find itself at the helm of government when such might occur.

No one knew that Hurricane Ivan was coming. Even when we knew it was a hurricane, no one knew it would hit the Cayman Islands and I believe that a majority of the people believed it would not hit our Islands. I think that the usual view was that it was going to go to the south of us or it is going to go to the north of us and maybe hit Little Cayman and Cayman Brac, but we are not going to get hit and everybody here in the financial center of George Town, of which the Second Elected Member for George Town understands very well, would sit smugly on the fourth and fifth floors and roll in the money with, one telephone call and charge the client \$10.00; there would be no change.

However, there was a change. There was a major change! Some people called hurricane 'Ivan the Terrible' and I called it 'Ivan the Equalizer'. The people

from the high towers suddenly found that they were on the ground floor like the rest of the one story buildings or houses which were destroyed and blown away. BMW's and Mercedes Benz and Cadillacs and Volkswagens and everything came into one category. It has been a tremendous shock to all of us. I believe all of us to some degree, are in disbelief of how the fury of nature can alter our lives completely. I wonder if the Second Elected Member for George Town gets that impression, for if he does not get that impression he is seriously missing something.

I can speak for the district that I represent, as the other two representatives have referred to, that is the district of Bodden Town, which has been totally devastated. Bodden Town does not really exist anymore, it has been destroyed. The beach line, the coastline has been disrupted and ripped up and torn apart, there are houses that have been there for over 100 years that no longer exist, they have disappeared somewhere, the electricity, the water, everything, it is gone. In fact, it is hard to conceive how anyone would attempt to build back in Bodden Town to try to reproduce it.

As we talk today, we are talking about a country that has been absolutely changed, absolutely changed in every single district. Utilities have been affected; some people on the Island have electricity, major numbers do not, they are running generators to have power and put themselves back in some semblance of the way life was before. The Government is no less in that situation. What is the Government Administration Building, which is normally referred to as the Glass House, was miraculously saved—generally. It was damaged, it does not have electricity, it does not have air conditioning and without it, the way it is designed it is awful to try to work in the heat, but civil servants and members of Government have been going there and have been working in that building. Some go in t-shirts and shorts to try to cope with the heat, others dress otherwise but the business of Government goes on. Therefore I say that this present Government, again, has been faced with the situation that no government in the history of the Cayman Islands has ever been faced with, and I contend that this Government has done exceptionally well in responding, unlike what was said by the Second Elected Member for George Town.

Everyone seems to be singing a song— what is Government doing? What is Government doing about this? I lost my car, somebody got sick, what is Government doing about that and what is Government doing about everything? Government is the people and I can tell the Honourable Members of this House who are also asking that question— what is Government doing? Government can only do what it can do! It can only do what money is available to use to have things done.

This brings me to a point and for many years I have been lambasted for this, criticized, and made fun of, but you know what, I guess we all see now the

point that I have been making for many years. I have always argued the point that we are fooling ourselves singing a song about how rich we are, we do not need anything, we can afford it, we can pay for it, we have 50 banks and 400 law firms and so on in the country and we are making money, well I want to know who 'we' are. It is not the Government; it has never been the Government! It is a handful of people indeed who are very rich and is making the money and so on in this country.

Do we have a good standard of living? Yes we do but the majority of the population of this country lives from payday to payday, every 30 days. It has been that way since the people have been shouting about how rich we are. If the Government of the Cayman Islands is so super rich I want to know why every budget session there is the painful job of trying to find sufficient money to make the budget and make it balance. No one has answered me that question and they cannot because it is foolishness. It is foolishness! There are very rich people. The Government of this country has created an environment in which people can make money, roll in money in the millions, tens of millions and so on for themselves. Government gets a little spin-off in terms of jobs for the country, in the terms of fees and so on, but we have to remember there are no taxes so if Mr. Big Stuff or Mr. Large Corporation is making billions that there would be a percentage out of that which would go to the country for taxes; we do not have anything like that. It is purely the spin-off and this Government has found itself fortunately, through good financial management and hard work, that there is some money including some that we have in reserve, which to us is real big money, \$40 odd million, but in terms of need we go way, way beyond in that particular need.

*[Background comments]*

**Hon W. McKeeva Bush:** Borrowed money, borrow enough, use it...

**Hon. Gilbert A. McLean:** Mr. Speaker, for those mumbling across the Floor about borrowed money, money is money and I have never seen money with 'borrowed' written on it in my life, and I am sure if they take a dollar out of their pocket and look on it they will not see 'borrowed' or they will not see 'earned'.

What the Elected Member from East End could talk about is what the Opposition said and did when this Government was faced with a situation after coming to power that we had the daunting task of going to the banks and the trust companies and everybody and saying, '*people we have to raise the fees in this country*'. The Opposition should talk about that and what they said at that time. The whole world knows they were against it 100 per cent claiming that the banks were going, the law firms were going and this was going and so on. I notice they were going but they were going into getting bigger, particularly, one

law firm that I know; they put on a whole new story because they claimed they would be going out of business the next day, but they put on a new story and they must have increased their staff by a third.

*[Background comments]*

**The Speaker:** Gentlemen, Honourable Members out of respect for each other would you please stop the cross talk. Please continue Honourable Minister.

**Hon. Gilbert A. McLean:** Thank you Mr. Speaker.

Those are the things that the Opposition should reflect on when they come to this Honourable House to talk about what the Government needs to do or is not doing.

The day before Hurricane Ivan struck the present Governor, Mr. Bruce Dinwiddy, declared a state of emergency, which virtually put him in a position where he had all power, all authority. He could make laws and do basically anything he chose, but it is strange, I have not heard any criticism from the Opposition about that...

**An Honourable Member:** Oh no?

**Hon. Gilbert A. McLean:** I certainly, following the days after the state of emergency began to argue that the Cabinet of the Cayman Islands in effect was being ousted from the public administration of this country. I did and can say that certainly, on two or three occasions, the Attorney General made the point that the state of emergency which had been invoked was not something that ousted the Cabinet of the Cayman Islands and that in effect it continued as it was before. Technically and legally that may have been so, but in practice it was not. Now that is something that the Opposition could complain about.

The state of emergency continued for two weeks, and, just to make a point, state of emergencies are declared for various reasons; it could be a threat to parliamentary democracy, which it was not. There was no question up until the 10<sup>th</sup> day of September because everything in this country was calm and it was going along as Government should function. It was in response to a natural disaster and my argument was that because it was in response to a natural disaster there was even greater need to have the Cabinet functioning as before and to have the elected representatives of the people working together as before but, there were forces that did not see it that way. The truth is no resident from any of these districts of the Cayman Islands went to seek assistance from the Governor, or for that matter, from the Official Members of Cabinet, they were coming to the elected representatives. That is what they should have done and that is why that now and in the future we need to ensure that in any declaration of a state of emergency that the people's representatives in Cabinet are not in

any way stymied or made sterile in carrying out what they have to do.

That took two weeks, things were chaotic in so many ways, and the third week it was still chaotic because there was still the attempt to try to settle down to get back to the way things were. The fourth week it was still that way! The Cabinet was meeting in this place or the next place until it got a room in the Glass House where it could meet. Sometimes it met three and four times a week; sometimes it met on Saturday and if I am not mistaken they even met one Sunday. That is what has been going on and I wonder where the Opposition has been if they are not aware of this.

*[Background comment and laughter]*

**Hon. Gilbert A. McLean:** I did not hear that.

**Hon. W. McKeever Bush:** You know!

**Hon. Gilbert A. McLean:** Mr. Speaker, so when we talk about seven weeks—to try to give the impression to anyone that the Government had seven normal weeks of doing nothing. The Government has been attempting to the furthest extent that is available to it to seek proper advice from professional people, to get the Financial Secretary and all of his team and so on to try to find out how has the revenue of this country been impacted, and no doubt it has been impacted tremendously! What are the true numbers? Where are we at this week or the week before, be it as the case may be? Under circumstances where the computers are down, the offices are not habitable, an office that was in the Glass House is somewhere else in some other building across town. What is the Opposition talking about? Is it the case that even in the most extreme cases they have to attempt to create a scenario that is unreal, that really does not exist and cannot admit certain facts and certain truths as they are?

Right now Government offices are strewn across George Town. Some buildings want large monies to rent them and they want long term rentals. Some of them say they do not want Government Departments in their building; they do not want the public walking through and so on into their buildings so they do not want to rent it to Government. That is what the Opposition could be talking about and the goodly gentlemen, the Second Elected Member for George Town, I guess he heard of those things too, I hope he did, if he did not he is hearing now. I hope he goes out and preach that word and gives some views and comments about what he thinks about that, but that is what we have been dealing with. They are saying: *'Look! You cannot put your department in here where people are going to be coming in to do business; we do not want you here.'* That goes to departments as important as Lands and Survey and so on, where there is regular business and that is one of the departments that generates revenue and all the rest for

us. Departments as important as the Legal Department, part of it is here part of it is over there, part of it is the next place and the major effort is to get it all together somewhere that can have some kind of lasting position simply because of its importance.

Education! Busted asunder! Children in this country cannot go to school. What is the Opposition talking about? What is Government doing? Government is trying to get back at least four schools that are being used as shelters! What is the Opposition's proposal for that? Put the people into the streets?

*[Background comments]*

**Hon. Gilbert A. McLean:** I hear the rumblings again, to say to fix their homes. Why do they not offer a helping hand?

*[Laughter and inaudible interjections]*

**Hon. Gilbert A. McLean:** Mr. Speaker, it is ridiculous, it is absurd, and it is heartless for the Opposition to come here to try to create a scenario of nothing happening. Now it has spread all over the place and everyone to their own opinion, but I think that we did accomplish to a fair degree co-operation and working together during the days immediately following the hurricane and the two or three weeks, but it has all gone political now. Even now there is the belief that it is time for political grabs. Forget about the fact that people are homeless and so forth and so on, that is the business of Government they say! Government! It is like letters in the papers, written in two parts, like the *Cayman Net News* of Friday, 22<sup>nd</sup> October, 2004 and I will just quote a section of it, written by Mr. Charles E. Clifford LL.B. (Hons), JP, PPM Candidate, Electoral District of Bodden Town; that is what it says here, Mr. Speaker. It says: **"It is most disappointing that the national cleanup work is taking so long to get underway. I am particularly disappointed that the Bodden Town District which is represented in Cabinet by two Ministers, one of which has responsibility for the Public Works Department (PWD), has not seen very much progress with the cleanup efforts and only a few days ago some work was started in central Bodden Town. Why has it taken so long for the Bodden Town Ministers to get some of the heavy equipment from PWD into the district and why have they not outsourced more of this work to people in Bodden Town that have this equipment so that we can expedite the clean up of the district?"**

First of all, people have been at work in Bodden Town, and he is attempting to criticize me and my colleague the Minister of Education, but who he is criticising is [in fact] the workers in Public Works whose favour he is trying to court. He is saying they are not working because I know very well that I am working in the job that the people of Bodden Town elected me to work at. Rather than criticizing the Pub-

lic Works, the Public Works has done an incredible job. On the roads the section now called the National Roads Authority— a few days after the hurricane struck the roads were cleared so that they were passable; traffic could pass on them, except for one section in Colliers in East End that was totally buried in sand, which took a bit longer. The Public Works and the National Roads Authority are supposed to deal with the roadways to the extent of the roads as they were before, in collecting information to do an assessment as to the damage, and they have been doing this to give us estimates as to what it is going to cost, what it will need to do to repair. The building side of the Public Works is also offering its services through the person Mr. Max Jones to the National Recovery Committee in coordinating and getting together all of the builders or contractors who are interested in fixing the houses and so on. It takes time and seemingly the Opposition does not know that. Seemingly they do not know that!

However, when this PPM candidate wrote his two-part letter talking about why is it that I and my colleague, the other Minister, and Public Works have not been doing anything, the Public Works has been working. They have been working and removed 1000s of cubic yards of sand out of the Bodden Town District and have stored it and are working real hard at getting that devastated township back to where it should be. They have even been fixing some potholes over on the back road, fortunately that was built where there were some holes next to the schools. So, the criticism comes via the Members in the House, particularly, the Second Elected Member for George Town, singing the very same song.

The writer of this letter, he is one of many who want to be, but I think that is other things to reflect on when getting into this political world because I think he could be found guilty of political infidelity at the least, and perhaps, at the worst, it could be political bigamy.

*[Laughter and inaudible interjection]*

**Hon. Gilbert A. McLean:** Mr. Speaker, we moved from a state of emergency to a state where the Members of Cabinet were functioning more as they should be. No Cabinet before this one knew how to deal with a disaster of such an extent that occurred due to the hurricane. There are few places on earth that have experienced a Category Five strike by a hurricane.

We hear of certain other islands and the destruction and we sympathize with them, and some of those islands that we hear about have been cleaned up quickly and fortunately they are getting response from the international community, but if a Category Five had hit them you might not find the country. It goes to speak highly for us about our building code, the buildings we have and the sense in acting as we have, in order to keep ourselves alive.

Particularly, it was of immense wisdom and health that we began to take the preparations that we

did days before the hurricane struck. The National Hurricane Committee—and I think at that time it was Mr. Donovan Ebanks that was then acting as the Chief Secretary was off or away—and when he started putting out the warnings and issuing the orders that Cayman needed to prepare for a strike that saved us, that played a large part in it. The newspaper and radio bulletins that advised us what to do in situations of flooding or losing your roof, et cetera, by telling us that we should go to a closet or somewhere and cover ourselves with a mattress, there are many stories of that happening. What we should all be here talking about today is ways of assisting those people who find themselves in that predicament and who cannot assist themselves, and that is what this Bill relates to.

Speaking of hurricanes, I would like to read something from the *Notes on History of the Cayman Islands* by Commissioner Hirst, and I quote: **“After each hurricane the inhabitants lost no time in pulling themselves together and I am informed that on no single occasion did they seek arms from abroad. This speaks highly for the independence of the people and I believe the same characteristics would be found in their descendants today.”** That is partially true because some of the descendants say: *‘Government must do it!’ ‘Government must do it!’*

There is one other section that I found very interesting, and it again relates to this time. I quote: **“The Marquis of Sligo visited George Town on HMS Fort accompanied by HMS Serpent in 1835 and HMS Edinburg under the command of Captain Henderson, was at George Town in 1839. Many other British Warships in addition to the above paid flying visits. The results of these visits was that many Caymanians took service in the Royal Navy and the wellknown seafaring ability of the Caymanians was secured in a measure to this country and the flag which afforded him protection. For some reason or the other the Admiralty had recently ignored the Islands with the result that many of our best sailors have sought and secured service under a foreign flag. The sight of a British Warship has now become such a rare occurrence that shortly Caymanians will begin to think the British Navy has ceased to exist.”**

That is back in the 1800s and there are those now, no doubt, who would say they come even more infrequently and they do not necessarily bear arms. These accounts here, given to me by my colleague, the Minister for Education who is always researching some historical information, I found to be most enlightening and I recommend it to Ministers. Two things in it really stood out; the visits by the warship, there are different stories as to what happened and how it happened and the fact that as a people we got together and rebuilt without question. There is one difference now, and that is that we have come a long way since the 1830s when money has become the focal point. There is no longer the thatch roof, little huts or the

white lime and the ironwood houses, the wattle and daub. Now, for us to replace what has been done we need money and I want to speak to this point.

The Second Elected Member for George Town said that there are concerns of the private sector of how money is being spent and what is Government doing, and that Government does not have a plan and is schizophrenic, and all the rest of it. Well, I can tell you that Government has certain concerns also and one of those is, what is the private sector doing? We must salute the Bank of Butterfield; it stands out like a beacon, a bright lighthouse on a rocky shore. One million dollars! Another person that is outstanding is a lady who chose to live in the District of East End who did not hesitate to commit to the rebuilding of that district in the millions, and a new Caymanian. However, what about the private financial sector? I thought that the Second Elected Member for George Town was going to say today that he was happy to declare that his law firm had matched a million dollars in that fund . . .

[Laughter]

**Hon Gilbert A. McLean:** . . .because of the concern of wanting to help.

I am not hearing too many sounds from the financial center and the private sector except, ‘what is Government doing?’ Well my question is: ‘What are you doing Private Sector?’ They have made many, many millions in this country doing their financial business and relaxing each night, working each day and making their millions while the Cayman Islands are tarred as those ‘dirty money laundering Islands’ that are so rich. Successive administrations have chosen not to say to those people who make so much money, except this Government in 2002 when the fees were increased, ‘folks you have to contribute a bit more’. Mr. Speaker, you would know because you were a member of the Government at that time, and you were one of the foremost making the point that the country would not survive so therefore we have to pay some more, and the country is better off because of that.

Since the private sectors claim to manage money so well, let them now step forth, put the money on the table and manage it. I believe that the Government has done all that could possibly be done at this time, to assist the private sector and the financial sector. It has said to the private sector you can bring in as many temporary houses of all shapes and kinds that you want to house the people that you claim you are so concerned about. You private sector go to Planning, go to Environmental Health, go to whomever, get them to agree with what parcel of land you will put these houses on and what are the minimal requirements because they are temporary. Do you know what I hear from the private sector? *‘What is Government doing about housing?’* Well, the Government is doing all it can and what more could it do? Bring them in duty free, whatever free, you go and

make your money off of them, we are not asking for any it but if you are so interested why do you not take a little of your money and spend to house the people.

There is talk of bringing in cruise ships to house people who work in the private sector and in the financial sector but they want Government to pay for it, Mr. Speaker. The Government must pay for the cruise ships! They have 40 people that they could put on some but the Government has to find the other 100 and something, which would be millions! Where is that money going to come from, is my question. It is absurd! Giving does not seem to figure very highly in the private sector or in the financial sector except in some outstanding cases. The Government must be going to do it. Mr. Speaker, where will the Government get the money? How can the Government go to charter cruise ships? The Government has some people they need to house but they would have to look to house them in the same way that everybody else would have to pay for accommodations and so on. Let the private sector get to work in those areas instead of asking what government is doing or government must underwrite the cost for the private sector.

The Second Elected Member for George Town also spoke about local heavy equipment and that they want to get a part of the clean up work. Well as far as I can see, Mr. Speaker, all of the people who own heavy equipment in Cayman right now are employed and over employed. Every day I see it, I see trucks with grab buckets and I see trucks hauling debris over the place, how much more work can you do in one day. Just for the records, there have been offers from certain companies, big companies, foreign companies that would like to come in to clean up for such and such an amount. What the Government has said to everyone of them is, *'understand very clearly that if you are chosen to come in here to do a clean up bringing in your specialised equipment and all the rest of it, you will have to prove that you have engaged and provided an opportunity for all of the people here in Grand Cayman who have equipment such as trucks and the likes, that they will benefit from this'*; that is what the Government has done.

I do not know who those are, who according to the Second Elected Member for George Town, that are going to use the heavy equipment (it must be to take them off the job that they will be doing) to block the docks and so on if any company from anywhere else comes in here, but that would not augur very well for success in the clean up in this country. I have heard similar statements in the not too distant past, which was on an occasion when, again, the Opposition sought to set up a clapping gallery here in the legislature when someone said they would go home and get the bulldozer and knock down the Legislative Assembly. I do not know if it is the views of similar persons who are going to go now and take the equipment and block the docks. Just a while ago I spoke about a state of emergency, now no doubt there the actions that the Governor could take under that law for

such a thing would work well in those circumstances, to hinder such a thing from happening and hinder the progress which the Opposition claims they want.

There is a question about the qualifications of the foreign contractors. I have seen the qualifications of some of the people and they have been very much involved in major cleanup in disasters in the United States. They are former members of FEMA, the Federal Emergency Management Agency and they come more than well-qualified with an interest, and of course, their interest is not the love of Cayman or Caymanians, their interest is money. They are the private sector. As to their qualifications there is no doubt about that and as to the specialised equipment which they have told the Government about, they have it and I think it was an education for us that there is certain equipment designed specially to do certain things, and this is available. Right now a number of the big clean-up corporations, I understand, are at work in Florida because as we know Florida has been hit four times in the past two months by hurricanes. I do not think there can be any question as to the qualifications of these persons and certainly what we have seen points to the fact that they are more than experienced and qualified. The question is money!

Now I would say that the Second Elected Member for George Town would have heard this story because that is when there was a steering committee steering the country and attempting to steer the Cabinet that someone bounced in and said *'we will clean it up for you for a million dollars'*. Well, of course when that came to the Government we wondered whether the Mental Health Law should not be applied in those circumstances because surely somebody was mad.

These are the type of things— and I had an occasion when the House was first called where we debated the matter of the Emergency Law and the state of emergency, when I said one of the things that we need to be very careful of is the business cultures that appear out of nowhere when disasters occur. Indeed the Government is very mindful of that situation.

I do not think it is a case of local businesses who have heavy equipment and trucks and so on, that they cannot clean up our own garbage. Some of the garbage is cars, refrigerators, washers, stoves, dryers, white goods as they are called. The landfill is already full. If we were to attempt to put into the landfill the 8000 cars, if that be the number, and I guess another 8000 or more of the white goods, we would have a 50 foot mountain and it would certainly then be over-filled.

So, when the Second Elected Member for George Town is making these statements to create an alarm and an excitement and what we are doing them and what we are doing to the people who have heavy equipment, he should have mentioned what is his views of those types of things and what happens to the Freon in those refrigerators and the likes. It is easy to talk but it is much more difficult to act.



**The Speaker:** Honourable Minister of Health if this is a convenient break for you we will now take the lunch-eon suspension and return at 2.30 pm.

**Proceedings suspended at 12.58 pm**

**Proceedings resumed at 2.42 pm**

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

The Honourable Minister for Health continuing with his debate.

**Hon. Gilbert A. Mclean:** Thank you, Mr. Speaker.

When we took the lunch suspension I was commenting on the matter of local contractors versus foreign contractors and also the experience and ability of the latter to do clean ups after natural disasters.

I would like at this time to speak more specifically to some of the queries raised as to why a Finance Committee should or should not be held and such other concerns as was raised by the Second Elected Member for George Town. To add to what I have said about the Government attempting, and the Government Departments attempting to get back to a state of normalcy, that process is still ongoing. It is still a major attempt for the Government to get back near a semblance of 50 to 60 per cent of the way it was functioning before. There is another matter that comes into play in regards to consideration where Finance Committee is concerned. The very law that we are looking at today, the Public Management and Finance Law sets up a rigid regime of how government finances are handled. It has changed the way it was done in the past. This particular regime requires, in a way of putting it, regular updates of what is happening in Government. To bring a matter before the Finance Committee now requires that the finance people go to great lengths to create what is almost a mini-budget which gives a picture of the information on things as they stand, the latest status on the finances and then the direct specifics as to monies which are being requested.

I cannot say how Government is faring in terms of its property and its vehicles and everything else, which was insured but certainly settlements from the insurance companies will play and is playing is playing a major role in the whole process of finding money to repair and replace damaged objects.

For the finance people to attempt to come to the Finance Committee today or tomorrow and give the exact cost for something it is difficult because information and data is being collected even now. I know there are many cases where there has not been full settlement from insurance. All of these factors come into play in preparing for a Finance Committee in the new era, if I may call it that. Right now, I know that the Government, and again the finance people, the Treasury, the Finance Department and so on is attempting to forecast or to re-forecast revenues.

Right now, we do not know accurately how it has impacted, to what extent, what areas will be most affected and I am aware that this is an ongoing exercise. In fact, I have spoken to some of the finance people just today and was told, and confirmed to me that this indeed is the case.

Another major consideration is the expenditure; just what will we have to expend? We know a few specifics but upon further examination in many areas, I recall one when my good friend and colleague, the Minister for Education, the more they look at the schools the more they are realising there is greater damage than was originally thought. In fact, I am made to understand that the insurance people who have brought in certain people from abroad to scientifically examine these schools are finding certain problems where they are advising that the schools should not be occupied. Therefore, the question of expenditure is one that at best right now is piecemeal.

At whatever point that we reforecast the Budget to get a better lock on with expenditure then it becomes a situation for reprioritisation. This could hardly have taken place in the past 21 days. This is something which has to be stressed that the Government itself has only really gotten closer to normal governance over the past two and three weeks. Before that, for two solid weeks the Governor was in control. Legally and technically I believe as was the legal advice, which I heard on three different occasions, that Cabinet was supposed to be functioning but the Governor really was in charge of the country. Whichever statements that did or did not go out to the rest of the world was really done by the Governor in whatever way that might have been done.

In terms of roads and buildings and so on, I could not make any decisions because I virtually was not in control of the subjects for which I am constitutionally responsible for. I complained like the dickens about it but it did not change things. These matters were being handled by Committee A, B and C, and I cannot not stand here before this Honourable House and tell anybody who those committees were, who they were made up of or whatever. Those are the facts of the matter.

After that two week period there were still about two more weeks where we, the elected Cabinet kept bringing forth the view that the committee, which the Member for George Town keeps referring to, I think—to this steering committee—that it was impossible legally or sensibly or rationally for the Governor of the country to chair a committee, which was assuming or presuming to be playing a major role in the recovery of the country as the nation Chairman there, and then coming to Executive Council where he is also Chairman by the Constitution of Cabinet; this created a major confusion.

Finally there was the wind down of the steering committee and to the best of my knowledge that highest body in the land is Cabinet and there is no such thing as a committee steering that, or it is not

supposed to be. So, all of these things have factored in and at this stage, again, it is a question of us understanding that there is a difference between the Executive and the Legislative; they are separate arms of Government, just like the Judiciary. They are all separate arms. Therefore the Legislative cannot become the Executive, they empower the Executive to work but the Executive must have the authority and the responsibility, which is rightfully its own to function in the day to day governance of the country.

It sometimes makes people tired and causes them to yawn, but it is an inescapable truth.

*[Background comments]*

**Hon. Gilbert A. McLean:** Yawning is bad enough!

Why would it be the case that there should not be a Minister charged for disaster recovery. I think it is something which is needed and something which is recommended. I can say one thing that was very instructive to me, when we first met with the Whit Group that has been advising Government, they showed us a model of an organisational structure which has been timed tested and has, I understand, been used since the 9/11 disaster. At the very top of the chain of command is the Cabinet. Who else should be there but the people whom the people have elected? Then it comes on down to the operational sides and the way it is divided up and separated up for various functionalities. I was pleased and happy and reassured in knowing that even in times of national disaster you do not oust the peoples representative of the Cabinet.

So, other than Chapter 17 of the personnel regulations this have to be revised, rewritten and re everything else for again it defies democratic governance. It cannot be legally, rationally, democratically done in any country where the elected representatives of the people (in our case, it is 15 of us elected) are told in times of disaster to step aside and the administrative side of the Government takes over to run the country because something is seriously wrong with that. Anyone who does not know that I am talking about may try to acquire a copy of Chapter 17 and all the rest of it. The two have to work hand in hand and one of the problems that occurred which has wasted time or has caused a prolonged period of time, was the fact that ministers in Government—I am sure when the Second Elected Member for George Town speaks of this area, that is who he is directing it at, the elected Government Cabinet.

We did not have the ability to direct the people doing the jobs in the department under the Ministry that had been up to the 10 September, 2004. It was different committees and we only heard that there was 'X' committee and it had this one and that one on it, and again, I can only speak for myself because I wondered how on earth this could be; you cannot do this. This person is supposed to be taking some policy directions from me or from the permanent secretary via me or whatever. What is going on? That was the kind

of situation which has been in play. I think the country needs to be aware of that. It is a good thing, I would suggest, for all of us the Elected Members, to realistically take a half hour, if one hour is going to cause too much argument, to realise what happened from the 11 September, 2004 until now in the governance of this country. I am talking about the 11 September, 2004 when the hurricane actually started.

I think having a ministry or a subject called Disaster Recovery or a Minister charged as such, is a very good idea, and it is certainly one that I would support, but I would surely want to support it on the basis of a clear plan that I am made to understand, does exist, in others parts of the world and one which we could simply reshape to suit our particular needs in the Cayman Islands.

The Second Elected Member for George Town also spoke and said, '*not a single roof has been fixed in this country*'. That is not so because a lot of people are fixing their own roofs, however, I dare say he was speaking about what is the Government doing about fixing roofs. To address that there is only two things that I know of, one is that there is this National Recovery Committee for which monies have been put into a fund where again, the Bank of Butterfield has led the way. I understand there have been other good appreciable contributions and the Government proposes to add to that to at least match the million in that fund, and leave it to be carried on in the way it is doing now and so on for funds to be allocated upon application. However, I have also heard complaints that the people feel they could have gotten some earlier response.

I am not here to say that something should be done hastily because we could end up finding that we helped this one and then this one got a lot of money from insurance or whatever the case may be. It has to be done in a proper manner but I think that it needs to be some quicker response and, in my opinion, there needs to be more humanistic need driven considerations, and I have at a considerable distance heard of a few things which to me does not make a lot of sense. It could end up being on great big bureaucratic thing more than we would find in Government and I hope that does not happen. The only other way that I know is that the Government proposes, and it has been announced to allocate monies, 6.5 million dollars— it would now be 5.5 million as a million will be allocated to the trust fund and again, it is set up along similar lines as a grant to person in need. I do know that every effort is being made to push that and to get it working and again, that is going to take a week or a week and a half to really get it in place; it does not happen instantly.

Mr. Speaker, we could all sit here and complain about things; this has not happened, that has not happened, but I would prefer to think that like what Commissioner Hirst wrote back in the 1830s or of the 1830s, whichever, that everyone here in this country should feel a sense of wanting to get back to where

we were before. I would hope that there would be the understanding that everyone has been affected and everything has been affected, and that the Government has certain limitations both in money and in manpower, in information, which we have to seek, but overall I think it is remarkable how well we have done so far. Yes, focus has been put on the financial industry and on tourism and they are the two mainstay areas of revenue so it makes good practical Caymanian common sense to do that. However, it certainly goes beyond that to each individual human need such as shelter, food and water is pretty much available, I think, to everyone now, but shelter is now a major concern.

The Government, as I said, a while ago has allowed the importation of temporary housing; they left it wide open to the private sector saying 'private sector import the houses, go and get your approvals, put the houses wherever is agreed by Planning and yourselves and then attempt to rent them. Government might rent some because there are persons who are going to fall to Government to be housed. However, they cannot expect Government to give them the approval and then turn around bring the houses to them and give them over to them to make money. It does not make sense.

There has been a reduction of 10 percent across the board on motor vehicles for people to replace their vehicles. There has been a 50 percent reduction on custom duties for building materials, furnishings and appliances. What more could a government reasonably do in a three week period. These are major things. These are things which reflect directly back to the finance people in Government, who has to ask, *'well look how much money are we losing, what kind of loss, how is this going to add up?'* It creates more work for them, which was not there before. These are the realities we are dealing with.

Just to briefly go back to specifics on the Bill before the House, which is asking that a government, it happens to be this one at this time, is given the authority by this Legislative Assembly that in an instance of disaster or emergency, or in special circumstances that a government could act because there is money instantly available under those specific circumstances, and at this time that does not exist. The monies that have been spent, to the best of my knowledge and belief, specifically spent out are monies which have been reallocated; they were already assigned to do certain things but everything changed after the hurricane. So There are monies that may have been for, say buying furniture, but that \$30,000 or \$40,000 was needed to be spent on something else so that is what has been happening. If it is within the budget therefore that particular requirement would surely not change the numbers, the approval yes, by the Finance Committee of the specific thing on which the money is spent yes would stand wanting, but I would hope that none of us here would be so callous as to say that if \$50,000 was allocated for A and you desperately

needed that \$50,000 for B, which was say getting the roads cleared and paying people to get the roads cleared, that it would be anything wrong with that once it stayed within the budget.

The other situation which this Bill can cover by its approval is any other monies necessary over and above what we could have seen to have reallocated in the Budget could be covered up to five per cent. If I am not mistaken the Financial Secretary has pointed out to Members of the House exactly what that would mean if you applied the five per cent to the present Budget. I hope it is not telling tales out of school, but to the best of my knowledge the Financial Secretary and the finance people are working to collect sufficient information that by the 15 December, 2004 all the information, as best as can be gathered, the state of the budget revenue and the state of the expenditure can come to the Finance Committee where everyone would then be looking at as realistic figures, as best as we could evolve.

I support this Bill because it is something which needs to be done. One should not try to have a government or governance and then hamper the governance process. There are circumstances called emergency circumstances, special circumstances and anyone can understand what that means, and that is what this Bill is all about. I would invite all the Members of this House, including the Opposition to do as our people of old—everyone get up and do what you can, and understand that the Government cannot do everything for you. I will do what I can, to the best I can, but it is the duty of all of us here to do what they can other than criticise the Government.

I support this Bill and I thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If not I would call on the Honourable Third Official Member to exercise his right of reply.

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

Many of the matters raised by Honourable Members have already been addressed by the Honourable Leader of Government Business and the Honourable Minister for Health. However, there are a few issues that I would like to clarify.

This amending legislation is quite clear and it is not one that is attempting to undermine the provisions of the Public Management and Finance Law, as some Honourable Members are of that view. The Honourable Leader of the Opposition commented on my statement about this Bill, that its purpose was to the making of two small statements. I said that in my opening remarks—'two small amendments'. My reference should in no way be regarded as belittling the catastrophic effect of the hurricane and the after effects that we are now experiencing.

The amendments to the Bill, small though they may be, are very important aspects of the recov-

ery effort. The Honourable Leader of the Opposition also took objection, rightfully so, to the Memorandum of Objects and Reasons where it says- **“The Bill also validates any unauthorised executive financial transactions”** “He is absolutely right that the support of this Honourable House should not be taken for granted. The Memorandum should have said **“seeks to validate”** as he suggested. My summation of the other points raised by the Honourable First Elected Member for George Town and the Leader of the Opposition is, whether the checks and balances inherent in the existing Law are being eroded by this amending Bill.

I can categorically state that such is not the case. Some concerns of Honourable Members may arise from the fact that the Bill provides Cabinet with the authority to approve a limited, and I will underscore ‘a limited’ amount of expenditure in advance of an appropriation. It would be easy for Honourable Members to view this as a return to what could be referred to as ‘the bad old days’ but that is definitely not the case.

The advance warrant arrangements under the old Public Finance and Audit Law were loose, and I can recall, Mr. Speaker, and I think even yourself, when you were a Minister, and also a Member of this Legislative Assembly, had difficulty with that arrangement. All Members of the Legislative Assembly from the Government side to the Opposition had difficulty with the loose arrangements that existed under the previous legislation. Such was the case that they allowed for the Government to approve unlimited amount of appropriated expenditures for any purpose whatsoever without reference to this Honourable House until well after the event. The pre-appropriation approval process contained in the amendment Bill bears no resemblance to that old process.

For one thing the circumstances under which the power can be used has been defined and defined quite tightly. It would be useful and I think it would be evident to all Honourable Members to be satisfied that the Law itself has not been weakened and will not be weakened by this amending Bill. It would be useful to take the specific provisions, section 12 and section 13 of the Law, and to read into the legislation what the end result will be after these amendments have been affected. This will make it quite clear that the safeguards that should be in place will remain inherent within the Law itself. Specifically, the definition of ‘exceptional circumstances’ ensures that the Cabinet will only be able to use its pre-approval power in rare and I will underscore, ‘very rare’ and unusual circumstances. Those circumstances are when all four conditions in the definition have been met and I will take this opportunity to read those conditions, although I did so yesterday, just to remind Honourable Members how stringent that test is. When we look at the definition of ‘exceptional circumstances’ it is stated in the amending Bill to mean that is an event which occurs during a financial year and which –

- (a) is beyond the control of the Governor in Cabinet;**
- (b) could not have been reasonably anticipated at the time of enactment of the Appropriation Law for that financial year;**
- (c) has an economic or social impact that is significant enough to necessitate executive financial transactions different from those planned for that financial year; and**
- (d) requires the executive financial transactions to be entered into in a timescale that makes compliance with the procedure established by section 12A impractical;”.**

This definition in itself establishes its own checks and balances. It is an objective test, not one that is subjective. A second important check and balance is the requirement of the new section 12(6) which reads- **“(5) Where the Governor in Cabinet has authorised executive financial transactions in accordance with subsection (5)-**

- (a) a member of the Cabinet appointed by the Governor in Cabinet to do so on his behalf shall, at the next sitting of the Legislative Assembly after the exceptional circumstance has occurred, make a statement to the Legislative Assembly advising of-**
  - (i) the exceptional circumstance, its nature, and how it complies with the definition of the term “exceptional circumstance” set out in section 3;**
  - (ii) the type and amount of the executive financial transactions authorised or likely to be authorised; and**
  - (iii) the effect of the authorisations, or likely authorisations on compliance with the principles of responsible financial management specified in section 14; and”**

This means that any decision made by the Government to declare an exceptional circumstance must be justified to this Honourable House and will therefore be transparent for all to give their interpretation to and to see. When we refer back to part (a) ‘a member of the Cabinet’, we know that the Financial Secretary normally brings matters relating to this Honourable House but this is regarded as so important that quite likely it will fall to the Leader of Government Business of the day in order to demonstrate to this Honourable House the exceptional circumstances and why the Government so construed that event to be an exceptional circumstance, and to give the rationale for the taking of such a decision that an exceptional circumstance has occurred.

A third important check and balance is the five per cent threshold and the Honourable Member asked why five percent was selected. The five per cent is regarded as the commencement of what I would refer to as ‘the threshold of materiality’. It could be seven per cent; it could be 10 per cent, but five per cent is regarded because if we were to take the present

Budget where that translates into a sum of \$15 million this would suggest that this gives sufficient leverage to allow for the Government to have the necessary authority in hand to embark upon meeting certain urgent and needed expenditures.

If we can recall, Mr. Speaker, after the event of Hurricane Ivan you even permitted Honourable Members to come to this House without having to wear a necktie. Quite a number of us did not have clothes that were dry and a lot of us found ourselves in very difficult situations. The building itself did not have a backup generator and it was difficult for business to be conducted in such an environment and atmosphere but it was necessary for you to allow us to vary the way we normally would attire ourselves. The purpose of the exceptional circumstances approval authority is to allow Cabinet to take immediate action to purchase new outputs or fund other interventions not envisaged before the exceptional circumstance. The pre-appropriation approval authority is, if you like, an interim bridging authority. It is to give Cabinet short term limited authority until such time as section 12(a) submission or a supplementary budget can be prepared and presented to Finance Committee. I would like to just read this once more for emphasis: **“It is to give Cabinet some short term limited authority until such time as a section 12(a) submission or a supplementary budget can be prepared and presented to Finance Committee.”**

This addresses the concern of the Honourable Second Elected Member for George Town, where he felt that this would be usurping the role of the Members of this Honourable House in that in all instances, or in the majority of such instances, they would be apprised of what would have taken place after the event and as a consequence would not be afforded the opportunity to have input in regards to decisions relating to the expenditure or finances relating to important expenditure that would have to be met following an exceptional circumstance.

Therefore that Honourable Member can be assured that this is a bridging finance authority, it is not designed to give Cabinet the authority to fund all recovery activity. That should and will be dealt with through Finance Committee, which Cabinet and all Members of this Honourable House is aware that that is the mechanism which has been put in place in order to scrutinise the expenditure requirements of the Government of the day. So, the authority of Finance Committee or the ability for Honourable Members of this House to have input into decisions relating to expenditures by the Government will not be diminished.

Five per cent was selected because it is a relatively small number in the context of the Government's overall budget. Therefore it meets the criterion of giving Cabinet only a small amount of pre-appropriation authority, but as I mentioned, it touches on the threshold of what is material. Some Honourable Members have suggested that the amendment Bill reduces the accountability of the Government to

this Honourable House and undermines the control provided by the appropriation process. Let me assure them that this is also not the case. Any expenditure authorised by Cabinet using its pre-appropriation authority under section 12(5) must still be appropriated. The amendment is authorising Cabinet to approve expenditure in advance of appropriation not and I will underscore again, 'not' instead of it.

The new subsection 12(6) (d) makes it clear that any approved expenditure must be included in the next Appropriation Bill brought to this Honourable House. This therefore means that Honourable Members will continue to have the opportunity to scrutinise that expenditure during the Second Reading of the Finance Committee stage of the Supplementary Appropriation Bill. It is true that this appropriation process will be after the event and that is why the definition of exceptional circumstances is so restrictive. It is to ensure that this pre-appropriation approval authority is limited to circumstances where it is absolutely essential. In this context clause (d) of the definition of 'exceptional circumstance' creates a presumption that section 12(a) process should be used wherever possible. Therefore it is not attempting to undermine the section 12(a) process which requires that a supplementary appropriation be brought to this Honourable House. This means that the approval of Finance Committee must be obtained before expenditure is incurred unless the urgency of the expenditure decisions is such that a normal section 12(a) Finance Committee process is not possible. Clause (d) requires the Government to justify why that is so; again, a very transparent process and another of the very important checks and balances that has been built into the Law itself.

A number of Honourable Members have expressed concern about the validation clause and suggested that significant expenditure has already occurred without legal authority. Once again let me set the minds of Honourable Members to rest on this specific point. In the period since the 27 September, 2004 quite a bit of recovery related expenditure has been necessary. The vast majority of this has been incurred in accordance with existing appropriation authorities. For example, garbage and debris removal by the Department of Environmental Health, additional spraying by MRCU, the repairs of the roads by the National Roads Authority and building repairs by the Public Works Department have all occurred in recent weeks and are all covered by existing appropriations.

A number of other expenditures have been announced or planned but disbursements are not yet being made until Cabinet has been given the authority to approve these expenditures as a result of this amendment Bill. These involve the \$6.5 million grant scheme for those with housing related needs to be administered by the Cayman Islands Development Bank; the \$1 million to be made available to assist civil servants who are in desperate need of such assistance; a new output for debris removal, the amount

for which is still to be established; that is being worked on by a small committee and Cabinet will be advised of that decision by a recommendation through the Honourable Minister for Planning.

There has however been a need for three urgent recovery related expenditures to be made for which there is no existing appropriation. These are the decisions that section 5 of the Bill is validating or seeking to validate and they are as follows:

- A sum of \$385,000 for new broadcasting equipment for Radio Cayman

No one should doubt the importance of Radio Cayman and the role that it served during the recent hurricane. In fact it was the only lifeline throughout the community advising people in the community as to what was taking place for the time that it was able to stay on the air.

- A sum of \$1.5 million for new vehicles for the Department of Environmental Health.
- A sum of \$935,000 relating to the consulting service being provided by the James Lee Whit Associates.

This is part of a new Cabinet office output covering the coordination of the recovery effort which is budgeted to cost approximately \$2.4 million. The validation clause is not appropriating or approving these three expenditures, rather it is retrospectively providing Cabinet with the authority to approve these expenditures without having an appropriation. It is also important to understand that this validation clause is a one-off provision. It is a one-off provision. It only applies to an appropriated approvals made by Cabinet between the 27 September, 2004 and the coming into force of this amending Bill. As I have just outlined these are a few numbers and the amount is less than \$3 million. The validation clause will not apply to any future exceptional circumstance expenditures.

Finally, I would like to advise this Honourable House that work is currently underway within the Government to prepare a Supplementary Budget for 2004-2005. As the Honourable Minister for Health has just pointed out, this is a laborious exercise and one that could not have commenced immediately on the Tuesday morning which would have been 13 September, 2004 as everyone was then running around for days. It took some time to get the computers up and running, for offices to be made habitable and for staff, after attending to their personal needs, to turn their attention to working with the Government in terms of marshalling the figures. This process involves a comprehensive re-budgeting and zero based re-prioritization of existing and new expenditures in light of the Hurricane Ivan event.

I can tell you, Mr. Speaker, as I said earlier, that this is no small task. As the Honourable Minister has pointed out, the fact that certain decisions have

been taken to give duty relief this would have been factored in as a part of the general revenue; this will have to be quantified and taken out of the budget itself. There are some that are of the view that the Government is going to be reaping a windfall in terms of customs import duty. It could be that the level that was budgeted will be achieved and a sum greater than that will also be achieved or the intake will amount to a sum greater than what was budgeted. We know what is happening in terms of the falling off of Tourism Accommodation Tax; what is happening in terms of the payment of Immigration fees for the short period of time that certain dispensations were allowed, and also, in terms of the stamp duty because it is quite likely that the real estate sales activities will not be as hectic as it was prior to Hurricane Ivan. All of these areas will have an impact upon general revenue.

There is a question that the uptake on the revenue side will have to balance out the falling off in terms of where we are likely to have decreases in revenue flows. These are things that we have to look at very carefully and as I mentioned it is a zero based budgeting as nothing will be taken for granted in terms of the recasting of the Supplementary Appropriation Budget that will be brought to this Honourable House for the remainder of the fiscal year 2004-2005. Normally this would not be a difficult exercise but given the present circumstances that we are working with we can apply our imaginations to realise that it is going to take the best effort on the part of all civil servants involved in terms of getting those figures together with some degree of accuracy and reasonableness.

A Supplementary Annual Plan and Estimates together with a Supplementary Appropriation Bill will be brought to this Honourable House in mid December. This plan of action has already been submitted to the Cabinet of the country and, Mr. Speaker, where it is said that this is an excuse for not supplying the necessary reports to the Honourable House, this is not the case! This again will relate to the specific instance where we should be rolling up the first Quarterly Report about now, the Report for July, August and September. We have enshrined it in legislation for a specific time period when that Report is to be produced.

The fact that it is not going to be produced should not be taken for granted and this is why, consistent with the expectations of the Public Management and Finance Law, that the necessary amendments are being sought to make sure that all actions of the Government, as such actions would relate to the financial management of the country and will be duly covered by the appropriate legislative process. Those documents, when provided, will include any expenditure approved by Cabinet in accordance with the provisions of this amendment Bill together with other executive financial transactions that the Government wishes to make but for which appropriation authority is required.

As I said in my earlier remarks, this amendment Bill is to allow the Cabinet to be able to respond swiftly to the demands of exceptional circumstances. It does this in a way that maintains appropriate checks and balances, retains fiscal control, protects the sanctity of the appropriation process and ensures the full accountability of the Government for its actions.

I will take the opportunity in my closing remarks to join the Honourable Minister for Health in saying thanks to the Bank of Butterfield and also the General Manager, Mr. Conor O'Dea for putting \$1 million on the table immediately following the passing of Hurricane Ivan. I would also like to say thanks to Digicel, as I am aware of the fact that that company has expended significant sums in the community. I am also aware that other institutions operating here have been very generous to their staff. The Bank of Butterfield and Digicel have been generous in their giving into the community but their giving of gifts to their staff members have gone over and above. There are other organizations that will quite likely be stepping up to the plate and offering to give assistance in terms of the recovery effort. When we drive from West Bay to East End and into North Side it is quite evident to all that no single organisation—and when I say that I am looking at Government as an organisation—can successfully undertake this recovery effort alone. It remains that the entire community, the financial industry, the tourism industry, all sectors will have to work hand in hand with the Government in order to expedite this recovery process.

I am confident, however, that the recovery process will be a success because the spirits of the people are very much alive and you can see a sense of optimism and positive attitude within our community. Wood and stone can and will be replaced. I remember the days when we did not have the luxury of the things we had before Hurricane Ivan. I will also say that there are some countries overseas gloating of the fact that the Cayman Islands have had a temporary setback and there is one country in particular, saying that business came from that country to the Cayman Islands as a result of certain political events that took place in that country and the fact that we are down we should be kept down. It is unfortunate that individuals can be so callous in their thinking. I would not have ascribed that type of view to their government of the day because I know some of the Ministers in the government of that country and I would not believe that they would associate themselves with such negative sentiments.

We are a very resilient community and one example of that is our school children who could not be placed in schools in Grand Cayman, many of them were sent to Cayman Brac where they were well accommodated and we had many flights going to and fro at no cost to persons traveling. The three Islands have come together to reflect the singleness of the community spirit that is inherent in the Cayman Islands and I am very proud of this country. I am very proud of our

people and I am very happy in terms of those organisations and persons from the outside who have put themselves at risk and incurred tremendous cost, some of them have chartered jets to bring supplies to the Cayman Islands.

Recently we said thanks to the Bermuda Regiment and there are so many people to whom we owe thanks. However, there are certain organisations within our private sector that are asking 'What is the Government doing?' We hear in terms of housing shortage that these things are not being addressed. The question is, and I am sure the Honourable Leader of Government Business will comment on this in his statement—'What are they doing in order to expedite this recovery process?'

I commend this Bill to all Honourable Members, its purpose is not to usurp the provisions of the legislation as it now stands but to provide an avenue that allows the Government to undertake certain urgent expenditure needs in a manner that will meet the urgent needs of the community.

Mr. Speaker, thank you very much.

**The Speaker:** The question is that a Bill shortly entitled The Public Management and Finance (Amendment) (No.2) Bill, 2004 be given a second reading. All those in favour, please say Aye. All those against, No.

**Ayes and Noes.**

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

**Hon W McKeever Bush:** Can we have a Division?

**The Speaker:** Madam Clerk, please call a Division.

#### Division 6/04

##### Ayes

Hon Roy Bodden  
Hon Juliana Y. O'Connor-Connolly  
Dr the Hon Frank S. McField  
Hon Donovan W.F. Ebanks  
Hon Samuel W. Bulgin  
Hon George A. McCarthy  
Mr. Cline A. Glidden, Jr.  
Mr. Anthony S. Eden

##### Noes

Mr. Alden McLaughlin Jr

##### Abstentions

Ms. Edna M. Moyle  
Mr. V. Arden McLean

**The Clerk:** The results of the Division is 10 Ayes, 1 No, 4 Absentees and 2 Abstentions.

**The Speaker:** The Division has been called by Madam Clerk. Ayes 10, Noes 1, Abstentions 2, Absentees 4. The Motion is accordingly passed.

**Agreed by Majority: The Public Management and Finance (Amendment) (No.2) Bill, 2004 given a Second Reading.**

**The Speaker:** I mentioned earlier that after the Second Reading debate on the Public Management and Finance (Amendment) (No.2) Bill, 2004, I would allow the Honourable Leader of Government Business to make his statement. Honourable Leader of Government Business.

**STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET**

**Update on the National Hurricane Recovery**

**Hon. W. McKeeva Bush:** Thank you very much, Mr. Speaker. On behalf of the Government I make this statement on an update of the National Hurricane Recovery.

Mr. Speaker, strong religious belief, foresight, determination, hard work, respect for free market economic policies and good governance and a kind and industrious people, propelled these small islands that time forgot into one of the world's leading financial service centers and one of the most desirable tourism destinations.

On 11<sup>th</sup> & 12<sup>th</sup> September, days which I am sure no one will ever forget – Hurricane Ivan, the 6<sup>th</sup> largest and most powerful hurricane on record visited our Island.

After over 20 long hours, our people, our residents and our friends emerged to what can be best described as unimaginable damage and devastation.

Approximately 95% of all structures in Grand Cayman were impacted. Our people, residents, investors and friends have all suffered significant losses and endured very difficult and trying conditions. Many lost their homes and personal belongings. Some lost their lives and our deepest sympathies are extended to those who lost their loved ones.

Our challenge today and in the future is to bring into focus the same foresight, determination, hard work and to maintain our friendly spirit to rebuild our country in the shortest possible time.

Before addressing how the Government has begun and intends to continue this process, I should on behalf of the Government and people of these Islands, express our sincere gratitude to the international organisations, residents and friends, private sector organisations, civil servants, police, fire department, customs and immigration, Radio Cayman, volunteers and visitors who provided much needed aid, worked day and night unselfishly to assist in our time of need. On some days up to 60 planes, mostly privately owned, provided much needed supplies to our people.

I paid a visit to the Tortuga Rumcake Factory in Miami. They had organised a gigantic effort of tons of aid which they sent to Grand Cayman. Working with them was a Caymanian family, the son of the late Mr. Billy Bodden, founder of the Compass and his family, and I put on record our sincere thanks for all those efforts by that company in the Miami area.

Words cannot truly express our feelings of gratitude to all those who assisted both within and from outside the Island in our time of need. If I had a list I would personally write to each and every one of you. Again I thank you all. I know I have probably left out some, please forgive me.

I am personally proud and impressed by the level of camaraderie and goodwill that has been shown by all our people.

In the aftermath of the event, His Excellency the Governor, by reason of the declared state of emergency, was in control of the country. The elected Government's powers were suspended.

As soon as the Government's powers were restored after some two weeks the Government forged the way forward and retained the firm of James Lee Witt & Associates to assist in the recovery process. The head of the firm, Mr. James Lee Witt, spent eight years as head of FEMA (the Federal Emergency Management Arm of the US Government). The team that has been sent to Cayman has significant experience and expertise in dealing with the magnitude of the devastation like what has been caused by Hurricane Ivan. The team from James Lee Witt & Associates is working diligently with our civil servants and the private sector on all aspects of the recovery process. The team's main areas of emphasis include (1) Housing, (2) Public Health and Safety, (3) Business recovery and continuity, (4) Infrastructure Recovery and Support, and (5) Human Concerns.

Our people, our businesses, our infrastructure and our economy have been badly affected by this event.

The recovery process is well on the way and the Government has announced a number of measures designed to speed up the process and assist those in need. Today many are without their homes and the time for immediate remedial action is now.

Our people, by their hard work and fortitude built houses, many of which have been damaged or destroyed. Districts such as Bodden Town and East End have been very badly affected. South Sound is heavily damaged. Many have no insurance cover and are unable to rebuild without assistance. Districts such as West Bay because of relative size have a tremendous amount of people who have lost nearly everything without insurance.

Mr. Speaker, goodwill alone will be insufficient to repair our infrastructure and assist our people in the process. We must borrow the capital to assist in rebuilding our schools, our roads, our Government buildings and most importantly, to assist those who lost their homes and their businesses.



Our economic engines must be restored as soon as possible, failing which Government will not be able to provide the education needed for our children to meet the challenges of the 21<sup>st</sup> century, the medical care for people and the assistance to our less fortunate and elderly. We now have to be proactive so that we can restore these Islands to the wonderful place it was prior to Hurricane Ivan.

My proposal to assist in the recovery process will be as follows:

1. Approve a special borrowing which will be raised by a bond issue;
2. Use the capital to rebuild our schools, roads, Government buildings, provide assistance to assist those who lost their homes and have no insurance, and to assist small businesses with loans.
3. Consider implementing legislations to expedite the rebuilding process, cut out red tape and bureaucracy.
4. Provide additional staffing to agencies such as Planning, to speed up the process of approving repairs and new buildings. Objectors should be required to provide compensation should their objections fail. This is only fair, and will separate those who have serious and legitimate objections from the rest.

Mr. Speaker, there have been some recent accomplishments which are outlined below.

- We have provided special incentives to those who start the rebuilding or new construction within the short term.
- A policy has been put in place to allow for the deferral of duty payments agreed between the importer and the collector of customs.
- We have provided equipment to our law enforcement agencies.
- Reduced the import duty on all office equipment, furniture and computers.
- Provided impetus for the provision of housing, temporary or otherwise.
- Reduced import duty on replacement vehicles and building materials, furniture and appliances.

We are also setting up disaster assistance centers in the district, MLA offices and Town Halls to help people fill out application forms, give people information and be generally of assistance to people at this particular time.

Our country has two main economic engines, the financial industry and the tourist industry. The repair and growth of these industries must not be hampered by red tape, bureaucracy or international initiatives designed to slow down or destroy them, while advancing the same industries in other developed countries. Without the efficient functioning of these two areas of our economy our people will be doomed to substandard living conditions and our children will not have the education needed to participate in the challenges and benefits of the 21<sup>st</sup> century. As Leader, I will not let our people suffer. Red tape nor anything else will hinder me for getting our people and this beautiful Island to the level of economic success

and growth that we enjoyed prior to hurricane Ivan. We will ensure that we maintain our position as a country with one of the highest standards of living in the world.

We must continue to welcome investors and workers and we must provide a safe, friendly environment for our people, residents, friends and visitors. There are many things which Government is in the process of putting forward. I am aware that there are those who are delaying and slowing down the process in the hope of achieving cheap political gain. This is not a time for politics. I will not allow the desire to score cheap political gains to cause our people and our country to suffer.

I draw Members attention to the fact that when I was determined to put a sea wall in West Bay Central along Boggy Sand road of the objections and the politics and the dirt that was being carried on. If I had not gone ahead and done that central West Bay would be must less today than what it is because where the sea wall stopped it cut Boggy Sand road in two.

I am happy to report that significant progress is being made in all areas.

**(1) Schools:** After the hurricane the Ministry and Department of Education have been working tirelessly to reopen schools and have some level of normalcy for our children. The main priorities were the opening of the preschools. To date, 13 preschools are open out of a total of 28. Two preschools were completely destroyed.

Other priorities were the Lighthouse school and alternative education centre. The Lighthouse school reopened this past Monday, 25<sup>th</sup> October. Alternative education is scheduled to open on 15<sup>th</sup> November.

John Gray High School – year 12 opened 20<sup>th</sup> October with its full examination programmed. Year 11 will be opened on 8<sup>th</sup> November. Year 10 will reopen on 8<sup>th</sup> November at the Agape Family Life Centre.

At John Gray High School some 80% of buildings were damaged and the pace at which the site is being recovered is commendable. Special thanks to PWD especially Mr. Tristan Hydes who is the project manager and the construction firm of Arch and Godfrey.

George Hicks High School – will reopen on 8<sup>th</sup> November – split shifts will be introduced. Further details will be announced later.

Lighthouse school reopened 25<sup>th</sup> October for all students. George Town Primary reopened 25<sup>th</sup> October as a learning centre at the Elmslie Church Hall with 100 children. We are trying to get them back to their site by 8<sup>th</sup> November.

John A Cumber Primary had minimal damage with two classrooms destroyed. It will reopen on 1<sup>st</sup> November but two classes will have to be accommodated in the Hall. That leaves a problem because

there are a number of elderly people that do not have anywhere to go and are still at that shelter.

Red Bay Primary suffered severe flood damage. The school will reopen on 8<sup>th</sup> November in the Mary Miller Memorial Hall as a Learning Center.

Prospect Primary School reopens on 1<sup>st</sup> November. Bodden Town Primary School reopens 8<sup>th</sup> November. Savannah opens 8<sup>th</sup> November as a Learning Centre in the United Church Hall. North Side Primary opens 1<sup>st</sup> November in the North Side Civic Centre. East End was the first school to start on 18<sup>th</sup> October as a Learning Centre.

**(2) Tourism:** Mr. Speaker, in the wake of Hurricane Ivan, many lives have been disrupted as many homes and businesses were destroyed. A significant portion of the families and businesses which were hard hit by the Hurricane, rely upon the tourism industry for their livelihood.

In light of this the Ministry and Department of Tourism, in collaboration with the Cayman Islands Tourism Association, are closely monitoring the overall recovery process and are pursuing a strategy for the full and sustainable reopening of the tourism industry.

For the Cayman Islands, tourism has been and will continue to be a driving force within our economy. As late as July 2004 it was reported that there were over 33,000 guest arrivals which represented a 25% increase over the same period last year. Prior to Hurricane Ivan, statistics showed a steady increase in arrivals for 2004. Some proprietors said that this year was the first year that they had actually begun to make money.

As a pillar of the Cayman Islands economy, it is therefore in the Cayman Islands best interests to have visitors return to our shores as soon as possible.

### **CITA Report: Status of the Tourism Industry Post Ivan**

The Cayman Islands Tourism Association continues to monitor the available inventory within the main sectors including accommodations, transportation, restaurants, attractions and water sports.

Their surveys indicate that 34 percent of CITA's hotel members report that they will be operational in the next two to three months while 38% sustained severe damage and will take six months to one year to be fully operational. Fifty-five percent of CITA's condominium members project opening in the next two to three months, with 42% of this sector receiving severe damage that will take six months to one year to rebuild. There are some properties that are currently offering short-term housing for staff and relief workers.

Fifty-five percent of the CITA water sports sector members reported minor damages and are projected to be back up and running as soon as power is restored to their property and accommodations are reopened for visitors. As a whole, the dive industry in

the Cayman Islands remains very strong, confident and committed to making the diver experience even better than it was before.

**Diving:** Private dive operations and the Department of Environment have assessed many of the reefs and walls on all sides of Grand Cayman. The West, North and East sides of the Island which represent the majority of dive sites had no damage to report. The south coast of Grand Cayman experienced the full force of Ivan and some damage was reported at depths of 0 to 30ft.

The Stingray Sandbar and Stingray City remain intact with nothing to report other than it has gotten a lot more sand and a lot of hungry and lonely Stingrays.

The Sister Islands of Cayman Brac and Little Cayman had no damage to report on their dive sites. Throughout the Cayman Islands, various beach furniture and debris was reported on some dive sites. The CITA Watersports members are presently conducting clean up operations which will continue as needed. The Government will assist with the collection and transportation of this debris.

### **Actions Taken To Date**

- Immediately after Hurricane Ivan, the Ministry (MOT) and Department of Tourism (DOT) established a schedule of regular meetings and communication protocol with Cayman Islands Tourism Association (CITA), Sister Islands Tourism Association (SITA), Cayman Airways Limited (CAL), international business partners and other stakeholders.
- The MOT and DOT met the first Sunday after Hurricane Ivan to establish the assessment mechanisms for the industry and coordinate joint efforts in the short and medium term. This process has worked well, building on the collaborative relationship that had been established in the past three years.
- The MOT meets weekly with the Tourism private sector and associated stakeholders on Fridays at 4pm.
- The DOT provides weekly internal and external stakeholder updates each Thursday and Friday, via email and website updates. This includes the international PR wires, more than 5,000 Cayman Islands specialist Travel Agents in North American and Europe as well as other business partners.
- In the last four weeks, the MOT and DOT have systematically consulted with and or met with all airline partners, hotel partners, approved wholesalers, Florida Caribbean Cruise Association, Caribbean Tourism Organization (including Ministers of Tourism), the Caribbean Hotel Association and various government departments and private sector associations.
- The MOT has worked closely with the Chamber of Commerce and CITA to coordinate an intensive clean up and debris removal programme which

commenced last Friday and is already demonstrating remarkable results.

- The MOT is working with CITA to coordinate and facilitate a dive site and beach clean up for the last weekend in October, to ensure dive sites and beaches are clean and ready to receive guests and they are doing a good job of cleaning those areas.
- The MOT has received from the DOT a technical paper on the recommended mix and minimum levels of tourism accommodation, transport and other related tourism products necessary for a phased re-opening of the destination.

I should say that while the Opposition was screaming this morning about not being given information, they are not in their seat except for the good Member from Bodden Town.

- The MOT confirmed with the FCCA that cruise ships will resume port calls on Monday, 1<sup>st</sup> November, with a schedule limited to two ships per day. The schedule will gradually increase as our full services and facilities come back on line.

### **The Importance of a Tourism Mix for Re-introduction of Visitors to the Cayman Islands**

In the Tourism Sector, several key variables affect a destination's economic viability and its potential for future growth.

Re-establishing the quality of our tourism product/services is the first focus in welcoming visitors back to the Cayman Islands. One of the strategic aims of the National Tourism Management Policy (NTMP), in product terms, is to concentrate on improving the quality of the experience, for stay-over and cruise passengers, to deliver a unique distinctive Caymanian experience for which people are willing to pay a premium. This NTMP policy is termed as a 'Focus for the Future', and the future begins now.

The Department of Tourism has reorganized the Grand Cayman office to facilitate reintroducing a healthy 'product mix' island wide to deliver on the strategic aim of the NTMP and the destination. Each team split into task forces is dedicated to different product components, such as, accommodation, transportation, attractions, public facilities and restaurants. The components will be inspected for quality and usability, therefore allowing us to determine an appropriate rate of resuming tourism. All are viewed as crucial for recovery.

Establishing the correct balance and quality of these components are the only correct way to welcome visitors back to the Cayman Islands.

### **Recommendation**

In consideration of the strategy which has been outlined, the following targets are recommended for the reopening of tourism:

Cruise Tourism – on November 1<sup>st</sup> with a limited schedule.

Stay Over Tourism – by the mid to end of November and preferably by the American Thanksgiving, 25<sup>th</sup> November, for the lifting of all travel restrictions to Grand Cayman. This is timely and does not stray from the time frame that I had given from the outset. Four to six weeks for cruise tourism and Thanksgiving for stay-over visitors.

On Monday the Florida Caribbean Cruise Association visited Grand Cayman to do an assessment on our readiness to meet the proposed Nov 1<sup>st</sup> date. I am extremely pleased to announce that the FCCA was extremely impressed with our clean up efforts so far and consequently has agreed to send the first cruise ships on 1<sup>st</sup> November. This is personally an extremely momentous moment. However, this would not have been achieved if not for the hard work and dedication of so many people within the private and public sectors.

Critical to the reopening strategies is the need to focus not just on the physical product but also on our greatest asset – our people. The DOT will work with CITA and the Chamber of Commerce to agree on key message points and customer service training for the front line personnel in all sectors.

### **Cayman Airways**

Hurricane Ivan has clearly and unequivocally demonstrated the benefits of having a National Airline. Cayman Airways has played and continues to play a crucial, vital and integral role in our recovery efforts. Cayman Airways was one of the key lifelines in the days leading up to Hurricane Ivan and immediately after to the traveling public.

Prior to the hurricane, Cayman Airways operated numerous evacuation flights. In addition to Cayman Airway's regular flight schedule, approximately 1,082 persons were flown on extra flights on 9<sup>th</sup> and 10<sup>th</sup> September. Some 434 passengers were flown on Cayman Airways Express just before the hurricane.

In the six days immediately following the hurricane, Cayman Airways provided free relief flights to approximately 5,525 persons to the United States, Jamaica and Cuba. Cayman Airways Express flew approximately 1,530 persons to the Sister Islands.

This group of evacuated persons included medical patients, the elderly, families with young children and tourists who had not heeded the calls to evacuate prior to the storm. It is hard to imagine how much more difficult that first week could have been, how many lives could have been lost and families traumatised if it were not for Cayman Airways.

In the weeks since the storm, Cayman Airways continues contribution to the recovery efforts. Most recently, this has meant expanded cargo services to allow for prompt delivery of essential supplies.

The coordinated efforts of all our travel partners will be the key in our return to a normalized tour-

ism sector and Cayman Airways is a major player in this recovery program.

### Clean Up

Another major priority of Government is debris removal. Debris removal is extremely critical, not only for health and safety reasons, but also for the return of tourists, both cruise ship and stay over tourists. As you are all aware tourism is one of the main revenue earners of this economy and therefore must remain a priority.

Debris removal is also important in the emotional recovery of the people. It is imperative that we get rid of the rubble in an expeditious manner which has been created by Ivan so that our people can once again enjoy the beauty and splendor of our beautiful Island.

The debris clean-up first focused on areas of concern for public health and safety. In regards to the cleanup, Mr. Speaker, I see where there are those whose job is to do nothing other than to attempt to create trouble by writing ill informed letters to the press. One such letter appeared in the course of this week.

In any disaster money is needed in order to assist in the cleanup and the overall recovery process. Due to the tremendous disaster which was created by Ivan, the need for capital to assist in the recovery is even more urgent.

In the United States – during disasters such as we have experienced FEMA, (Federal Emergency Management Agency) provides the funding to assist states such as Florida in their recovery efforts. Recently the city of Pensacola, Florida spent over \$100 million on the cleanup after the passage of a storm. Where does FEMA receive their funds from? They receive their funds from the tax payers. We will have to find the funds necessary to ensure that we have an expeditious recovery.

After the hurricane and during the state of emergency a National Cleanup Committee was formed by those in charge at the time. The committee included members of the local heavy equipment owners and operators.

The offer which was made by the local group to the National Cleanup Committee was C\$5.2 million which only involved the collection of the debris in the island and transportation to the landfill. That debris would still have had to be separated and processed and would not have cost any less when we take all the other costs into consideration.

Mr. Speaker, we have made it abundantly clear to all potential contractors that we hire that local people are hired and all available heavy equipment utilised where pricing is reasonable.

No doubt, Mr. Speaker, with opposition candidates for the upcoming election writing letters in the press politics is playing a heavy hand and misleading the public. That little “peck peck” who somehow thinks

he is a giant is trying to mislead the public by being most disingenuous and complaining that there is no leadership!

Let me explain to him and all others who may care to believe that kind of politics at a time when so many people are hurting. Since they say that there is no leadership in the Government and because that little “peck peck” is trying to cause so much trouble, the first group which came to us in the National Recovery Committee, brought to us by civil servants, a company called Custer Battles were asking for \$80 million to complete the clean up effort. If we employed our own resources with the civil servants to assist them, then the price would be \$40 million. That was not handled by the elected Government. That was not the Leader of Government Business.

Furthermore, it was that civil service group who had assumed responsibility for the cleanup in the aftermath of the hurricane, that were going to sign the contract with Custer Battles for \$80 million if the Chief Secretary hadn't bust into the room and stopped them. Even after they were stopped they still brought Custer Battles into the recovery meetings and told us the horrendous figures of \$40 million and \$80 million dollars. Is that what that little “peck peck” is talking about? Needless to say they were not hired.

So the little “peck peck” need to ask which politic leader was running around with that group of civil servants who were recommending that we spend \$80 million to clean up the debris.

The politics need to stop! The spreading of misinformation needs to stop. They need to be responsible! I should ask them, what have they done for the people after the hurricane other than to write letters with misinformation to the press?

We have to bring in outside help just as it is done in other places when disasters such as Ivan occur. However, we will ensure that our people are involved. There is no intention of doing anything else. We have already started that process in West Bay when we had nearly 200 people helping to clean up. Recently people from North Side contacted me to ask about the situation in North Side. Immediately I sent a group to start cleaning up there and we will have to pay for it! We have our people doing the cleanup, manual labour and heavy equipment.

**The Speaker:** Honourable Leader we have reached the hour of 4.30 pm and I would call on you to move the suspension of Standing Order 10(2) to allow for the completion of your statement.

### Suspension of Standing Order 10(2)

**Hon. W. McKeever Bush:** Thank you very much for allowing that. I so move the suspension of Standing Order 10(2) in order for business to continue after 4.30 pm.

**The Speaker:** The question is that this House suspends Standing Order 10(2) to allow for the continuation of business. All those in favour, please say Aye. Those against, No.

## Ayes

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

## Agreed. Standing Order 10(2) is suspended.

**The Speaker:** Honourable Leader please continue.

**Hon. W. McKeeva Bush:** Thank you for your kind indulgence and I thank the House.

Debris clean up of the main tourist routes is necessary to restore cruise ship tourism to the Islands. This past weekend, Government partnered with the business community on a clean up of the Seven Mile Beach route. Hundreds of people and all types of heavy equipment turned out for the clean up and these efforts continue today.

Removal of debris from our underwater attractions has commenced in partnership with the water sports industry.

The Department of Environmental Health's efforts in debris removal has been helped by the Bermuda Regiment, and separate groups in West Bay and East End. The country's heavy equipment operators are assisting wherever possible.

The Government has established a number of temporary debris staging sites and a staff person from the Department of Environmental Health has been assigned to manage and supervise these sites.

The Government has also received proposals from a number of outside companies to assist us in debris management and to increase our removal capacity. Proposals for debris removal and management are currently under review. However, I hope that a contract will be signed before the weekend as we are lacking in debris management.

## Housing

The housing stock on the island has been severely affected and, as we know, housing is one of the three essentials to life. Without housing, the people of Grand Cayman cannot normalize their life and function well in school, the workplace and with their family. In addition to the humanitarian concerns about housing, we know that without adequate quality housing the economic viability of these islands will be affected.

The Government sheltered 3,094 people during the storm, providing these people with not only shelter, but also the other basic necessities, food and water. We are now at the stage when we can provide additional assistance for those remaining in the shelters to return to their homes or other accommodation.

The civil service and our disaster recovery consultants are working diligently on a housing damage assessment report in order to determine the magnitude of the problem we are facing. Once this assessment is completed a complete housing plan will be developed and implemented in an extremely aggressive manner.

Financial assistance for repairing damaged housing is now available through two programs. The National Recovery Fund, for which I, the Honourable Speaker, the Leader of the Opposition and the Financial Secretary sit as trustees, was the first program up and running. I understand this program has received over 900 applications to date, of which they are trying to process 810. A total of 245 of these applications have been approved to the stage of obtaining estimates. This program assists the uninsured and low-income households in the country. Priority has been put on helping those with children, the elderly and terminally ill persons. However, there is a certain amount of bureaucracy there that needs to be cut.

The Government also established a \$5.5 million Housing Recovery Grant. This government program will be administered by the Cayman Islands Development Bank and will complement the Trust's program, but will be less onerous, I should add. Assistance from this program can be used for structural repairs, appliances and basic furnishings. People who have received Trust monies are not precluded from the government program aid but are placed lower on the propriety list.

In addition to these measures, in spite of one Member going on that the Government was not doing anything and being leaderless, Cabinet has reduced the import duty on replacement and construction materials by 50 percent, and equipment and vehicles by 10 percent. The Government has also been actively involved in ensuring local contractors, including small businesses, are involved in the reconstruction and recovery efforts. I assure everyone that the Government will remain vigilant in ensuring that the local labour force is fully utilized throughout the entire recovery process. A program for loans to assist civil servants requiring minor financial assistance to cover needs not served by other facilities has been established with a Cabinet approved allocation of \$1 million.

Government has also been active in the area of temporary housing. I have issued a policy statement allowing temporary housing on the Island for an 18 month period. All such housing will need to include an exit plan and will be subject to considerations by the Planning Department. Government is also in the process of identifying sites for temporary housing and will ease regulatory roadblocks to ensure a timely implementation.

We have been working with our partners in the private sector on temporary housing and we are considering the Chamber of Commerce cruise ship accommodation proposal. This would provide accommodation for about 1,020 people.

I would like to assure all Member of this House and the people of these islands that the Government is providing pro-active leadership and developing solutions to the country's immediate housing needs.

I should say for those Members that spoke so hotly in the Opposition, I have heard nothing that will help the country.

### Roads

Our infrastructure suffered major damage, the areas that suffered major damage are-

- South Sound - Major reconstruction is in progress.
- Bodden Road coastal road – base repairs are substantially completed, I understand.
- West Bay Road – base repairs completed.
- Breakers – Repairs are substantially completed.
- East End – Major reconstruction work is in progress.

I cannot understand why the Opposition whine that nothing has been done.

The National Roads Authority and its entire staff have been working diligently to ensure that the repairs to our major roadways are repaired to an acceptable state. Operating under these conditions is not easy and I would like to commend them for all their hard work.

### Water

Water has been restored to the vast majority of the population by both water producing plants being back in full operation, the Water Authority and the Water Company. By the 1<sup>st</sup> October the Water Authority had supplied water to some 90 percent of their customer base and today that figure has grown to 97 percent. The Water Authority is working in tandem with the National Roads Authority to restore water supply to the eastern districts as road repairs continue.

### Power

Power is being restored with a schedule having been widely disseminated by CUC. Efforts continue to ensure this is being done in a timely manner.

I would like to say that some time ago I made the announcement of the need for a home guard to help with safeguarding our borders and our shorelines and to be able to have a group of bodies to assist the needs of the Islands in the time of a natural disaster. The police cannot do it, they have their jobs and the volunteer police cannot do it because they would be assisting the police. Our situation since 11<sup>th</sup> September has fortified my resolve to develop in these Islands a Cayman Islands Home Guard Regiment in order that in times such as these, we would have less need for the outside help that we did in fact need and

had to get. I would propose to the Cabinet that I be allowed to start the process of the development of a Home Guard Regiment.

### UK Assistance

In the event that we do not receive any significant capital injection from the UK to assist us with our recovery efforts, we should make a request to allow an increase in the borrowing caps in order to obtain the necessary funding to rebuild our infrastructure. Should they wish to lend it to us; we should examine all reasonable offers. Failing that, we must proceed to the capital markets. Time is not on our side!

Our people are proud. We will work and we will provide the necessary atmosphere and incentives to attract investment and stimulate our economy. We will, as always, repay our loans on time, if not before they are due. I cannot and will not, as the Leader allow our country to be handcuffed and our people to suffer. They will not take us back in time! I say that in the strongest way possible. We cannot allow anyone to take us back in time. When I was in London, I was reminded that we are not Montserrat, and perhaps they are in a worse plight than ourselves but we will not allow anyone to put us back that far.

Together, with our good Lord's guidance, our people, our residents and friends, from all walks of life and from all over the globe, who treasure and appreciate our peace, our tranquility, our friendly people and our free market economy, will all work together to return our country to the jewel that it was, in the shortest possible time.

Mr. Speaker, we will be better than before and our people will be more prosperous, our children better educated and our Islands more beautiful.

The last several weeks have been tough and it is not over, but we are up to the task. I should say that Pirates Week will not be held this year, instead there will be a National Praise and Thanksgiving service held on the steps of the Courthouse steps in the National Heroes' Park on Wednesday, 17<sup>th</sup> November, which will be a public holiday. I encourage all churches to get involved and all our Members to encourage people to come. I am looking forward to a rejoicing time and thanking God for his mercies for saving us the way he did. We are going to get a Royal Visit and the Prince will also speak at that service beginning at 9.00.

Mr. Speaker, I thank you and the House for your kind indulgence and we will continue as a Government to work hard on the recovery effort.

**The Speaker:** Honourable Leader, I call on you to move a motion for the adjournment.

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I move the adjournment of this Honourable House until 10 am tomorrow morning.

**The Speaker:** The question is that this House do now adjourn until 10 am, Friday, 29<sup>th</sup> October, 2004. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**At 4.48 pm the House stood adjourned 10 am, Friday, 29 October 2004.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**29 OCTOBER 2004**  
**2.46 PM**  
*Third Sitting*

**The Speaker:** I would invite the Second Elected Member for West Bay to lead us in prayers.

**PRAYERS**

**Mr. Rolston M. Anglin:** Let us pray.

*Eternal and Heavenly Father, from whom all wisdom and power are derived: We ask Thee this day, to guide and direct us as we deliberate in this Legislative Assembly. Father God, may all that is said and done be upon the best and surest foundations and in such a manner as to glorify Your Name. Father, may we always seek to enhance the safety and welfare of the people of the Cayman Islands.*

*Bless our Sovereign Lady, Queen Elizabeth II; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal Family. Give grace and wisdom 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 Cabinet 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.*

*Father God, we ask you now to bless us and to keep these Cayman Islands. We ask you Lord to continue to have your gracious face shine upon us. Father, we lift up the light of Your countenance and ask you to give us peace, now and forever more. Amen.*

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

Proceedings resumed at 2.49 pm

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

**Apologies for late start of Sitting**

**The Speaker:** Firstly, Honourable Members, sincere apologies for the late start of today's Sitting, which was occasioned by an urgent meeting called by Cabinet.

Honourable Members, in our endeavour to meet the needs of Members in regard to research and the production of unedited Hansard transcripts during Meetings of the House, we are now providing request forms for Members in order that requests may be produced in a timely manner in the order they are received, that is, the date and the time.

Forms are available on the table in front of the Hansard Editor's Office. Once you have completed your requests kindly place it in the drop-box labelled 'Members Hansard Request'. The drop-box will be checked every half hour. Mrs. Tania Connolly will co-ordinate each request and ensure that they are handed to Members upon completion. As is customary, copies of requests will be handed to the Member requesting, to the Member whose debate the request concerns, to the Honourable Speaker and to the Clerk.

**Apologies**

**The Speaker:** I have apologies for absence from the Honourable First Official Member, the Second Elected Member for Cayman Brac and Little Cayman and from the Honourable Leader of Government Business.

**STATEMENTS BY HONOURABLE  
MEMBERS AND MINISTERS  
OF THE CABINET**

**The Speaker:** I have received no Statements by Honourable Members or Ministers of the Cabinet.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READINGS**

**The Price Gouging Control (Emergency Circumstances) Bill 2004**

**The Speaker:** Honourable Members, I have been advised by the Honourable Deputy Leader and from the Leader of Government Business that due to circumstances beyond his control the Honourable Leader is unable to be present this afternoon and he would like to have the Second Reading, Committee Report and Third Readings of this Bill set down on the Order Pa-



per for Monday. Similarly, Government Motion No. 6/04, which is the Public Management and Finance Law 2003, will also be deferred until Monday's Order Paper, as the same Leader of Government Business, Minister responsible for Tourism is off the Island and unable to deal with this Motion.

## COMMITTEE ON BILLS

**The Speaker:** The House will now go into Committee to consider the Bills.

### House in Committee at 2.53 pm

**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.

Would the Clerk please state the Bill and read the Clauses.

### The Health Practice (Amendment) (No.2) Bill 2004

#### Clauses 1 through 4

**The Clerk:**

Clause 1	Short title
Clause 2	Amendment of section 2 of the Health Practice Law 2002 – interpretation
Clause 3	Amendment of section 15 – offences
Clause 4	Savings and validation

**The Chairman:** The question is that clauses 1 through 4 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 Health Practice Law 2002 and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title stands 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 Management and Finance (Amendment) (No.2) Bill 2004

#### Clauses 1 through 5

**The Clerk:**

Clause 1	Short title
Clause 2	Amendment of section 3 of the Public Management and Finance Law (2003 Revision) – definitions
Clause 3	Amendment of section 12 – authorisation and advance of appropriation
Clause 4	Amendment of section 13 – emergency expenditure
Clause 5	Validation

**The Chairman:** The question is that clauses 1 through 5—

**Ms. Edna M. Moyle:** Mr. Chairman?

**The Chairman:** The Elected Member for North Side.

**Ms. Edna M. Moyle:** Just for clarity, Sir. I wonder if the Honourable Third Official Member could explain to me the last line in clause 5, where it says: “. . . is validated and is to be taken to have been lawfully carried out.” How am I, through a law, saying something has been lawfully carried out if it was done against the original Law?

**The Chairman:** I will call on the Member in a minute. I am just checking on . . . I will now remind Honourable Members that we are dealing with the details of this Bill and not the principles, and I know that the Honourable Member for North Side is not dealing with the principle but the detail on that particular point, so Honourable Third Official Member if you would comment on that query.

**Hon. George A. McCarthy:** Mr. Chairman, it is difficult for me to get into the semantics of this, but I would believe it is just a matter of wording because once a validation takes place of those transactions then it would be agreed and be deemed that the transactions were lawfully executed. As was provided yesterday to Honourable Members, an indication was given as to what the transactions were and due to the urgency by which they had to be executed, this is what the validation process is being sought in order to embrace those transactions.

**The Chairman:** The Elected Member for North Side.

**Ms. Edna M. Moyle:** Mr. Chairman, thank you. That is exactly why I asked the question, because if we are validating the exercise that was carried out, why do we need to go on to say that it was carried out lawfully? Does that not go without saying?

**Hon. George A. McCarthy:** Mr. Chairman, I agree with the Honourable Member, but, as I said, it is just a matter of semantics because it is the wording that has been put there in order to complete the action that is being sought for.

**The Chairman:** If there are no further questions on this I put the question that clauses 1 through 5 stands part of this 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 Management and Finance Law 2003 Revision to empower the Governor in Cabinet, in exceptional circumstances, to approve expenditure for which no appropriation exists; to prescribe the circumstances in which reporting and budgeting deadlines may be deferred and for incidental and connected purposes.

**The Chairman:** The question is that the Title stands part of the Bill. All those in favour please say Aye. Those against, No.

**Aye and No.**

**The Chairman:** May I put that question again? I am only hearing one Aye and one No. Please pay attention Members.

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.

**House resumed at 3.03 pm**

## **REPORTS ON BILLS**

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

### **The Health Practice (Amendment) (No.2) Bill 2004**

**The Speaker:** The Honourable Minister for Health.

**Hon. Gilbert McLean:** Mr. Speaker, I beg to report that a Bill for a Law to amend the Health Practice Law 2002 and for incidental and connected purposes has been 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 Third Reading.

### **The Public Management and Finance (Amendment) (No.2) Bill 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I beg to report that a Bill shortly entitled the Public Management and Finance (Amendment) (No.2) Bill 2004 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 Third Reading.

## **THIRD READINGS**

### **The Health Practice (Amendment) (No.2) Bill 2004**

**The Speaker:** The Honourable Minister for Health.

**Hon. Gilbert McLean:** Mr. Speaker, I move that a Bill for a Law to amend the Health Practice Law 2002 and for incidental and connected purposes be given a Third Reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Health Practice (Amendment) (No.2) Bill 2004 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 Health Practice (Amendment) (No.2) Bill 2004 given a third reading and passed.**

### **The Public Management and Finance (Amendment) (No.2) Bill 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I move that a Bill entitled the Public Management and Finance (Amendment) (No.2) Bill 2004 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Public Management and Finance (Amendment) (No.2) Bill 2004 be given a Third Reading and passed. All those in favour please say Aye. Those against, No.

**Ayes and Noes**

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

**Hon. D. Kurt Tibbetts:** Can we have a division please?

**The Speaker:** Madam Clerk, please call a division.

**Division No. 7/04****Ayes: 8**

Hon. Gilbert A McLean  
 Hon. Roy Bodden  
 Hon. Donovan W.F. Ebanks  
 Hon. Samuel W. Bulgin  
 Hon. George A. McCarthy  
 Mr. Rolston M. Anglin  
 Mr. Cline A. Glidden, Jr.  
 Mr. Anthony S. Eden

**Noes: 2**

Hon. D. Kurt Tibbetts  
 Ms Edna M. Moyle

**Abstentions: 1**

Mr. V. Arden McLean

**The Clerk:** 8 Ayes, 2 Noes, 1 Abstention and 6 Absentees.

**The Speaker:** I concur with the results read by Madam Clerk. 8 Ayes, 2 Noes, 1 Abstention and 6 Absentees. The Motion is accordingly carried.

**Agreed by Majority: The Public Management and Finance (Amendment) (No. 2) Bill 2004 given a third reading and passed.**

**MOTIONS****GOVERNMENT MOTION NO. 6/04****The Public Management and Finance Law (2003 Revision)**

**The Speaker:** As stated earlier Honourable Members, this Government Motion is being moved by the Honourable Minister responsible for the Ministry of Tourism, the Honourable Leader of Government Business but due to circumstances beyond his control he is unable to be here this afternoon and has asked that this be set down on the Order Paper for Monday's Meeting.

This concludes the business on the Order Paper for the day and I call on the Deputy Leader of Government Business to move the adjournment. I believe that the Honourable Third Official Member would wish to speak on the Adjournment. Honourable Deputy Leader we moved it but the question would not be put until after.

**ADJOURNMENT**

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the adjournment of this Honourable House until 10 am Monday, 1 November 2004.

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

Mr. Speaker, if the good Lord spares my life, when I return to this Honourable House on Monday of next week it will be in a capacity other than what I have been serving in for the past twelve years. Because of this change, I would like to take this opportu-

nity to say thanks to you, all Honourable Members and the staff of the Legislative Assembly for the support which has been given to me over the past twelve years.

Mr. Speaker, as all Honourable Members are fully aware, the new Financial Secretary, Mr. Kenneth Jefferson (who will be sworn in on Monday) is a very capable and able person, and I am sure that he, like myself, will have the full support of yourself and all Honourable Members of this House.

I would like to take this opportunity to express my gratitude to all staff members within the Portfolio of Finance and Economics, to my Official Member Colleagues, to His Excellency the Governor, the Ministers of Cabinet, the Cabinet Secretary and all Civil Servants for the support which they have given me over the years.

I would also like to take this opportunity to say thanks to the financial industry for their support and working very closely with myself and the Portfolio of Finance and Economics, and the Government, as a whole, over this period. We have made a lot of strides together and I would like to say thanks to the community at large for their support as well.

The new Financial Secretary, like myself, will find out that the job of Financial Secretary cannot be successfully discharged by anyone who would attempt to be a lone ranger. It is one where he and all members of the Portfolio of Finance and Economics, the Government, all Civil Servants and Members of the Legislative Assembly, will have to work together in unison to achieve the goals that lie ahead.

Mr. Speaker, I am looking forward to taking up the new position as Chief Secretary. Taking up such a position at this time will be quite challenging, but with the help of Almighty God, the Civil Service and this Honourable House, all of us working together, I am sure that success will be achieved.

I would like to wish Mr. Ryan, who departs office this afternoon, God's richest blessings upon his life and also blessings upon his family. The Civil Service, as everyone knows, is a peoples' organisation. We are in challenging times at this time but we are resilient as a people and when we put our minds together good things can be achieved.

I have learnt that no single individual who enjoys any measure of success can say that that success has been achieved single-handedly. My commitment is to the Government and the Cayman Islands. Once more, thanks for the privilege of making these brief remarks.

**The Speaker:** Thank you.

The adjournment motion having already been put, it now only remains to put the question. The question now is that this House do now adjourn until 10 am Monday, 1 November 2004. All in favour please say Aye. Those against, No.

**Ayes.**

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

**At 3.15 pm the House stood adjourned until 10 am, Monday, 1 November 2004.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**1 NOVEMBER 2004**  
**11.11 AM**  
*Fourth Sitting*

**The Speaker:** I invite the Fourth Elected Member for West Bay to lead us in prayers.

**PRAYERS**

**Hon. Cline A. Glidden, 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 Cabinet 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 are resumed.

**Proceedings resumed at 11.14 am**

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

*Oath of Allegiance (administered by the Clerk)*  
*By Honourable George A. McCarthy, OBE, JP to be the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs*

**The Speaker:** I invite the Honourable Member to come forward to be sworn in. Please be of standing.

**Hon. George A. McCarthy:** I, George A. McCarthy, OBE, JP, 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 First Official Member and invite him to take his seat.

Honourable Members, please continue standing.

I now call on Mr. Jefferson to come forward to be sworn in as the Third Official Member.

*Oath of Allegiance (administered by the Clerk)*  
*By Mr. G. Kenneth Jefferson to be the Honourable Third Official Member responsible for the Portfolio of Finance and Economics*

**Hon. G. Kenneth Jefferson:** I, G. Kenneth Jefferson, 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 Third Official Member and invite him to take his seat. Please be seated.

Honourable Members though somewhat unprecedented in this Honourable House, it is not uncommon in the House of Commons and elsewhere for a new Member who is sworn in for the first time to give his maiden speech.

I have therefore agreed that the newly sworn in Honourable Third Official Member would make a few remarks at this time with the understanding that this will not be followed by any other speeches.

The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, thank you for allowing me the opportunity to make my inaugural remarks as Financial Secretary of the Cayman Islands.

Today marks an important change in my life. As I comprehend my responsibilities as Financial Secretary, it is a humbling experience. I take those responsibilities seriously bearing in mind that the Cayman Islands is just a little over five hundred years old; we are in fact, quite young. The very young have to be nurtured and this causes me to take great care with the responsibilities entrusted to me, Sir. My main responsibility is to provide the Government with objective advice and clear cut evidence, by so doing I will also carry out my responsibility to the Legislative Assembly and its Members, to be honest and truthful to the

House. The duty imposed by collective responsibility is an important one and one that I will abide by.

I also have a responsibility to support and defend the policies of the Government, and of managing, protecting and enhancing the state of Government's finances. Government policies and the state of its finances have a critical and unquestionable impact on the rest of our economy. By managing Government's finances well and providing Government with sound advice I will be doing my part to help make the local economy thrive.

I will be respectful to you, Mr. Speaker, to all Members of the Legislative Assembly and to all staff of the Honourable House.

My immediate priority is to assist the Government in formulating a fiscal path for the remainder of the financial year. As was announced last week, Sir, the Government plan to present this Honourable House with a revamped budget in December of this year. That is not to say that I will be ignoring what is happening in the financial services industry or, in fact, the tourism industry.

I plan to maintain and enhance the positive working relationship that the Government has established with the financial services industry. In this regard it is worth noting that the Portfolio of Finance and Economics recently established a Public Relations Unit. One of the goals of that Unit is to increase the consistency in the messages sent by Government and those sent by the industry. There will be other functions of the Unit as well.

On behalf of the Government I would like to say thanks to the industry for having good plans in place that allowed its businesses to continue functioning during and after our recent disaster.

I also acknowledge the continued existence of known international initiatives which encroaches our financial services industry. The Portfolio of Finance will continue to be vigilant and maintain our consultative approach with the industry in respect of such initiatives.

Mr. Speaker, the tourism industry is of critical importance to the wellbeing of the Cayman Islands. I will support Government policies that aim to restore the industry to its former glory, quickly.

The Honourable Leader of Government Business has made great progress in returning tourist to the Islands as quickly as possible as evidence by the fact that there will be ships in harbour every day for the next two weeks.

Mr. Speaker, I do not have the time today to thank everyone who has assisted me over the years but I would like to single out one individual and he is Mr. George McCarthy, the present Chief Secretary. I would like to publicly thank him for all the wise council that he has rendered, particularly, in the last six months. He listens, draws on his experiences and renders good advice.

The world has confidence in the Cayman Islands despite our recent setback. Just last week,

Moody's, a credit rating agency maintained its AA3 rating for the Cayman Islands, a rating that has remained unchanged since 1989. The holders of Government's bond issues were equally confident that Government would meet its repayment obligation on 8 October and we did, Sir.

The Portfolio of Finance and Economics has done its part to maintain and enhance confidence in the Islands by promoting a competent team of Deputy Financial Secretaries recently. These are Mrs. Sonia McLaughlin, the Deputy Financial Secretary and Chief Officer for the Portfolio. Mrs. Deborah Drummond, Deputy Financial Secretary and Deputy Chief Officer with responsibility for financial services and Mr. Peter Gough, Deputy Financial Secretary and Deputy Chief Officer with responsibility for financial management. Those positions become effective today, 1 November. There are a few additional vacant posts within the Portfolio and they will be filled shortly with the aim of increasing the capacity and the potential of the Portfolio to perform well.

To conclude, at the end of my civil service career I would like to have the internal satisfaction of feeling that I gave my full potential to the task at hand. If I can achieve that internal satisfaction then I know I would have done well.

Mr. Speaker, a true leader has the compassion to listen to the needs of others; he has the courage to stand alone and the courage to make tough decisions. In the end leaders are much like eagles, you do not find them in flocks, you usually find them one at a time, alone. A true leader often does not set out to be a leader but becomes one by the quality of his actions and the purity of his intent. In time I hope to become a true leader.

Thank you once again for allowing me this opportunity to make these remarks.

*[Applause]*

**The Speaker:** Madam Clerk, please call the next item.

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

**The Speaker:** I have received no apologies for absences or late arrivals.

### **STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET**

**The Speaker:** The Honourable Leader of Government Business.

**Postponement of the 2004 General Elections until  
17 May 2005**

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

As we all know after the devastating passing of the Hurricane, the United Kingdom Government postponed the General Elections due on the 17 of this month to a later date during 2005. I have recently received correspondence from the Foreign and Commonwealth Office of the Minister, Bill Rammell. I now make this letter public and it reads as follows:

“Dear McKeeva,

“I am writing to explain the action which the UK is proposing to take in respect of the Constitution, in order to enable elections to be held at a date later than had been fixed before Hurricane Ivan i.e. 17 November 2004.

“In taking this action, I would like to stress that the UK is doing so because there is general agreement, including from you, that because of Hurricane Ivan, it is not possible for properly prepared, free and fair elections be held on 17 November; or indeed on any date before 15 January 2005 i.e. the date by which elections can legally be held under the current Constitution. I understand that the Governor has consulted both of you on the timing by when you think properly prepared election could be held; and that there is agreement by you that the Constitution should be modified to extend the date by which the Governor has to dissolve the present Legislative Assembly.

“On the basis of this agreement, I intend to submit to the Privy Council the attached draft Order in Council making provision for the dissolution of the Legislative Assembly to be extended up until 17 March 2005. This would mean that elections could be postponed up until 17 May 2005 (six months from the date which the election was originally planned for). There would, of course, be the possibility of submitting a further Order to the Privy Council if we deemed it necessary.

“The same Order in Council amends the Cayman Islands (Constitution) (Amendment) Order 2004 (S.I. 2004/2029), made on 27 July, setting out the criteria which would need to be satisfied for someone to stand in the elections. As you know, due to a clerical error, this Order in Council omitted the words “by virtue of the British Overseas Territories Act 2002” which I understand that you had both wanted to see inserted. This amendment means that the criteria for individuals standing in the elections, whenever they will be held, will be those sought by the Cayman Islands Legislature.

“Yours sincerely, Bill Rammell”

I would think that the part in the letter which states: “I understand that the Governor has consulted both of you on the timing” would mean both the Leader of the Opposition and I. The Governor did con-

sult the Cabinet on this and we (the Elected Members of Cabinet) wrote him a letter.

Thank you, Mr. Speaker.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READINGS

**The Price Gouging Control (Emergency Circumstances) Bill 2004**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg to move the Bill, The Price Gouging Control (Emergency Circumstances) Bill 2004.

**The Speaker:** The Bill has been duly moved does the Honourable Mover wish to speak thereto?

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

In the days immediately following the Hurricane, both the best and worst behaviours were witnessed in our community. Just as the Law serves to punish those who steal by means of breaking and looting, so must the Law prevent abuses by persons. I am referring to unconscionable price gouging. I want to say that this Bill deals with that particular circumstance - price gouging and the Bill have been amended to reflect such.

The vast majority of merchants and businesses responded to the tragedy that befell us with great acts of generosity and humanity. It is unfortunate that a small element within our community have reportedly resorted to taking advantage of their neighbour during such a time of need. There were numerous complaints received of arbitrary increases in the price of commodities.

Generally the Government is hesitant to exercise powers of law-making in matters of business and it prefers to allow free market forces to prevail. I say that as a person responsible for commerce and trade we take this matter of a free market economy seriously because we believe that is what helped to make the country what it is today. However, the Government cannot abscond its responsibility to ensure fair-play and to protect innocent and needy consumers in times such as we are now facing. Therefore, in response to numerous complaints on the victimisation of consumers the Government is now seeking to pass this Bill in order to impose control of prices to the extent that there is price gouging immediately following a disaster or during a declared state of emergency.

The Bill contains provisions which are similar to those found in the Consumer Protection Act of Florida and the Price Gouging Control Act of Bermuda.

Such control will only be imposed during specified periods following a state of emergency or the occurrence of a natural disaster. It is proposed to establish a four-member commission and the Bill will be amended for that, and also a Chairman who will work along with the Governor in Cabinet to administer the Legislation.

The Law provides, during a state of emergency in accordance with the Emergency Powers Law (1997 Revision) or immediately following a natural disaster, no person shall rent or sell any commodity at an unconscionable price. This prohibition shall remain in effect –

- (a) until the declaration expires;
- (b) for such longer period after the declaration has expired as may be specified by order of the Governor in Cabinet; or
- (c) for such other period as may be specified by order of the Governor in Cabinet.

Mr. Speaker, it should be noted that the Bill applies to commodities as oppose to labour, which each man and woman have the free will to negotiate at any time. Commodities are defined as goods, services, materials, merchandise, supplies, equipment, resources or other article or commerce and includes, without limitation, food, water, ice, chemicals, petroleum products and lumber necessary for consumption or used as a direct result of an emergency.

There have been many complaints about rent because people see that as price gouging. I was on the radio at one point and said, we have to remember that the cost of commodities has increased to about 50% worldwide and that is something that this country and this House have to take into consideration. It cannot be ignored that prices did increase for certain commodities worldwide and therefore were passed on to merchants here in these Islands so they had an attendant cost. They also had an attendant cost in that their businesses were damaged and they had to make extra repairs and extra costs with gasoline or diesel for power generation.

Some of the things that we have been told by people who rented— and I know that there are a tremendous amount of Caymanians who own rental properties and this is their life savings and what they live from, and we have to respect and consider that, but at a time when we have been hit so hard and the country is facing what it has faced since the hurricane, and is now and will be for the next several months, we cannot allow some of the things we hear going on to happen. People must be considerate. That is all that I ever want as a lawmaker and as a representative of the people, that they be reasonable and considerate in such times. They cannot do some of the things that we have heard – some of the people that had \$700 went up to \$2,000, some that had \$1,500 went up to \$2,500 and these are some of the things that we had note of. So, Mr. Speaker, we have an amendment to come in regards to rental.

For the purpose of this Law, a price is unconscionable if-

- (a) the amount charged represents a gross disparity between the price of the commodity, that is, the subject of the offer or transaction and the average price at which that commodity was rented, sold or offered for rent or sale in the usual course of business during the 30 days immediately prior to a declaration of a state of emergency or the occurrence of a natural disaster and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental of any self storage facility or national or international market trends; or
- (b) the amount charged grossly exceeds the average price at which the same or similar commodity was readily obtainable in the Islands during the 30 days immediately prior to a declaration of a state of emergency or the occurrence of a natural disaster and the increase in the amount charged is not attributable to additional costs incurred in connection with the rental or sale of the commodity or rental or lease of any self-storage facility or national or international market trends.

A person who is found guilty of price gouging is liable, on summary conviction, to a fine of \$100,000.

Where the Commission has received a written complaint that a person may have committed an offence, the Commission shall investigate as it deems necessary in the circumstances of the case. The Commission will have the authority to order witnesses to testify before it and the production of accounts, records and other documents necessary, to confirm information relevant to the case.

A person who –

- (a) fails without reasonable excuse to testify before the Commission in compliance with an order;
- (b) when in attendance before the Commission refuses to make an oath; or
- (c) refuses to produce a document, knowingly produces a false document, or refuses to give evidence in compliance with such aforesaid order commits an offence and is liable on summary conviction to a fine of \$50,000. The House should note that the Law currently states \$10,000 but it is proposed to make this amendment in the Committee stage.

The Bill also provides that where the Commission by its inquiry has reason to believe that a person has engaged in, or is engaging in, an act or practice of price gouging, it shall submit a report of the results of the inquiry and such supporting evidence as it has collected to the Attorney General for prosecution of the person.

It is important to note, Mr. Speaker that the Bill does for prices to be increased during a period of emergency, provided notice of this intention is in writ-

ing and is favourably approved by the Commission. The Commission may respond to requests to increase prices by –

- (a) approving the increase;
- (b) disallowing the increase either wholly or in part;
- (c) postponing the date upon which the increase is intended to be effective to such other date as may be specified; or
- (d) otherwise setting out the terms and conditions upon which the increase may be made.

Among other things, in making its decision the Commission will consider the following matters –

- (a) the cost to the supplier of the Commodity;
- (b) the needs of the supplier for adequate working capital and to establish reasonable reserves;
- (c) the need to afford investors a reasonable rate of return on their investment;
- (d) the public interest; and
- (e) any other matter, which, to the Commission, appears relevant.

Decisions of the Commission may be appealed to the Governor in Cabinet.

Under the proposed Bill it is also an offence to increase any price or charge for a commodity without giving the notice required or fails to comply with a direction of the Commission. This offence is punishable with a fine of \$100,000.

We also plan for a committee stage amendment that in the case for the request for a price increase where the Law says now the Commission has 30 days to respond, we will seek to change that for the people to be able to get a quicker response. We intend to change that to between 48 hours and 5 days.

If deemed necessary, the Attorney General may apply to the Grand Court for an injunction on behalf of the Government restraining any breach or anticipated breach by any person of any provisions of this legislation and the Grand Court shall have jurisdiction to entertain any such application and grant such injunction on such terms as it may think fit.

Mr. Speaker, in closing, I would like to reiterate that this Bill provides the machinery for ensuring that the same high standards which are exhibited by the vast majority of merchants and businesses can be made to equally apply to that small minority that seek to exploit desperate persons. I trust that my colleagues in this Honourable House will share this commitment to protect the weak among us and to preserve a sense of fair play, even when the very fabric of our tightly knit community is under the greatest pressure. This legislation is a new idea and new to these Islands but if no one price gouges then the Law cannot come into play. If no one is doing it then there is no need to fear.

Thank you and I commend this Bill for the kind consideration with the note that there are minor amendments necessary in the committee stage.

**The Speaker:** Honourable Members before I call on the next Member to speak I wish to take a five minute suspension to clarify a matter that has just arisen in the Honourable Member's comment on the opening remarks. I ask that you just sit in your seats for five minutes.

#### House suspended momentarily

**The Speaker:** Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

The two amendments that I mentioned have not yet been circulated but we will have that done. The two that I have mentioned, one deals with rent and the other with the time that the Commission has to respond to a request. Those two have not been circulated but will be done for your kind consideration, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak?  
The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

Firstly, let me say that we on this side are in support of this Bill being brought by the Government. So much so that when we were notified the Legislative Assembly was going to resume we were of the understanding that motions and questions could have been brought and we worded a Private Members' Motion asking for Government to consider the same effort that is being put forward with this Bill. We were told afterwards that it made no sense to submit it and that we could not submit it.

One thing that we need to mention very early is, as the Honourable Leader of Government Business has mentioned in presenting the Bill, the free market economy state of the Cayman Islands is one that we are very mindful of and one that under normal circumstances I do not think any one of us would wish to interfere with either by regulation or by legislation. By and large the laws of competition have stabilised prices in most instances, and perhaps, it is only in situations where we may have monopolies or situations that are close to being monopolistic where there have been valid concerns in the past.

Since the passage of Hurricane Ivan we have had many reports of tremendous price increases on various items. I must say, to be fair to the situation, some of us have taken the time out and have determined that some of the reports were unfounded. Some of them were not true because some people just like to find something exciting to talk about, but there are some of us who took the time out and either used ourselves or others to prove the point and I am satisfied standing here today, without going into anything specific because I do not think this is the forum to do so and that is not the wish and intention of the Bill. However, I am satisfied that I can stand here today and



truthful say that some of this went on, some of it may still be going on but I know for a fact that some of it went on.

So, here we are battling as to what is the best solution and with the background that we have of the economy that exists and even with any initial loathing to deal with such legislation, the fact of the matter is that we see no other way to deal with the situation without there being some legal basis to do so.

I heard the Minister speak to two possible amendments and while I have paid attention to that I am still going to go through my presentation and speak to those two matters, utilising what is presented in the original Bill with a view that those amendments may well come, but simply to put the argument forward as to why what exists should not be the case. So, it is not a question of not paying attention to what has been said but I think it is going to tie into part of my presentation. We have not seen exactly what the amendments are to know the specifics of them. We know generally about the situation of rent.

In looking through the Bill, having determined the background, I believe that there is unanimity with regards to the necessity of the Bill. We now look to the Bill itself and assuming its safe passage through this Legislative Assembly it is the actual mechanics of how the Law would then work.

In the definition section of the Bill where it speaks to "the commodity", it defines "commodity", and I quote from the Bill.

**"commodity" means any goods, services, materials, merchandise, supplies, equipment, resources, or other article of commerce, and includes, without limitation, food, water, ice, chemicals, petroleum products, and limber necessary for consumption or use as a direct result of an emergency".**

The other definition is "natural disaster". **"natural disaster" includes hurricane, fire, flood, earthquake, outbreak of pestilence, outbreak of infectious diseases or such other calamity whether similar to the foregoing or not.**" I need to bear in mind those two definitions just quoted as we move into the Bill itself.

In Part II section 4 (1) of the Bill it reads; **"Upon and after of a declaration of a state of emergency in the Islands by the Governor in accordance with the Emergency Powers Law (1997 Revision) or during such a period of time (as may be specified by the Governor in Cabinet by order) immediately following a natural disaster, subject to this Law, no person, his agent or employee shall rent or sell or offer to rent or sell at an unconscionable price any commodity; and this prohibition shall remain in effect. . ."** until for such time as outlined in a, b and c.

Mr. Speaker, this section 4 has three points that I would wish to bring forward and perhaps the crafters of the legislation might take notice and wish to correct by way of an amendment or amendments as

we may go along, and we will see, should there be further amendments.

The first point that I wish to make is where it speaks to "following a natural disaster". I know that this particular circumstance that we are faced with is following a natural disaster but I want to question, if we are going to have price gouging legislation, whether it should be limited to a natural disaster. Price gouging is price gouging and albeit we did not wish to go this route. I do not believe that we should have legislation in place and it limits itself and its circumstances only to a natural disaster. I will draw a reference to show the point.

I remember in this Legislative Assembly, not on the Floor but outside, a few years back there was a huge uproar in this country when it came to gasoline prices because there were people who swore they have evidence that the price of gasoline had risen and when the retailers were accosted about it the retailers said, in unison, that they had not raised the price of the gasoline because they wanted to do so but because the wholesalers had raised the price to them. The question at hand was, while there was a worldwide announcement about an increase in oil prices there had been no shipment of fuel to the Cayman Islands during that interim, so therefore that amount of gasoline that were being sold was already paid for before the price increase and they chose, it seems, to increase the prices although they had only paid the previous price for it. So, that is just an example to show—and I believe if we have legislation that that should not be allowed to happen. I believe that the mere presence of the legislation would be a deterrent for a situation like that to happen.

There is also the other example which we experienced recently. There are many who say that they can prove, that for instance, plywood was at a certain cost and because a hurricane was heading for the Cayman Islands—this was long before the state of emergency was declared—the hurricane is now heading for the Cayman Islands, so you get a huge increase in the demand from people preparing for the hurricane to batten down. Immediately when the demand rose for that, we are told within a matter of hours, the price of the plywood increased. Obviously there was no time for a new shipment to arrive and for a new price increase to occur; this was material that was on hand. So, what is being said is that, for instance if we want to speak to timing, Thursday evening the plywood was at a price and by Friday morning it had gone up. Obviously it was out of the same supply.

I personally do not have evidence of that but I have heard so much of it that I tend to believe that it went on, but the important thing that I speak to with that example is that this is before a state of emergency; it is before a natural disaster. So, if the legislation does not apply to instances like that, the way it is worded now, then you cannot do anything about it. Something could happen again in that circumstance and because of the way the Bill is proposed at present,

which limits itself only to following a natural disaster then instances such as that cannot be dealt with. So, I raise that to make the point that while you do not want to actually see this piece of legislation as a specific tool to generally deal with price control; you do not want to limit it to a circumstance where there are other obvious circumstances which may occur and the legislation cannot deal with it. So, I am suggesting that we need to look at the wording where it limits itself to "immediately following a natural disaster" and re-word it in such a way that it can deal with matters such as the two examples that I have just brought. That can be done, Mr. Speaker.

The truth of the matter is, as has been said, regardless of the wording of the legislation, if people engage in normal and ethical business practices they do not even have to remember the legislation exists. It is as simple as that. This piece of legislation is simply a deterrent for those who may suddenly see the opportunity for a windfall. While your deepest sympathy would relate the situation to a natural disaster they should not be able to do it anytime. So, I am saying that we should not just limit it to "immediately following a natural disaster".

Mr. Speaker, the other issue which comes to mind in this very same section 4 that is proposed in the Bill is where it reads; ". . . **subject to this Law, no person, his agent or employee . . .**", it does not speak to anything else and I will refer to that in a minute but those who crafted the Law may want to refer me to section 15(2) of the Bill which reads; "**Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of the member in connection with his functions of management as if he were a director of the body corporate.**"

Section 15(1) reads; "**Where an offence under this Law which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.**" So, as I understand that, what it is saying is that if it is a body corporate and if the individual involved knowingly participates in the act then it is not only the body corporate who would be punished accordingly, if proven so, but the individual himself. So, really what this portion of the Bill is saying is 'listen guys, if you work for a company and you received directions from that company to deal with price gouging and you know that is what it is, you are not suppose to do it because if you do it you are also liable to be found guilty'. That is how I understand it and I do not consider that to be unfair. Of course, it could put an employee in an untenable circumstance but at the same time these are extraordinary circumstances that we refer to and I do not see

any other way to exempt the employee if the employee knowingly participates in the act. I do not believe that someone knowingly should be allowed to escape if they knowingly do it regardless of whether they received instructions from higher up or not. That is how I understand this wording to be.

The point I wish to make in speaking to sections 4 and 15 (1) and (2) is that while section 15(1) and (2) refer to a body corporate and it speaks to it, subsection 4 which is the general introduction of the Bill itself and it speaks to who or what entities are responsible, it only speaks to person, his agent or employee. I believe that this section should have a body corporate included in it. If you do not go to section 15(1) and (2) you would almost believe that a body corporate could not be held liable; that is an observation when you read the Bill and if it has that section in it then why not include that in section 4 because you do not want someone picking up this piece of legislation and not reading the entire legislation then find section 4 and say, "I hear what they are saying but they are not smart enough because my company can deal with it and get it fixed up and nobody can charge anybody for anything". So, that is an observation that I felt needed to be made.

The third point about section 4 is in relation to an amendment that the Honourable Leader of Government Business has proposed with regards to rent.

As I mentioned earlier, I quoted the definition in the Bill of the word "commodity" and what section 4 reads is; ". . . **subject to this Law, no person, his agent or employee shall rent or sell or offer to rent or sell at an unconscionable price any commodity; and this prohibition shall remain in effect. . .**" under a, b and c. However, it speaks to "commodity" and it almost eluded me initially because it spoke to rent or sell or offer to rent or sell and immediately when I heard the "rent" this included accommodations but the fact is as it reads and it speaks to "commodity" and the definition of "commodity" being in the definition section of the Bill, it has no reference at all to rental of accommodations. As has been mentioned that perhaps is not the most important part of price gouging but it certainly is as important as any other part because many people in circumstances like this, some of them are not with the same income they had prior to this and some cannot afford the rent that normally would be charged, much less what we heard.

Reference was made by the Leader of Government Business to certain prices but it goes from one end of the spectrum to the other. I have seen, with my own eyes, contracts which I know were \$3,500 per month prior to Hurricane Ivan and for ninety days the exact same exact premises is for \$6,000 a month.

Many Caymanians own properties and many of them have their life savings—because to them that is their pension plan, but it is not only Caymanians, there are high-end property owners who have indulged in the same thing and some of them are not even here,

they stay abroad and give instructions. So, this legislation must cover that.

Again, if we use this example; if we do not have a natural emergency—and let me use any one of us in here who face a personal situation; let us say that the economy is buoyant, things are normal, everybody is employed and happy, every place is rented, everything is going fine and one of us had a particular situation which caused us to have to leave our homes for a defined period, whether it was because of a fire or whatever, but this does not speak to an individual natural disaster, this speaks to ‘country’ natural disaster. So, if I am displaced and I need to rent and someone knows my position, and I know that the person was charging rent at \$2,500 per month and just because the person know the situation that I am in that person decides he is going to charge me \$4,000 per month but I cannot do anything about it. This legislation must cover that. I must have the ability, with a law to say to him ‘if you do this to me I am going to report you’, but as of now that cannot happen.

If our thoughts are not going anyway near there, Sir, then that is a different matter but that is where my thoughts are going because I do not believe that it should happen, under any circumstances. I do believe that this Legislation, once it becomes Law, its existence is going to be more of an effect than having to enforce it personally. It is only because people know that nothing like this exist why they just ‘willy nilly’ do what they please, that is my belief. While you do not want to go too far with the legislation, I do not think that we should not think of other circumstances and the legislation.

So, when we speak to rental accommodation, while in other jurisdictions there are specific pieces of legislation and in some instances regulation, when it comes to the responsibility of the owner and tenant with regards to a relationship or renting. When it comes to price gouging for what is being charged, in the similar vein look on the legislation and see what was being charged before and what is being charged afterwards, all of a sudden, then there should be something in the legislation which causes someone to think twice before they just up and do it because they woke up on that side of the bed that morning.

Mr. Speaker, in section 4 of the proposed Bill there are those three items which we would like to see addressed and do not think that it requires too much effort with regards to amendments to seeing both of them corrected. To make it very clear, while the Leader of Government Business referred to rental there are what I refer to in section 4 was three different items, rental being one of them. There were two other items which I spoke to that I thought we should be looking at with regards to amendments. Those other two items were body corporate, to be included rather than just person, agent or employee and to not limit the situation just to “immediately following a natural disaster” because there are many other instances which would either not relate to a natural disaster or

could be prior to a natural disaster, which to me would warrant. To be very clear that is when I use the circumstance of when people are preparing for a hurricane and the price of plywood almost doubling within the space of hours. That is before and the legislation should cover it, but this legislation only refers to following a natural disaster. Let me move on because those are the three issues that I have with section 4.

Mr. Speaker, if we go to section 4(4) it reads: **“This section does not apply to sales by growers, producers, or processors of raw or processed food products, except for retail sales of such products to the ultimate consumer within the Islands.”** In reading this I want to make sure that my understanding is what is being intended here. I am assuming that this exemption clause, as I term it, is referring to sales by growers, producers, or processors of raw or processed food products within the Cayman Islands and if that is the case, if this legislation only applies to the retailer, I want to know why do we wish to exempt the wholesalers (I refer to the growers, producers and processors as wholesalers)? The biggest reason the retailer is going to raise his price is because the wholesaler raised his price to the retailer so I am not so sure I see the logic where there is an exemption for the wholesaler. I need not say any more on that because I think it is straightforward; it is a question of whether they see something in the legislation that I do not.

Subsection 5: **“A person who contravenes subsection (1) is liable on summary conviction to a fine of \$100,000.”** I do not want to take away the seriousness of the legislation or how serious we take the legislation but I have gone through the Bill and I see the various areas where the fines are attributed and I see the proposed committee stage amendment which increases the other fine of \$10,000 to \$50,000. It is worded in the same manner so I am assuming that the usual terminology of “up to” has purposely been left out. Normally you would have seen, “A person who contravenes subsection (1) is liable on summary conviction to a fine of up to \$100,000.” This means that regardless of the circumstances and specific situation, if the legislation is brought into place against an individual or anyone and it is decided by the Commission to recommend to the Attorney General to prosecute because it is a *prima facie* case and there is evidence to support it, that individual or group, if found guilty, will get the fine of \$100,000 not \$99,999.99, it will be \$100,000. The proposed legislation includes individuals who may not be the main architects of price gouging but who may get caught up in it. If the intention of the law makers is to make this so serious an offence that the fine is simply \$100,000 no matter what level of guilt there is then it is a different matter and all I want for them to say is ‘that is what I want’. If there is any thought that there may be circumstances which put person or group “a” more culpable than group “b” then I would think we would want to have a situation which

would allow some type of latitude when it comes to the fine.

Even in the Committee stage amendment, which says that clause 5(2) of this Bill be amended by deleting \$10,000 and substituting \$50,000 it does not change the wording that is original, which is not saying anything about “up to”, it simply states the figure. By that I am assuming the fact that it is worded in that manner says that is what it is, end of story. So, if that is what is intended and it is explained that way then we understand.

My personal thoughts are that while you want to impress on everyone the seriousness of the legislation you might want to seriously consider the culpability factor and give some latitude with regards to what the fines should be. It is really *loading the gun* because the very next subsection reads: “**(6) The burden of proof to show that any increase in the price or charge of a commodity is reasonable and not unconscionable is upon the person accused of such increase.**” So, it is saying that while we are assuming through the Commission, the Attorney General and the Courts that when a charge is made there is evidence to support the charge but it clearly states in the legislation that the onus is not on the prosecutor but it is on the person being charged to prove that any increase in the price or charge of a commodity is reasonable and not unconscionable. While I am at it let me say that any amendment which might come forward referring to rent, I am sure the drafters will have thought of that but this subsection speaks only of a commodity. So we want to make sure that any other amendment encompass this and not limit itself to the commodity.

Section 5(1) says- “**Where the Commission has received a written complaint that a person may have committed an offence under section 4 the Commission shall conduct such inquiry as it considers necessary in the circumstances of the case; and without prejudice to the generality of the foregoing the Commission shall have the power to order under the hand of the Chairman any person to attend before it and give evidence on oath or otherwise and to require the production of accounts, records and other documents so as to elicit all such information relevant to the matter inquired into as the Commission may think necessary.**” Which is fine, Mr. Speaker. However, I draw to the attention of the Honourable Third Official Member that what this is going to mean is that from the point of view of investigations being carried out by the Commission, even though the Commission could require the person being charged, investigated or accused to provide certain documents, there are documents that the Commission would want to have access to. We would want to ensure that when it comes to matters like these that the way the computer system is set up with the Customs Department that there is absolutely no problem with information being gathered via that avenue for these items because that is where much of the infor-

mation is going to prove or not prove, one way or the other.

I know that in times gone by there were a few things that were desired by the Department to be able to segregate items in certain instances and such the like when it comes to the classification of duty percentages. I am not sure where the Department is now but I raised the issue because it is going to be very important if this is really going to have any teeth for the Commission to be able to access that type of information as readily as it can.

Section 5(3) reads- “**Notwithstanding subsection (2), a person shall not be punished for refusing to answer any question or to produce any document which he could not be required to answer or produce before a Court in the Islands . . .**” With this one, my thoughts are it is not that there is something wrong with it but I would really like for it to be explained because in matters like this I am not one hundred per cent sure but there must be something that they were thinking of. I cannot think of what would be relevant to an instance like this where the person could not be required to answer or produce before a Court in the Islands. That is a matter of wanting it to be explained.

I quickly refer to section 7(2)— in that subsection the Leader of Government Business made reference to a proposed committee stage amendment of changing the 30 day period to between 2 and 5 days. My colleague, the Elected Member for East End is going to expound on this issue but in that specific instance we have to look very careful at whether a time period like that should exist at all. Thirty days is one matter but I will leave the detail of that to my colleague from the district of East End. Obviously what is proposed in the Law is not practical even with any perspective that you take, whether there should or should not be a time limit whereby that should not be the case. Section 7(2) says- “**When notice of intention to increase prices or charges to which subsection (1) applies has been duly given to the Commission those prices or charges shall not be increased otherwise then- (a) in the event of the Commission giving a direction under section 8 within a period of 30 days beginning with the date in which that notice of intention was given, to the extent and in such amount as may be permitted by the direction . . .**”

While we want to ensure that the consumer is protected, the general thought is you do not want to find yourself in the situation where a retail establishment is put in the circumstance where they do not sell a commodity because of a situation or they are forced because of an extended period to sell to product for less than what it should be sold for. So, those are considerations in that aspect of it.

Section 8 (3): “**The burden of proof to show that any increase in the price or charge of a commodity is just and reasonable is upon the person seeking the increase**”, that is fair but again, for a

commission to make sound judgment they have to be able to access information.

In all of these sections that I speak to of the relationship between the Commission and the retailer, and the request for an increase or whether they are being accused of price gouging or whatever, if we look at section 11(1) it says- **“A person shall be guilty of an offence if he-”** Here we go again, Mr. Speaker, it just came to mind while I am reading it and it says: **“A person”**. Are we limiting it to a person or is it because there is section 15(2) ‘corporate bodies’ which includes the rest of it coming before? We will hear all of that.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** Yes, I know that.

Mr. Speaker, section 11(1) says- **“A person shall be guilty of an offence if he-**

- (a) increases any price or charge for a commodity without giving notice required by section 7(1); or**
- (b) fails to comply with a direction of the Commission under section 8 or, as the case may be, such direction as varied by the Governor in Cabinet,**

**and shall be liable, on summary conviction, to a fine of \$100,000.”**

Section 11(2) says: **“Any charge made by a person for a commodity in excess of any amount permitted by a direction under section 8 shall be unenforceable to the extent of the excess.”** What comes to mind with this section is that I do not see anywhere in the legislation which speaks to the fact that the Commission, and I believe, by legislation, should be accountable to the public by being given within a certain time frame a period in which to inform the public of what the decisions are, or what should not be the case of an establishment.

In any one of these scenarios, the Law says a person shall be guilty of an offence if he increases any price or so on, or if he fails to comply with the direction of the Commission. I believe that whatever those decisions are and however they are handed down, whether it is a situation where the Commission has the final word or a situation that has to go through the legal process and the Attorney General lays charges, on completion of whatever that is, such as using the Government’s official publication, which is the Government Gazette, that notice should be put for whatever they are because that serves two purposes, in my view. It informs the public who is the consumer of the specific circumstances and it is a deterrent because there is no one who would wish to know that either themselves, their individual names or company name was published in a gazette, saying, “so and so was fined so and so, or so and so was charged for so and so because of so and so – price gouging”; that is my belief, Sir. If it is not in the legislation then in my view we get down to whether somebody likes to do it or not and I do not think it should depend on an individual who

might be part of the Commission or whoever the Chairman is and whether to name someone or not. So, I believe that there should be a section in here speaking to official notification by the Gazette whenever final decisions are made with regards to this.

Mr. Speaker, if we look to the Schedule in section 8 and refer to section 11 of the Schedule, we see that there is a Committee Stage amendment proposed that quorum shall be the Chairman and four.

Section 8 of the Schedule reads: **“The Commission may act notwithstanding any vacancy in its membership and no act of the Commission shall be deemed to be invalid only by reason of a defect in the appointment of a member thereof.”**

Mr. Speaker, I understand that if someone resigns, for instance, and the person is not replaced and the Commission is acting in accordance with the wishes of its membership then it would not be affected because the Commission was not up to five members, that is with the propose amendment of the numbers from three to five. Mr. Speaker, the way this is worded—and I stand to be corrected but I am just saying how it grabs me—is saying that the Commission may act notwithstanding any vacancy in its membership. What happens if everybody resigns and leaves the Chairman by himself? Or what happens if the Chairman and three resigns and one person is left who then appointed himself chairman?

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I keep getting confused so I need to be focused. I know what I am saying.

I would like for that to be looked at because the way it is worded it is not specific because it simply says, “notwithstanding any vacancy”. Maybe I look at things in the extreme but that is where matters are determined right or wrong in certain instances, and I think that if it is pointed out at the beginning then we might be able to get it right if it is possible. So, while section 11 of the Schedule speaks to the quorum of the Commission, which shall be three, section 8 does not speak to it being quorate or anything like that, it simply speaks to “notwithstanding any vacancy” and that means to me that it could be any number of individuals who are not there. It could actually mean that it is impossible for the Commission to meet and be quorate. I would think that would have to be looked at.

Mr. Speaker, I was trying to do the numbers with the proposed amendment of a chairman and four and looking at number 14 of the schedule it says- **“In any matter before the Commission the chairman or person acting as chairman shall have a deliberative as well as a casting vote.”** I found a scenario where it would have to take a casting vote to make a decision without it being a tie and if that is reasoning behind number 14 then I accept, but if it is simply a matter of sticking it in there because that is how these things work then perhaps that could just be explained.

Mr. Speaker, those are just the specific issues that I found with the Bill itself notwithstanding the fact that we support the Bill and its intention, but we would be grateful if Government would consider looking at the points that have been brought out to see if there are any other amendments which could make the Bill become legislation that would be more practical for all purposes and intentions.

I am sure that others will speak and by the time everybody passes their own opinion then we will have a Bill that is acceptable to one and all. Thank you.

**The Speaker:** Honourable Members we have 12 minutes before 1 pm. In view of the number of issues that have been raised by the previous speaker I would propose to take the luncheon break at this time to allow for additional time for Members in Government to consider whether any of these issues would require further amendments and we would propose to resume at 2.30 pm.

#### Proceedings suspended at 12.49 pm

#### Proceedings resumed at 3.20 pm

**The Speaker:** Please be seated. Proceedings are resumed. Honourable Members we have an addendum Order Paper with three Bills on it, I believe that if we utilise our time as efficiently and productively as possible we can finish the business before the House, that is the original Order Paper and the addendum Order Paper today. It is left to Members and I would ask that in your debates you refrain from tedious repetition, I would hate to have to call any Member's attention to the Standing Orders dealing with such a matter.

When we took the suspension, I was about to call on another Member to speak on the Bill before us—Price Gouging Control Emergency Circumstances Bill 2004. Does any other Member wish to speak? The Elected Member for East End caught my eye first.

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

In the interest of keeping with what you have asked us of efficiency and effectiveness of our time we are not waiting to counter debate. Before I go on I must say that I respect your ruling on the tedious repetition but there will be times when I will certainly cover some of that which the Leader of the Opposition has covered. Therefore if that is not the case then I guess we need to know because certainly the Bill is so short that everyone will find themselves doing the same thing.

**The Speaker:** Honourable Member just to speak to that point. I think it is impossible for Members to speak without mentioning something that another Member might have said, but the Standing Order I am referring to is number 41. For information of the House and to jog your memories I will read that:

**“41(1) The Presiding Officer, after having called attention of the House, or of a Committee, to the conduct of a Member who persists in irrelevance or tedious repetition, either of his own arguments or the arguments used by the other Members, may direct the Member to discontinue his speech and to resume his seat.”** I am sure that this will not be necessary.

Please continue Honourable Member.

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

Before I begin my short contribution to this Bill I would first like to congratulate the new Third Official Member who was sworn in today as the new Financial Secretary of this country. I wish him well in the future as the Financial Secretary and the Third Official Member in this Chamber. I look forward to working with him and trust that he will have a long and rewarding career in that position.

I would also like to extend congratulations and welcome the new First Official Member who was previously the Third Official Member and has now been promoted to the Office of Chief Secretary and Deputy Governor when the need arises. I wish him well and trust that he will continue to have a rewarding career in the Civil Service.

Mr. Speaker, contrary to what I believe the Government thinks, the Opposition supports the Bill that is before us, the Price Control (Emergency Circumstances) Bill, 2004. However, there are a few areas that I believe needs to be clarified. The Leader of the Opposition said that I would expand on certain areas, in particular, Part III of the Bill which is on page 12. I would like to start with that section and proffer an argument that I believe is reasonable and I hope will be taken in the light that it is given in.

Part III is entitled- “Request to the Commission for Price Increases During a Declared State of Emergency or During a Period Following a Natural Disaster”. Section 7(1) reads- **“Notwithstanding section 4(1)”** (which is increases of prices for commodities during a period of emergency or during a period following a natural disaster) **“. . . a person may, during a period of emergency or such other period as is specified in section 4(1), give notice in writing to the Commission of his intention to increase the price or charge for any commodity and the amount of such increase.”** Section 7(2) says- **“When notice of intention to increase prices or charges to which subsection (1) applies has been duly given to the Commission those prices or charges shall not be increased otherwise than —**

- (a) in the event of the Commission giving a direction under section 8 within a period of 30 days beginning with the date in which that notice of intention was given, to the extent and in such amount as may be permitted by the direction ; and**

**(b) in any other case, until the expiration of the said period of thirty days.”**

I am not a lawyer but when I read section 7(1), “**Notwithstanding section 4(1), a person may . . .**” says to me that there is no obligation on the part of anyone to apply to the Commission to increase their prices which is exactly what I believe should happen. If not, a merchant or otherwise have to apply to increase their prices; we are going to start to bottleneck in the country. I believe it should be and I support this Law but we should move away, as far as possible from price control. We must not make it appear that the Government is trying to control prices. There is an obligation on our part to ensure that during such periods neither the country nor the people of the country are taken hostage by merchants who increase, in an unconscionable way, their prices. Therefore we should not have control over the amount a merchant is allowed to increase their prices. We should, however, ensure that it is not unconscionable after the fact.

If the person may apply and it is his or her discretion, (that is a choice they have) when we turn to section 11 it says-

Section 11(1) “**A person shall be guilty of an offence if he-**

- (a) increases any price or charge for a commodity without giving notice required by section 7(1); or**
- (b) fails to comply with a direction of the Commission under section 8 or, as the case may be, such direction as varied by the Governor in Cabinet . . .”**

It is not a requirement under section 7(1) as I read it. My understanding of the word “may”, is that it is a choice—

**Point of Elucidation**

**Mr. Lyndon L. Martin:** Point of Elucidation, Mr. Speaker.

**The Speaker:** Second Elected Member for Cayman Brac and Little Cayman are you rising on a Point of Order?

**Mr. Lyndon L. Martin:** Just drawing to the Member’s attention that an amendment has been circulated to that area since he has risen to speak and he may want to familiarise himself with it.

**The Speaker:** I appreciate the intervention by the Honourable Member but I think the Honourable Member from East End is suggesting that he is already aware of that, is that what you are suggesting to me?

**Mr. V. Arden McLean:** No, Mr. Speaker, I do not know anything about that. I do not know what has been circulated since I have been speaking and I have not had a chance to breathe since I started speaking much less to read anything.

**The Speaker:** Honourable Member, please continue.

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

It has been brought to my attention now that there is an amendment which has been circulated and which I really did not see. It now changes from “may” to “shall”, which addresses what I was addressing there. I am grateful for that.

**The Speaker:** Please continue.

**Mr. V. Arden McLean:** Mr. Speaker, the Leader of Government Business when moving this Bill also mentioned that we would be getting an amendment to reduce the 30 days that the Commission have, to maybe 48 hours to 5 days, anywhere in between there. I really do not believe that Part III should be a part of this Bill. Please allow me to explain.

I said earlier that we are going to bottleneck the country. The Leader of Government Business also said that there are a small number of merchants that are price gouging as a result of the plight of people after the passage of Hurricane Ivan. That says to me and to all of us that the majority of merchants in this country are morally upstanding merchants (if we can describe them as that). Part III is going to require that every merchant in this country must submit a request to increase the price on their product before they can do so. If the amendment comes it could be up to five days before they get a reply.

I believe that the consumer is much more able to police price gouging in that if I as a consumer, prior to any disaster, paying \$20 for a particular item and immediately thereafter I see that same item being sold for \$50.00, one of two things are going to happen. Firstly, I am not going to purchase it; and secondly, I am going to complain to the Commission and the Commission will start an investigation. That is in a small number of merchants. The majority of them, in most instances, are only going to add on the additional cost that has been incurred as a result of circumstances elsewhere in order that they cover their cost. So, I see no need to quote on quote “criminalise” the entire community by asking them to apply for an increase.

The situation that we find ourselves in now as a result of Hurricane Ivan comes once in fifty years, maybe, in that the gateway for all of our products sold in this country has also been devastated, that is Florida. Under normal circumstances that will not be the case or we hope not, but if we find ourselves in this situation again we will find ourselves under the pressures of having to investigate the costs that have been passed on from those destinations.

Mr. Speaker, if the Commission finds that a complaint has been made to them and they do the investigation finding out that the individual is price gouging then the person will be prosecuted, as I understand the Law. However, section 11 does not say that there is any question of unconscionable increases

that is a criminal offence. Any increase is an offence, here we are with someone who brought in a product and only increased marginally but they still have to apply to the Commission. Under normal circumstances and if we were not in the situation that we are in right now, it is a free market, free enterprise and anyone can increase or decrease their price accordingly. In most instances the competition drives the free market therefore the prices are increased on a marginal basis as small as possible to retain their business.

I find it difficult to ask every merchant to apply to the Commission. The Commission is going to be inundated with requests. It is impossible for that Commission to investigate every increase that is requested. We know the merchants in this country. There are many large merchants and can we imagine having one of those merchants apply for an increase of some thirty items? Potentially we have hundreds of merchants who are going to have to ask to increase their prices and the Commission is going to be, in my submission, inundated. My proposal is allow the free market to go its own way and at the time the complaints are received then we investigate it and if there is an offence committed then the Attorney General's Office will deal with it according to the Law. It will be too much for the Commission to handle.

Another area that I would like to speak briefly on is section 4(4). It says: **"This section does not apply to sales by growers, producers, or processors of raw or processed food products, except for retail sales of such products to the ultimate consumer within the Islands."**

That needs to be looked at again because there is much potential for price gouging in that area also, particularly when it is processed food products. That is the time when people are most vulnerable and are looking for that kind of product. The Government needs to ensure that is looked at.

*[Pause]*

Mr. Speaker, section 4(2) says: **"Any increase in installation charges, labour charges for repairs, or other charges made in connection with the installation or use of any apparatus used for the supply of or necessary for the beneficial employment of a commodity or of the delivery charges for such a commodity shall not be deemed to be an increase of the price or charge of such commodity for the purpose of subsection (1)"**, which says - **"Upon and after of a declaration of a state of emergency in the Islands by the Governor in accordance with the Emergency Powers Law (1997 Revision) or during such a period of time (as may be specified by the Governor in Cabinet by order) immediately following a natural disaster, subject to this Law, no person, his agent or employee shall rent or sell or offer to rent or sell at an unconscionable price any commodity; and this prohibition shall remain in effect –**

- (a) until the declaration expires; or**
- (b) for such longer period after the declaration has expired as may be specified by order of the Governor in Cabinet ; or**
- (c) for such other period as may be specified by order of the Governor in Cabinet."**

Mr. Speaker, I hear the Leader of Government Business saying that there is an amendment circulated. Maybe a suspension is in order so that we can all get to understand the amendment so that we do not repeat what is unnecessary. These are notes that I have taken as a result of the Bill being sent to me and I have done my research. If the Government is changing it then it is only fair that we be given the opportunity to review it in order that we do not speak from a position of ignorance.

**The Speaker:** Would the Honourable Member take his seat please.

It is not unprecedented in this House—it is a normal practice—that during the debate of any bill amendments are circulated. I will not have the time of the House wasted debating why a particular Member did not receive his amendment on time. We have to move in an expeditious manner. So, if a Member has not received an amendment when he gets up to speak, I think it is not right for me to suspend the House and allow every Member that gets up in this House and ask for that privilege, so I am not going to do that! So, I ask the Honourable Member for East End to continue with his speech.

I understand that he may not have received an amendment to the Bill before the House but I am sure that there are others when they got up, such as the Leader of the Opposition when he got up, he did not have the benefit of these amendments that have come subsequent to his speech.

So, I ask the Honourable Member to please continue and assist with the expeditious and productive management of the time of the House. Please continue Honourable Member.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I will continue with my knowledge of this, but certainly, the Government Bench needs to stop disturbing me saying that an amendment has been circulated because I know nothing of it.

My concern is that if labour charges are exempted from this Bill we are going to have problems. People will bend the Law to ensure they get what they consider their fair share due and they will increase labour charges. It will not be on the commodity and they will still be price gouging but under the heading of labour. If the Government is bringing an amendment then so be it.

*[Inaudible interjection]*



**Mr. V. Arden McLean:** Mr. Speaker, I find it extremely difficult to continue my debate with the disturbances coming from the other side of the House.

**The Speaker:** In that respect, Honourable Members, I ask you to please keep the crosstalk down to a minimum. I know that in a Parliament this is normal; I have visited many Parliaments, including the House of Commons, and I think that we behave admirably compared with them, but that is not the side that we want to emulate. Please let us allow the Member that is on the Floor the opportunity to speak without being disturbed and this applies to both sides. Thank you Honourable Members.

Please continue Honourable Member for East End.

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

As I promised, my contribution was going to be short and my last section is on section 7 of the Schedule which says: **“7 A member of the Commission shall not take part in an inquiry or decision relating to any business in which he or his spouse is a member or shareholder or has any private interests, direct or indirect whereby his private interests may conflict with his duties as a member and the Governor in Cabinet may appoint a person to act in place of such member for the purpose of such inquiry or decision and any person so appointed shall while so acting be deemed to be a member of the Commission.”** I believe that section may have been put there to facilitate there being only three members on the Commission and to avoid a complete stoppage of the Commission, and their needing a quorum of three. However, I am aware that there is a proposed amendment to increase the membership to four with the chairman making it five. Therefore there may be a need to change that in order for that person to excuse himself. At this stage if the amendment is successful there will be sufficient to make up the quorum of three. Maybe the Government can take a second look at that but I question the need for another individual to be appointed to the Commission because somebody has a conflict of interest. In most circumstances the person excuses themselves.

I support the concept of legislation to prevent price gouging. I believe it is a disservice to the people of this country; I believe it is disingenuous and disgusting. I believe that people should have a little more conscience in how they apply their prices especially during times when people are hurting, and if we are to believe the rumours— personally I have not had the occasion to experience price gouging but if are to believe all that is said in the community about the price of material and the increases since the passage of Hurricane Ivan, there are many in this country who are guilty of price gouging.

I personally have been pricing building materials in Florida for the East End restoration recovery process and I do not know the cost of the materials of

any merchant in this country, but I know that I have just priced sheetrock in Florida and it is CI\$4.72 and I certainly will not be buying 1 million sheets or anything near to that. Maybe I am getting a good deal or maybe it is not good sheetrock but, if we are to believe the prices that I am hearing around here and knowing that Government has also reduced duty on building materials by 50 per cent, I am sorry for the individual who has to buy in this country. That is morally wrong! There are other materials as well which I have been pricing and hopefully we will get good prices on the rest of the materials. I have been comparing the prices that are here in Cayman and it is not good, I can tell you that. If it means that my signature has to go on legislation to prevent such disgraceful behaviour by merchants in this country then I am prepared to sign the dotted line now.

Mr. Speaker, you cannot take advantage of people when they are under such conditions and because of their misfortunes. We all shared the same misfortune and people are going to get rotten rich in this country at the expense of other people overnight. It has not been many nights since Ivan has passed us and I know that the global trends go up and down and they may be up right now but I hear of four to five hundred per cent increase on certain items.

I am not in support of price control, I will never support anything leaning towards price control but I certainly have a problem with price gouging. It is not only with building materials but with food also and rentals in this country have gone sky high. Yes, people must use their business acumen to take advantage of situations and try to gain a bigger share of the business that is available at the time but not at the expense of poor people. That is what it amounts to; they are killing the people of this country and I want to see something in place where the Commission can go in and investigate them and embarrass them, as the Leader of the Opposition referred to in his contribution. We need to have it published as they do in Florida; the Leader of Government Business said this Bill is modelled after some of the provisions that are used in Florida and Bermuda. Let us put it in the newspapers and embarrass them too. I know if we legislate a law which specifically points out that it has to be published then we are not going to see price gouging. That is why I do not support section 3 which says that they should have to apply.

We legislate laws and I drew an analogy to the Drafts lady the other day saying, when we put up the speed limit signs on the street we do not put a police in the back of every vehicle but big brother is watching you so you should not have to apply to drive the speed limit because it is there and we tell you what it is and if you exceed it and is caught you are going to lose your license. That is how legislation should be done. We are going to choke ourselves with all these merchants applying to increase even if it is marginal, unless, of course, we change something to say that if it is mar-

ginal within a percentage base that there is no need to apply.

We need to get on with the job of ensuring that the people of our country are protected.

Mr. Speaker, I thank you and I support the Bill in principle, and would ask the Government to look at section 3 of the Bill. Thank you.

**The Speaker:** Does any other Member wish to speak?  
The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. In full cognisance of the fact that we need to be expeditious in our thoughts and debate, I will be cooperative and have a very short contribution unlike my good friend the Member from East End [laughter]. Mr. Speaker, the Member from East End and I are good friends.

Firstly, I will outline a general introductory frame work as to the whole principle behind whether or not legislation is required or whether or not there should be legislation because there are many who still believe that free market forces work things out and so in this regard we should not be concerned as a Legislative Assembly.

In the lead up to the passage of Hurricane Ivan and in the weeks afterwards all of us as Elected Members have received varying complaints about the sharp increase in the prices of certain goods and services that persons consume.

I do not believe that legislation is a cure all for life's problems, however, I do believe that where Government or any Member of this Legislative Assembly receive complaints that they can substantiate and that those complaints do drive at the core of the quality of life that our citizens enjoy, that it is incumbent upon us to look at whether or not legislation will not assist in that particular area.

I believe that good, honest, practicing merchants have nothing to fear with legislation. I believe that persons who are going to refrain from the type of behaviour that this legislation aims to prevent, or if it occurs, to deal with, I believe that they would be on high-ground. Why legislation? I think that given the feedback that all of us in this Legislative Assembly have received there is more than enough good cause for us to have to have taken this route of coming here with a specific piece of legislation that aims to prevent this type of behaviour because there were instances, especially after Hurricane Ivan, when supplies of certain items were low that advantage was being taken. When we look at the legislation we will see that it seeks to be as flexible as possible to ensure that the regime that this legislation creates is not onerous and burdensome, and also it does not threaten and undermine our free market economy.

The United States is the world's beacon of not only democracy but a free market economy. Yet they have a capitalist system that everyone tries to emulate because it has been extraordinarily successful. They

have seen fit, however, in that country, in varying states, to have a kin legislation similar to this legislation that deals with these peculiar circumstances. I think there may be thought processes by people out there who will say, *'well, what if provisions in this legislation are enacted and used and the period of time that is outlined in section 4 goes beyond what is reasonable?'* One thing that I learnt very quickly after becoming elected is that people seem to believe somehow that once you become elected your good judgement and sense is checked at the door because somehow it seems as though there are many people who believe that whilst many people in this Legislative Assembly, before being elected, were good solid people in whatever they did and practiced good judgement and sense but all of a sudden now that is no longer the case.

I do not believe that we as a country can ever go down that road in terms of deciding whether or not a piece of legislation should be passed because we have legislation similar to this, in terms of its impact and greater than this in its impact that that same thing could be said about. So, I am not concerned about that particular aspect, I have the full confidence that now and in the future whoever forms the Cabinet will have the wisdom to recognise that enacting provisions in this legislation is a very serious thing and is not to be taken lightly and that they will use good judgment and advice to ensure that negative consequences like having the period too long not occur.

From the outset I believe that there is a need for the legislation and that whoever has to utilise this legislation in the future will do so in a very wise manner because it can undermine the very lifestyle and all the achievements that have been worked so very hard for by so many people over the years to get Cayman to the point we are at.

Mr. Speaker, in looking at the amendments that are coming for Committee Stage, we will see that a number of items are adequately dealt with. However, I think there are a number of points that that do need to be expounded upon to ensure that the rationale behind the provisions are clearly understood by all Honourable Members of the House and also the listening public. I believe that section 4(4), which has been the subject of debate of the Honourable Leader of the Opposition and the Honourable Member of East End, when we look at this provision, whilst I think it needs some clarification the spirit of this specific section is one that is needed in this legislation. Section 4 is contained in Part II which is entitled Unconscionable Increases of Prices of Commodities During a Declared State of Emergency or During a Period Following a Natural Disaster.

That specific section, subsection (4) reads: **"This section does not apply to sales by growers, producers, or processors of raw or processed food products, except for retail sales of such products to the ultimate consumer within the Islands."** When I read this section I make the assump-

tion that this envisages farmers of all sorts, whether cattle, ground product or fruit, but it also encompasses persons who are involved with the refinement of food-stuff. So, I took from the debate by the Member of East End that he was somehow seeing this section as applying to processed food products, whereas it is applying to sales by growers, producers or processors of raw or processed food products. So, it is not referring to a tin of sardines or a tin of corned beef but to the persons who processed them. So, if for example, someone in Cayman made an investment and opened a company and started to produce corned beef it would apply to them not to Foster's Food Fair, Kirkconnell's or Hurley's, and not to the wholesale distributors of those products but to the processors. So, following along that logic, if we agree that is what this section is applying to we would also then agree that this is probably looking at persons who would be involved in exporting those particular types of products.

Certainly, we understand that if we have a farmer or someone who is in the production of these produce, we would not want them to have the capability to take, for example, locally grown beef and because there was a shortage, because we had a natural disaster and let us say ships did not get in for a week or so, that they cannot take the beef which is produced locally and sell it on to someone other than the ultimate consumer at a price that is substantially higher than a price that existed before. So, for example, if it was \$7.50 per pound before the event, a state of emergency is called and this legislation is triggered, they could not then go and sell it to Foster's Food Fair, who would not be the ultimate consumer at that point, for \$15 per pound. I think there is agreement that that should not be allowed to take place within this legislation. I just want to make sure that it is clearly understood that we are talking about those processors and not necessarily processed food in this particular provision.

A point was made earlier that dealt with a situation where a person may be impacted negatively for whatever reason and their particular circumstances rendered them to be in a situation where they could be taken advantage of, and whilst that is a situation which is unfortunate for anyone to find themselves in that position, I do not think legislative remedy would be the route to go to protect them. I think that the Leader of the Opposition made reference to a person who may have lost their home, and perhaps was in a difficult position and needed rental accommodation. We are a small community, others would know of this and therefore advantage may be taken of that person, knowing that they desperately need to get accommodations for themselves and their families. While I agree that it is a very sad thing for anyone to be in that position we also have to recognise that a person in that particular position is more than likely going to have a choice. Therefore if renter A or merchant A wanted to charge x amount to that person for whichever goods or services that they sought to consume and it was outrageous,

they would then have the choice to go to merchant B. Therefore, I think that if we try to incorporate too much into the legislation we might very well start to creep into areas that we all say we do not want it to creep into. The opposite is quite true, Mr. Speaker. I know of people who on the other end have been taken advantage of. I know of people who get into a difficult situation and all they have is property, but they need cash, or they get into a situation where there is dispute, so there is a family dispute or there is a divorce and they need to get rid of certain properties. I know of situations where those are done at bargain prices simply because they need to be able to dispose of that land asset to be able to get the cash to settle the dispute, or to make ends meet.

That is quite the opposite of that example, however, as I see it that is life. There will be people who will get into difficult situations but we certainly cannot, in this legislation, be able to envision those situations or remedy them. It is up to those individuals at that particular level to shop around and to be able to sort out their situation. Another example is a landlord who is on difficult times. Certainly in normal circumstances 18 months from now a person could know of another who is in financial difficulty. If they go to that individual and offer \$800 for an apartment that is being rented out for \$1,000, certainly this legislation is not what we would desire in a case, which is the opposite of the point raised. However it is a legitimate point if a person who at that particular point and time is being taken advantage of because of the fact that they find themselves in peculiar and unfortunate circumstances. However, I do believe that all of us would agree that that is just the way life is sometimes. You get into a difficult situation and there will be people who will try to take advantage of you, however this is talking about looking at the whole country and ensuring that in a time when you know people have to consume various good and services, whether it is foodstuff, rental accommodations, we do know that in these trying times—and we are living through it right now—we need to ensure that there is at least a threat and we see this legislation as a checking mechanism. I hope that no cases will ever come as a result of this legislation.

The point that has been raised in the debate and in the public domain is one that does cause me some concern, and it is the debate especially in regards to rental accommodations; what are free market forces and what are not? Let us use an example, I know of persons who have relatively high-end properties that before the hurricane they were renting for \$2,000 a month and they are now renting for \$6,000 a month. However, in certain instances that I know of the landlord has not gone out and sought \$6,000 a month for the property. It just so happens that because there is a shortage in the rental inventory in Cayman at this time, because of damage and destruction from Hurricane Ivan, that varying individuals and companies have engaged in bidding wars for those properties.

Therefore if the property was previously \$2,000 monthly and one company offers \$3,000 monthly because they need to get a particular employee on the ground in Cayman if they are not here to Cayman, or if they are here, in to more comfortable accommodations, the company is willing to do that as they know it is for a relatively short period time. Another company who also wants that particular property, goes to the landlord, which is usually a real estate agent and offers \$3,500 and another may offer \$4,000, and I think we would all agree that certainly if people are willing to pay that price for certain types of properties, this legislation is not geared towards that.

When we look at section 4 and we see where application has to be made for a price increase, there would be no application for a price increase in an instance like that. Certainly we cannot be saying that if someone demands to pay more for a product that the person then still has to go and apply for the increase, because that goes against the grain of what I consider to be pure demand and supply forces at work.

When we look at some of the complaints that we have received, one that is extremely disturbing is about people that are being pressured by landlords and it is very obvious by the type of pressure applied that the landlords want to get those people out of their units. The example that I used on the high-end properties, they generally work themselves out because persons who are that level and in those markets can take care of themselves. I know of an example of a single mother with two children and her landlord is pressuring her to vacate the unit, and it just so happened that her lease expired in October, 2004 and the landlord is refusing to renew the lease. It also just so happened that that young lady works for a business that was negatively impacted by the hurricane and at this particular time she has been laid off. So, those types of circumstances, where you have persons who are simply trying to make more money, because I understand that the landlord is seeking to raise the rent on that particular unit once she vacates the property, therefore those types of circumstances is what this legislation is geared toward trying to prevent.

When we look at the aftermath of a hurricane and the fact that we are in a hurricane belt and unfortunately we have a lot of supplies that come via this hurricane belt, we know that there will inevitably be increases at certain times to retail merchants in Cayman. All that this legislation is aiming to do is to ensure that we do not have a situation where persons are arbitrarily taken advantage off.

Mr. Speaker, when I went to the store to get certain items which I have gotten in recent times, I do not have any proof but one need only look at certain items that you would have probably bought some time ago, for example, I can remember buying shovels and rakes and for the life of me it certainly would seem to be the case that there has been an increase in the prices of some of those items. One thing that section 7(2) deals with is the pricing and the application proc-

ess for increasing a price and that section is also going to have to deal with the fact that there will be varying prices for similar products according to suppliers, the size, the discount they receive based on the amount that they purchase. Again, this is where responsible administration of this Law is going to be crucial, to ensure that there is not information given out to particular retailers. For example, if a large retailer is buying 1000 rakes can purchase them at \$10.00 but a smaller retailer who is only buying 25 rakes is going to pay \$12.50 for those rakes, we need to ensure that those persons who come forward, come forward with the pricing based on their cost, not the cost that is the general cost.

**The Speaker:** Honourable Member, if this is a convenient break I would call on the Honourable Leader to suspend the Standing Order so that the business on the Order Paper may continue. It is my understanding this is the wish of Government, and if that is indeed the wish, Honourable Leader would you move the suspension of Standing Order 10(2) so that the proceedings of the House may continue.

#### **Suspension of Standing Order 10(2)**

**Hon. W. McKeeva Bush:** Mr. Speaker, thank you very much. I move the suspension of Standing Orders 10(2) in order to take business after 4.30 pm.

**The Speaker:** The question is that Standing Order 10(2) be suspended in order that the proceedings of the House stated on Order Papers 1 and 2, that is Order Paper and the addendum, may be completed today. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. Proceedings may continue. Please continue Honourable Second Elected Member for West Bay.

**Agreed: Standing Order 10 (2) suspended to allow proceedings to continue beyond 4:30 pm.**

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

Just to wind up, and I know that everyone is anxious to conclude as we have other business and we shall be going a bit late tonight. Just to wind up, we take this legislation extremely seriously and the public needs to be reminded that the persons who are involved with business, and when I say merchant I use that term very loosely, I mean business man of any size whether you are a small guy who is only selling 10 rakes a month or a big guy who is selling 500 a month. We take this extremely seriously and we are not coming down here to this Legislative Assembly bringing legislation for the sake of bringing legislation simply because we believe there are political gains to be

reaped. We are bringing this legislation because we, in our best judgment, and on the information that we have received believe there is a great need for this legislation. We hope that people will have been behaving in ways that would not run contrary to this legislation in any case.

Certainly we believe that the existence of this legislation does provide a check, and it will cause people who might otherwise, knowingly or unknowingly, engage in this type of behaviour. In looking at the amendments that have been circulated thus far, I believe that the majority of issues, if not all, that have been raised have been adequately dealt with. I believe that this Bill provides a good first cut and a good working frame work.

I commend the Government and the Leader of Government Business for bringing this legislation. We understand quite clearly that there will be many persons in this country who are engaged in business who will not support this legislation. However, I believe that if they are fair and if they are going to be reasonable, they will all agree that while the majority of people may behave as we should, we should have this legislation, because the majority of people may very well drive responsibility on the road, but we do know that we need speed limits because there are a few who will not. We believe that it is always good to have frameworks in which people should operate especially in these types of trying times, and that is what this legislation seeks to create. I commend this legislation to all members of this Honourable House and I give my commitment and my support to this Bill. Thank you, Mr. Speaker.

**Mr. 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, Mr. Speaker. Members of the Government have asked me whether I will support this Bill for the presumption is that I will oppose because the Government has brought it. That is not the case and has never been the case with me. My real issue with the Government on this is why they have taken so long to bring it. It has been more than seven weeks since the hurricane and even prior to Hurricane Ivan's passage the ugly issue of price gouging had raised its head. I am aware from personal experience, and I think I have alluded to that in an earlier debate, that the cost of plywood increased significantly in price from one day to the next.

I know there are concerns in the business community about the advent of price control legislation. Some members of the business community have said to me that perhaps this is the thin edge of the wedge; it is going to interfere significantly with Cayman's free market economy; Cayman has been built on the economic principle of capitalism that the usual laws of supply and demand ought to govern prices. That has been the hallmark of Caymans business

practices and that is the basis upon which our entire industry and commerce have been built.

There is no question that the absence of regulation and price control has impacted positively the development of trade and commerce and has underlined the success of Cayman over many, many years. I do not believe that any of us, regardless of which side of this Honourable House we sit, are minded to interfere, generally speaking, with what has worked very well. The instances of price gouging that I am aware of and the tremendous amount of complaints that all of us have received just prior to and in the aftermath of Hurricane Ivan, I believe, call upon us all in our jobs, in our responsibilities as elected members to do something to prevent this from continuing and to prevent it from happening in the future.

From the very top of the economic pyramid to the very bottom, I have personally received complaints from people about the cost of commodities, in particular rent, household supplies, groceries and building materials. As far as rent is concerned, I had not been made aware, until three or four weeks ago, that at the top end along the West Bay beach corridor that there were concerns about price gouging. I was told by senior management of one of the major financial institutions in Cayman that rent was being charged at rates of \$7,000 per month and above for unoccupied units along the West Bay beach; units which in the past had been utilised primarily by tourists, however, in the aftermath of the hurricane tourists were few and accommodation was in great demand. So, no one is escaping the impact and the lack of principles and humanity on the part of some individuals and companies who are seeking to use the desperation and the vulnerability of people in this community as a basis to reap tremendous profit. Not only is that wrong in principle, not only is that immoral but it negatively impacts the community and the very commerce of which it is a part. These kinds of situations cannot be allowed to continue.

As far as building material is concerned I have had many anecdotes from contractors. On Friday evening one gentleman told me that he had bought three rolls of tar paper earlier in the week for \$42.00 and he returned the following day and he was charged \$41.00 for one roll for exactly the same product. When he asked about the price change he was told that that was the last they had. The laws of supply and demand determine that if you want what is left you pay what is being asked for it. One should not take lightly, and I am certain no one in this Honourable House does, interference with those fundamental rules of commerce, supply and demand. However, it is my view that in the lead-up to and in the wake of a major disaster the rules of supply and demand ought to be suspended or at least modified. We are not operating in a normal market but instead in a market which has created an artificial demand for products and where people are forced by circumstances to pay more than the

services, supplies or commodities are worth, simply to be able to survive.

It is those kinds of situations that I believe this legislation is aimed at and on that basis I am quite prepared to support it in principle. There is a fundamental issue that I will come to in terms of the drafting of the Bill and I would like the Honourable Attorney General and his office to address this point. However, in terms of its objective, in terms of the underlying premise of the legislation it has my full support.

The question of rent; even without Hurricane Ivan the whole question of rent in this country was a vexed issue, particularly at the lower end of the social spectrum. People have been living in this country in rented premises which quite frankly were not fit for human habitation in many instances. There is no effective landlord and tenant legislation. The legislation that exists dates back to English legislation which may be as old as 200 years old. I have forgotten exactly when that piece of legislation was passed in the U.K; it came down to us through Jamaica in the usual way but there has been no modern legislation in Cayman to deal with landlord and tenant issues. There have long been calls in certain quarters for some form of tenant protection even calls for rent restriction in terms of how much can be charged for particular premises.

I do believe that the time is soon going to come when we are going to have to address those issues, as increasing numbers of people live in rented premises, many of them for extended periods, some of them for their entire lives. However, that is a discussion and a debate for another day. In the immediate term we are seeing situations where persons are being told by their landlords that because of the damage caused to premises by Hurricane Ivan they are going to have to increase the rent and either they pay the increased rent or they leave the premises. There are other instances which I have been referred to by some of my colleagues on both sides of this Honourable House where persons are being forced out of their premises, which they previously rented, because the landlord is able to demand a higher rent since the number of rentable premises has been significantly reduced as a result of Hurricane Ivan.

I know there are those who have another view, but I do not believe that that ought to be permitted in the immediate aftermath of a hurricane or any natural disaster which reduces the number of rentable premises. You should not be able to force a paying tenant out of their premises in the immediate aftermath of a disaster simply because there is another person who is prepared to pay a few hundred dollars more a month for those premises. I am aware that in the immediate aftermath of the hurricane, a certain law firm was calling various agencies and telling them to get rid of their tenants because they were immediately prepared to pay \$500 to \$1,000 more in rent. If they needed to give them a months notice then give them a months notice; if they needed to terminate their lease then terminate their lease because they had people working for them

who needed the premises therefore the agencies were told to get rid of their tenants and they would pay them more for their rentals.

The unconscionable is not limited to just those who are landlords but you have would-be-tenants who are prepared to take steps themselves to put someone out the door to ensure that their staff members are properly housed. Again, that ought not to be permitted in the immediate and the artificial environment that is created as a result of a natural disaster which reduces the amount of premises that are available for rent.

I come to the technical difficulty I have with a provision in the Bill. I think this issue was partially addressed by my colleague the Elected Member from East End. I will attempt to demonstrate why I think there are fundamental problems with clause 4 of the Bill as it is currently drafted and why we ought to seek to address that because I believe if we do not then we are setting the stage for some real problems with the implementation and the operation of this important piece of legislation. It concerns the inter-relation between section 4 and section 7 of the Bill. It seems to me that the Bill is premised on the concept of unconscionable and that it in the aftermath of a natural disaster no one is to be permitted to charge what is termed an unconscionable price for any commodity, and commodity will include rent once the proposed amendment is passed. Now that is fine, I have no difficulty with that.

The Bill also states that it is prima facie evidence that a price is unconscionable if certain things occur or if certain state of affairs exist. So, I need not go into those technical bits, that is fine and I have no difficulty with that. Now there is provision also for complaints to be made if it appears that an unconscionable price is being charged for any commodity and the Commission can then inquire into it. I have no difficulty at all with that concept. Where I think that things are derailed a bit is when you get to section 7.

Section 7(1) provides: "**Notwithstanding section (4)(1), a person many, during a period of emergency or such other periods as is specified in section 4(1), give notice in writing to the Commission of his intention to increase the price or charge for any commodity and the amount of such increase.**" It then goes on in section 8 to say that once that notice is given the Commission may make inquiries and take certain steps. The technical point is this: Section 7 and section 8 appear to proceed on the premise that there is a price freeze once a state of emergency exists or once the Governor in Cabinet makes the declarations that are provided for in section 4. In other words no merchant may increase any price on any commodity once a state of emergency exists or once the Governor in Cabinet has made a declaration in the terms set forth in section 4, unless a notice is given and the Commission has approved the increase. We have two things operating here which I do not think can be the intent of the legislation. Firstly, there is the concept of unconscionability of price; the price is un-

conscionable, no one can charge an unconscionable price and secondly in section 7 there is what appears to be a price freeze. I do not believe that the two can work in tandem in the way that is set out in the present legislation.

If the Commission is placed in a position where every proposed increase by a merchant on every commodity requires a notice to be given to the Commission and an inquiry to be held the Commission will never be able to function. I believe the intention of the legislation, the drafting of which has gone slightly awry, is that the concept of unconscionable is set out in section 4 and if a proposed price increase is unconscionable and a complaint is made then the Commission will inquire into it and will determine whether or not it is unconscionable, and based on the inquiry will or will not permit the price increase. That is a system that I believe will work, but to have a situation whereby every proposed increase on every commodity regardless of whether the increase is 1c or \$10 is going to require notice to be given to the Commission and the Commission to enquire into it, the system will break down before it even starts.

My view and my recommendation to the Government is that we decide which of these concepts we ought to accept and proceed with and my view is that the "unconscionability" one is the way to go, so that any member of the public can complain to the Commission saying that such and such a store is charging \$40.00 a sheet for sheet rock. That is unconscionable! That will start a certain process rolling, I believe that can work but to have a situation whereby every item that is increased in price requires a notice to be given to the Commission and for the Commission to deal with it, I do not think that we will have the kind of legislation that we need and I do not think that it is workable. It is important that this process is straightforward and simple so that the merchants do not have to hire a battery of lawyers to figure it out and to go through all off the various processes to get the increase. The only way I see to avoid that is to implement it on the basis of complaints.

Another way would be to have a freeze across the Board, but I do not think that is possible in practical terms as there are a number of elements which can affect prices and cause the price of any product to increase. We do not want a situation where merchants have to come and explain why prices have increased; it becomes too complicated, too cumbersome and will cause the process to drag on interminably. This needs to be simple, straightforward and swift. There is no point in having a process where the merchant can drag this process out indefinitely while continuing to charge people. Even if the merchant has to refund money to customers, or that he is convicted, in the meantime in the aftermath of a disaster people are suffering. So, we cannot, I believe, go down that road.

I see that the Honourable Attorney General is paying keen attention to what I have been saying and I trust that when he has an opportunity to speak that he

will perhaps be able to offer some comments and some perspective on what I have said.

I think that for completeness I ought to also add that prices generally, as have been alluded to by other Members, have gone up in a number of respects. We have to bear in mind that four hurricanes have affected Florida, which is our principle source of goods that are imported into these Islands. Therefore the availability of products there is affecting the cost of goods here. I believe that that is going to become an even more important factor because I was told yesterday by an adjuster working here, that Florida's price gouging legislation which applies in the wake of a natural disaster was to cease to apply, I think, yesterday. This means that the price controls which have been operating in Florida on certain goods will no longer apply and as that is our principle source of those materials we can look for an increase in cost in that respect.

I would conclude by saying to those in the business community, in particular, those who have concerns about this legislation, that if this legislation is now redrafted in the way that I have proposed, which is that unconscionability is the basis for a complaint, that there would be little for them to worry about unless they are engaged in unconscionable conduct, and if that is the case then there should be plenty for them to worry about because that is the intention of the legislation. I do not think anyone need fear that any member of this Honourable House is seeking to undermine the capitalistic nature of our economy, seeking to interfere in any permanent way with the rules of supply and demand, or seeking to restrict prices or establish price control on any kind of long term basis.

I think that those who have those fears are unfounded fears and I believe that all of us in this Honourable House have a duty to ensure that our people are not forced to deal with these instances and not do something about it. I believe it is our duty to do our best to make sure that people are treated fairly, particularly when they are at their most desperate and most vulnerable.

I thought that there was one other point I wished to make but it seems to have eluded me for the moment, but I hope that the Government has taken on board that major concern that I have. I hope that they are satisfied that the Bill has my full support in terms of its objective and principle and that we will be able to redraft this to address those concerns and to make the legislation one which will have the effect that we seek.

The final point which has now returned to me and to which I would ask the Honourable Leader of Government Business to address in his winding up to say whether Cabinet is prepared to specify a period now, in the aftermath of the hurricane to which this legislation shall apply, and if he can say at this stage how long he thinks it will continue.

With those few words which I hope have added something to the debate I thank you for this privilege, Sir.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

I would just like to offer a few views on the legislation before this Honourable House which is a Bill to establish control of price gouging increases in commodities in emergency circumstances, and to provide for the establishment of a price gouging control commission and for incidental and connected purposes.

This legislation has come to this House because conditions have necessitated this legislation being brought. We are in a position of attempting to recover from a very serious devastation in this country. Food items, building items, transportation, motor cars, everything has been affected by the destruction which has come about and as we try to rebuild it is only logical to know and to assume that we would want to get the very best value for money that is possible in these circumstances.

Various Members have spoken to this Bill and they have raised various inquiries and the Minister who moved the Bill has offered certain amendments in Committee Stage due to views arising out of the debate and prior to that had made certain proposed amendments himself.

This Bill is all about people who would do wrong to their fellow man in the times of their greatest needs and distress; that is what this Bill is about. This Bill is not about affecting the free enterprise system of the Cayman Islands, no one is talking about that. It is not anything about hurting democracy; it is simply an attempt to prevent people who sell goods profiting unfairly and particularly during the time when people can least afford to pay.

In the Memorandum of Objects and Reasons the Bill states that it contains provisions which are similar to those found in the Consumer Protection Act of Florida and the Price Gouging Control Act of Bermuda. It is not as if this legislature or this Government is proposing to, as the saying goes 'inventing the wheel'. There is re-inventing the wheel, there is already legislation like this in place and it is for the very same purposes. Various Members have raised the point and in the Memorandum of Objects and Reasons it specifically states that the type of control which it would impose would only be imposed during specified periods following a state of emergency or the occurrence of a natural disaster. It could hardly be much clearer than that.

It is not something that would exist in the Cayman Islands and it would be applied 365 days a year. It would certainly have been applied during the two weeks of the state of emergency rule by the Governor, which has now passed, and it would apply now, but it would also have to be determined whether a period would be specified for now and the way forward.

It speaks of being unconscionable and we all understand what being unconscionable means, and if we do not, the Law clearly defines what is unconscionable. So, we cannot be at any loss there. Price gouging is wrong; it is inhuman and that is what we would like to see stopped. The Cayman Islands has always been a society geared to making money and profits, and the Law is not saying that a person should not make profits but that the profits should be seen as reasonable and fair. A measurement is set down within the Law that if a particular item, 30 days before, was being sold at a particular price, should it increase immensely after the disaster or state of emergency then one would judge by what it was 30 days prior to what it is being sold at the time that the price gouging might occur.

I think Members who spoke before me were right in saying that it is not across the board that we have heard of these instances of price gouging. It is in a few instances that we have heard of price gouging. But we can hardly legislate a law for the few, there has to be a law that covers everyone. So it would cover all persons who sell goods and services and there would be in place the right to limit what they can charge in these times of emergency.

We need to bear in mind that this Law is addressing the conditions of people at special or unique times in their lives. We are talking about people in times of suffering; when psychologically there are at their lowest; when they are cash-strapped; when they are financially distressed; they may have lost a house but they still have the mortgage to pay; they may have lost a business; they may have lost a car; they may not have food; their children are homeless like themselves or cannot find a school to go in as is the case here now, they may be in a shelter.

Therefore this Law is being legislated to address prices which are unfair during these times; that is what it is about! It is no more and no less, it is no major challenge to any way that we do business in the Cayman Islands. The opportunity arises for people who sell goods and services to have a field day for increase prices. The natural laws of supply and demand, most things are in short supply but the demand instantly arises. Things which people took for granted, which they could buy before a disaster becomes a major requirement and the scarcity of it drives people to want it even more. However, it may be something which they absolutely need in order to survive. It could be water and these are the things which this legislation looks to address. The Law attempts to prevent price gouging, to deter those people who would do so and it goes on to be in a position to convict and punish those who would charge unconscionable prices.

The Government has responded proactively by bringing this legislation, and if the Opposition supports it, as it says it does, it is hardly possible to support the legislation and suggest that we should amend it to death in every single scenario that someone could



raise, and if we all sat here we could create dozens of scenarios.

The Second Elected Member for George Town spoke of a section that I would like to refer to before I finish my contribution and to say that I see nothing wrong with someone who wants to increase their prices during the time that there is a state of emergency by giving notice to the proposed Commission of their intention to increase the price or to charge on a commodity, and the amount of such increase. In that regard an amendment has been proposed by the mover of the Bill. It gives the Commission the opportunity to look at that increase and see whether in the face of the information available that such an increase is reasonable or not. For example, it would also be natural, I think, that if a retailer or a merchant wrote to the Commission saying I intend to increase my price of sugar and I intend to increase it by this amount; that is very straightforward. I would also assume that they would then say *'well our suppliers have increased it by this amount therefore it becomes necessary for such an increase to be made'*. Of course, the Government having access to the Customs Department could very well see and check if what they were saying is correct in terms of the product coming into the Island, Therefore it does not prevent any great difficulty as I have heard suggested.

I also believe the question that was posed by the Second Elected Member for George Town as to whether it means all sellers and everybody would have to do it during that period, my position would be that 'yes' they should. That way they are clearing the air for everybody, themselves, the Government, the Commission, the people who buy their food or commodities; everybody would be in the position to know. We would revert to that old good term; the transparency of it would help everybody. Seven days is not an unreasonable period of time when someone would expect a reply. I would just make the point that a merchant or a seller of goods could apply ahead of time of receiving the goods to the Commission to alert the Commission that there is the likelihood because prices have increased that they in turn will have to increase their prices.

I would just end by saying that this Bill, before the House, in no way attempts to hurt or to hinder the way we do business in the Cayman Islands, rather it attempts to ensure that fairness prevails where businesses do business. Certainly in the final analysis people will not be unfairly charged for goods and services which could be given at a lesser price and still the people selling the goods and services would still make a profit.

I support this legislation. I think it is very timely and it has my support and I look forward to its passage.

**Mr. Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If not would the Hon-

ourable Leader of Government Business wish to exercise his right of reply?

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

I guess this is one time again that I thought that we would have finished this quickly, as I did not expect the Opposition to go into so much nitpicking. For instance, in the Interpretation Law, the inclusion of a body corporate was complained about by the Leader of the Opposition. In the Interpretation a person is defined to include a company or corporation. He also suggested that individuals in a personal disaster should be protected, and while that sounds good and gains political mileage it would certainly widen the scope of the Bill into areas that are risky, if not dangerous.

We certainly cannot have this legislation trying to sort out any personal crisis, for example if a person has financial troubles, should Government have legislation that they cannot sell an asset for a price below what it is valued because they are desperate? No, I do not believe that that is where we should be headed. They talked about penalties and penalties in this Law are a maximum and the Court would have discretion to mitigate the amount of culpability. I believe that matters are addressed in the Law sufficiently to cover areas that he spoke about.

One thing struck me and I wondered why they needed to go into all that debate when I told them that I was making the amendments at Committee Stage. They have gone through two or three hours telling me that I need to do this or that when I had already said that we acknowledge that we need to do this.

When I listened to what the Leader of the Opposition said; what the Second Elected Member for George Town and the Member for East End said, it sounds to me that the Opposition has been caught supporting something that they did not believe that the Government had the guts to bring. They jumped up and down and asked about it sometime ago and when we got to this stage they asked why it took the Government so long and other such questions. One of the things I should say is that this legislation is a complex piece of legislation and it took thought and research, and we do not want to get this legislation wrong because it could undermine our free market economy. No one need ask if I am in support of that because in these last three years especially, I have been fighting many battles in the protection of the business community. Certainly the Second Elected Member for George Town would have made a lot of noise if the Government had brought an ill-advised piece of legislation to this House and I take it from the content of their debate that the Government has brought a sound piece of legislation.

They say we rushed it, well Members can see, as I said, it is complex, so complex that we have had to make amendments even at this stage, much less if we had rushed it even more. I believe that when we get to Committee Stage, in talking through some of the

amendments that we have tabled that we might have to look at them, at least one piece. I sometimes hear Members talking tongue-in-cheek but we have had to do this, and as I said in opening, if anyone does anything wrong then they do not have to worry.

It is probably cumbersome in the amendment that speaks to merchants who have to advise the Commission that they are going to make an increase in prices, therefore if we got 25 or 30 businesses that have such commodities then that could be 30 complaints that day the Commission would have to wade through. That is something that I would like to look at when we get to Committee Stage because there is an amendment to change the 'may' in section 7. The present section 7 of the Bill states- "**Notwithstanding section 4(1) a person may during a period of emergency or such other period as is specified in section 4(1) give notice in writing to the Commission of his intention to increase the price or charge for any commodity and the amount of such increase.** The amendment goes back to say it 'shall' but that is because it hinges on certain other things. We do not want this to be cumbersome therefore I am prepared to look at it as I want a good piece of legislation. However, do not say that it is too late even when at this point in time it is so complex that we still have to fine tune it even when we are going to Committee Stage.

*[inaudible interjection]*

**Hon. W. McKeever Bush:** No, that is because, as I said, the Opposition was caught supporting something that perhaps they do not want to support.

I was asked the question as to when it will take effect and as far as I am concerned as soon as the Law is passed then it will take effect. We are in that period and I am reminded by the Elected Member of George Town that it is seven weeks and we are still in that period so as far as I am concerned unless somebody else can explain something to me, then that is my recommendation.

I did send the piece of legislation to the Chamber of Commerce for their comments and I have just received that today dated 1<sup>st</sup> November, 2004. They did make some points but I believe most of that is taken up in the Bill and some of the amendments but they did say and I should read this because it is from the President of the Chamber and I quote: "**In addition to the review of the Bill we also made enquires in other jurisdictions and Jamaica whilst having similar provisions on its Books from colonial times made the threat recently to implement regulations because of price gouging after the hurricane. However, we have been reliably informed that the Government sees no need as after the threat there has been a decrease in complaints received. Further Jamaica prefers to leave it as an open free trade market. Barbados have some similar provisions but relates mainly to importation, for**

**example, goods and livestock, and pricing of goods generally. The Commission advises an Assistant Minister on matters relating to the control of pricing of goods and services. In summary whilst the intent behind the proposed Bill is understood, sadly it does not meet the requirements of the present situation and requires not only some consultation but also a redrafting of very basic terms. Based on the above we request a short period of time so that we can seek further consultation with Members so that Chamber could offer constructive assistance. We would like to ensure that there is fairness but also that free enterprise is not discouraged."**

I thought that was an appropriate part of the letter to read into the records and I should say if Members of this Honourable House feel that the Opposition, who has called for the legislation, that we should give some more time then I would ask them to say so at this point before we actually take the vote.

I want to stress that we are not getting into the regular pricing of things; we are talking about a particular time, a particular circumstance such as a hurricane. As I said in my opening, those that are not involved and have not committed anything then they do not need to worry about the legislation. We are not going to do anything to harm the free market system that we operate in this country. Certainly as Minister responsible for Trade and Commerce I am not going to do that and I will do everything possible to ensure that the business community has an opportunity to make money and not to be stymied in their business approach. As I said, since the Opposition asked for the legislation and said we are still late, bearing in mind the request from the Chamber of Commerce, as Minister I would certainly like an indication from the Opposition as to their feelings in regard to this request and, having said that, I will now sit down because I am finished. I understand from the Second Elected Member for George Town that we should put it to the vote. So, Mr. Speaker, I thank all Members for their time. I do wish that we had not taken so long on this matter.

**The Speaker:** The question is that a Bill shortly entitled The Price Gouging Control Emergency Circumstances Bill, 2004 be given a second reading. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed: The Price Gouging Control Emergency Circumstances Bill, 2004 given a second reading.**

**The Speaker:** The House will now go into Committee to consider the Bill.

House in Committee 5.37 pm

## 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 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 Price Gouging Control (Emergency Circumstances) Bill, 2004**

**The Clerk:** Clause 1 Short Title

**The Chairman:** The question is that clause 1 stands 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 Interpretation

**The Chairman:** Honourable Leader of Government Business would you move the Committee stage amendment.

**Hon. W. McKeeva Bush:** Thank you very much, Mr. Speaker. I move in accordance with Standing Orders 52 that clause 2 be amended in the definition of commodity by inserting after the word 'goods' the words 'dwelling unit'.

**The Chairman:** The question is that the amendment forms part of the Clause. All those in favour, please say Aye.

The Elected Member for East End?

**Mr. Arden V. McLean:** Thank you. Mr. Chairman should there not be a comma after unit?

**The Chairman:** I did in fact say that any errors or corrections would be made by the Second Official Member.

**Hon. W. McKeeva Bush:** Mr. Chairman, I only want to explain that this matter of 'dwelling unit' which means rental has been put in after the complaints from Members that we were not addressing the matter of price gouging in the rental market.

**The Chairman:** I will put the question again. Are there any other comments on this? If not I will put the question that the amendment stands part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The Ayes have it. The amendment stands part of the clause. The question now is that the clause 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: Clause 2 as amended passed.**

**The Clerk:** Clause 3 Establishment of the Price Gouging Control Commission.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Chairman. I move that clause 3(2) of the Bill be amended by deleting "2" and substituting "4".

**The Chairman:** The question is that the amendment stands part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The Ayes have it. The amendment stands part of the clause. The question now is that the Clause as amended stands part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The clause as amended stands part of the Bill.

**Agreed: Clause 3 as amended passed.**

**The Clerk:** Clause 4 Increases of prices for commodities during a period of emergency or during a period following a natural disaster.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Chairman. I move that clause 4 be amended by deleting subclause (1) and substituting the following:-

"4. (1) Upon and after a declaration of a state of emergency in the Islands by the Governor in accordance with the Emergency Powers Law (1997 Revision) or –

- (a) during a period when a hurricane watch or warning is in effect in relation to the Islands; or
- (b) during such period of time (as may be specified by the Governor in Cabinet by order) immediately following a natural disaster,

“Subject to this Law, no person, his agent or employee shall rent or sell or offer to rent or sell at an unconscionable price any commodity; and this prohibition shall remain in effect –

- (a) until the declaration expires; or
- (b) where no hurricane occurs to which the hurricane watch or warning related, until the hurricane watch or warning is discontinued;
- (c) for such longer period after the declaration has expired as may be specified by order of the Governor in Cabinet; or
- (d) for such other period as may be specified by order of the Governor in Cabinet.”

**The Chairman:** The question that the amendment stands part of the clause.

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Chairman. I am wondering about (a) where it says “**during a period when a hurricane watch or warning is in effect in relation to the Islands**”. A watch and a warning have specified times placed on them prior to the strike, so I am wondering if it would not be easier to just say “a watch” because I think a “watch” is such a thing as a “hurricane alert” as well which is not usually used that much now but I am wondering if just having a “watch” in there would not suffice because that comes like 48 hours.

**Hon. W. McKeeva Bush:** But that is when people start to buy things also and even before that, so you are trying to set a time here where people are going to the store to make purchases so that this comes into effect at that time.

**Mr. V. Arden McLean:** Mr. Chairman, what I am saying is that in most circumstances a warning is put on 12 – 24 hours prior to the hurricane strike and in most circumstances you will not go directly to a warning, it is usually a watch.

**Hon. W. McKeeva Bush:** Yes, but they are buying at that point also, warning and watch.

**Mr. V. Arden McLean:** Mr. Chairman, maybe I am not explaining it sufficiently. The chances of us having a warning as a first alert for a hurricane is very slim, it

usually comes from a “watch” which is about 48 hours prior to...

**The Chairman:** If I may just comment here, I think there are three stages, alert, watch and warning. If my memory serves right I think the alert is 48 hours, the watch is 36 and the warning is 12 – 24 hours. Perhaps, the Honourable First Official Member, I am not sure if you have been in the throes of the National Hurricane Committee but maybe this is not a time for the details on this. If the Honourable Member for East End would try to wind up his comments we could take a vote on this and determine which way the Members want it to go.

**Mr. V. Arden McLean:** Mr. Chairman, there is also such a thing as a storm warning and storm watch so I do not know which one we are going to decide on, but I would humbly suggest that we put in place here the one that has the most time allocated to it, be it alert, which I believe is some 48 – 72 hours and we would cover all the others.

**The Chairman:** Just to make sure we are clear on your suggested amendment, are you suggesting that the word “storm” should be added in?

**Hon. W. McKeeva Bush:** Storm or hurricane watch or warning is discontinued; maybe the Attorney General could help us out here.

**Mr. V. Arden McLean:** Mr. Chairman if we remember there are many times that we have storm watches and people start buying up products and...

**Hon. W. McKeeva Bush:** That is what I am saying.

**Mr. V. Arden McLean:** and it is not necessarily a “hurricane”...

**Hon. W. McKeeva Bush:** Well that is what I am saying if we add in the word “storm” then it will take care of your concerns, but perhaps we will ask the Attorney General to comment.

**The Chairman:** I believe that the Third Elected Member for West Bay may have some comments.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Chairman. I think if it was to include from a tropical storm watch or warning because the normal procession is tropical storm then a hurricane, therefore if you start up at a tropical storm watch or warning it would eliminate any shortcomings, I think.

**Mr. V. Arden McLean:** Mr. Chairman, any time longer than 24 hours if that weather makes up within 24 hours of distance of the Cayman Islands it would probably be a storm.

**Hon. W. McKeeva Bush:** Well that is what I am saying.

**The Chairman:** I think that we have gone over that several times and the suggestion was, and I would like to wind this up right now, "during a period when a storm or hurricane watch or warning".

**Hon. W. McKeeva Bush:** To a tropical storm or a hurricane watch or warning.

**The Chairman:** If we could just make that notation on that line ". . . when a storm or hurricane watch or warning is in effect in relation to the Islands".

If there is no further comment I would like to put the question that the amendment forms part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**Ms. Edna M. Moyle:** Mr. Chairman.

**The Chairman:** The Member for North Side.

**Ms. Edna M. Moyle, JP:** Are you putting the question now on "during a period when a tropical storm or hurricane watch"? Is that what you are putting it on or are you putting it on the entire amendment to 4?

**The Chairman:** I was putting it on the entire amendment to 4.

**Ms. Edna M. Moyle, JP:** Mr. Chairman I would think if we have changed (a) we would have to change (b).

**The Chairman:** I could put it on the amendment to the amendment but I thought that that was understood, but for clarity we will put it on the amendment to the amendment. The question is that the amendment to the amendment which reads "**during a period when a tropical storm or hurricane**"

**Hon. W. McKeeva Bush:** And where that reads...

**The Chairman:** Where that reads: "**watch or warning is in effect**". All those in favour of the amendment to the amendment please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment as amended passed.**

**The Chairman:** The Ayes have it. The amendment to the amendment is added to this. . .

**Ms. Edna M. Moyle, JP:** Mr. Chairman, I was trying to say, Sir, if we are changing (a) to "tropical storm or hurricane" we would have to do the same thing in (b)

that follows, where it says "**no hurricane occurs**"; we would have to say "where no tropical storm or hurricane occurs"...

**Hon. W. McKeeva Bush:** That is why I said that where that wording occurs it would have to be changed.

**The Chairman:** There would be a consequential change in that.

**Ms. Edna M. Moyle, JP:** I did not hear that.

**The Chairman:** I will take the vote on the amendment as amended that the amendment as amended forms part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment as amended passed.**

**The Chairman:** The Ayes have it. The amendment as amended forms part of the Clause. The question now is that the Clause as amended forms part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 4 as amended passed.**

**The Clerk:** Clause 5 Powers to obtain information under this Part and to investigate complaints.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Chairman. I move that clause 5(2) of the Bill be amended by deleting "\$10,000" and substituting "\$50,000".

**The Chairman:** The question is that the amendment forms part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 5 as amended passed.**

**The Clerk:** Clause 6 Referral of matters to the Legal Department by the Commission.

**The Chairman:** The question is that clause 6 forms part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 6 passed.**

**The Clerk:** Clause 7 Request for increase in price of commodities.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Chairman. I move that Clause 7 be amended as follows- By deleting sub-clause (1) and substituting the following –“ (1) Notwithstanding section 4(1), a person may increase the price or charge for any commodity during a period of emergency or such other period as is specified in section 4(1); and in order to effect such increase he shall give notice in writing to the Commission of his intention to increase the price or charge for any commodity and the amount of such increase.” And in sub-clause 2 (a) and (b) by deleting “30” and substituting “7”.

**Hon. W. McKeeva Bush:** Mr. Chairman, before you put that to a vote I do not know if the Attorney General has spoken to you about it, but I think he is going to make an intervention at this point.

**The Chairman:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Chairman. During the debate of the Second Elected Member for George Town he raised the concerns that the language currently used in the draft legislation might convey the impression that there is a blanket price cap proposed. Therefore I think in order to try to allay the fears and the concerns that may be conveyed by this language I would propose that Members consider further amending the section in the second line after the word “commodity” to read “by an amount which may otherwise be deemed unconscionable in accordance with section 4(3)”. Therefore the entire section would read:-“(1) Notwithstanding section 4(1), a person may increase the price or charge for any commodity by an amount which may otherwise be deemed unconscionable in accordance with 4(3) during a period of emergency or such other period as is specified...”

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

**The Chairman:** The Second Elected Member for George Town.

**Mr. Mr. Alden M. McLaughlin, Jr.:** Thank you Mr. Chairman. I think technically that would address the concern about a price freeze, but my other concern or my remaining or residual concern is, as I said in my debate, that this legislation needs to be user friendly and merchants need to be able to understand what it is they have to do swiftly without having to hire a battery of lawyers to advise them on these terms about “unconscionable” or “unconscionability”. I think we really need to work at using language which conveys clearly to anyone reading the legislation when is it that an application or a notice to the Commission is necessary. Technically while what the Honourable Attorney General has suggested is correct, I just continue to have concerns about how well it is going to be received and how well it is going to be understood by anyone having to use this legislation.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Chairman. I really thought that what the Attorney General was proposing would have met the Member’s concern. As I said in the debate, I do have my concern about where we were saying “may” to now really saying “shall” but that was because Members said to us that they felt that aspect needed to be changed. Now it is up to Members whether we want to keep the section 7 as it is and then you would have to change section 11.

**The Chairman:** The Honourable Second Official Member could you just read again that section including your amendment, that is, to Clause 7.

**Hon. Samuel W. Bulgin:** The Clause would read: “Notwithstanding section 4(1), a person may increase the price or charge for any commodity by an amount which may otherwise be deemed unconscionable in accordance with section 4(3) during a period of emergency or such other period as is specified in section 4(1)”.

**The Chairman:** If there are no further comments on that I would like to put the amendment to this amendment.

The Honourable Leader of Government Business.

*[Background comments]*

**The Chairman:** I would invite Members to turn off your mikes please.

Are there any other comments on this? If not I would like to take the Motion on the amendment to the amendment. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The amendment to the amendment is accordingly carried. The question now is that the amendment as amended stands part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The amendment to the amendment stands part of the clause. The question now is that the clause 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: Clause 7 as amended passed.**

**The Clerk:**

Clause 8 Power of Commission on receipt of notice of increase.

Clause 9 Appeal to the Governor in Cabinet against the decision of the Commission.

**The Chairman:** The question is that Clauses 8 and 9 stands part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 8 and 9 passed.**

**The Clerk:** Clause 10 Powers of the Governor in Cabinet to obtain information.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Chairman. I move that Clause 10(3) of the Bill be amended by deleting "\$10,000" and substituting "\$50,000" which keeps it in form with the other amendments.

**The Chairman:** The question is that the amendment as amended stands part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The Ayes have it. The question now is that the Clause 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: Clause 10 as amended passed.**

**The Clerk:**

Clause 11 Enforcement of price control provisions under this Part.

Clause 12 Governor in Cabinet may require the Commission to conduct inquiry

**The Chairman:** The question is that Clauses 11 and 12 stands part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 11 and 12 passed.**

**The Clerk:** Clause 13 Power to Obtain Information under this Part.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Chairman. I move that Clause 13(2) of the Bill be amended by deleting "\$10,000" and substituting "\$50,000".

**The Chairman:** The question is that the amendment stands part of the Clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The Ayes have it. The amendment stands part of the Clause. The question is that the Clause as amended stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 13 as amended passed.**

**The Clerk:**

Clause 14 Enforcement of this Law by Injunction.

Clause 15 Offences by officers of corporate bodies.

**The Chairman:** The question is that Clauses 14 and 15 stands part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 14 and 15 passed.**

### **The Schedule**

**The Chairman:** Honourable Leader of Government Business, there is an amendment to the Schedule. The question is that the amendment to paragraph 1 of the Schedule stands part of the Bill.

**Hon. W. McKeever Bush:** Mr. Chairman, I move that paragraph 1 of the Schedule to the Bill be amended by inserting at the end of the paragraph the words "and such Members shall be paid such fees as may be determined by the Governor in Cabinet."

**The Chairman:** The question is that the amendment stands part of the Schedule. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The Ayes have it. The amendment stands part of the Schedule. The question is that the Schedule as amended stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: The Schedule as amended passed.**

### **Amendment to the long Title [SO 52(11)]**

**The Clerk:** A Bill for a Law to prevent price gouging in commodities in emergency circumstances; to provide for the establishment of a price gouging control commission; and for incidental and connected purposes".

**The Chairman:** The question is that the Title stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: The Title passed.**

**The Chairman:** This concludes the Committee Stage. The House will now resume.

**House Resumed 6.09 pm**

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

## **REPORT ON BILL**

### **The Price Gouging Control (Emergency Circumstances) Bill 2004**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker. I beg to report that a Bill entitled The Price Gouging Control (Emergency Circumstances) Bill 2004 was considered by a committee of the whole House and amended.

**The Speaker:** The Bill has been duly reported and is set down for Third Reading.

## **THIRD READING**

### **The Price Gouging Control (Emergency Circumstances) Bill, 2004**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, I move that the Bill be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Price Gouging Control (Emergency Circumstances) Bill, 2004 be given a third reading and passed. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. The Price Gouging Control (Emergency Circumstances) Bill 2004 has been give a third reading and passed.

**Agreed: The Price Gouging Control (Emergency Circumstances) Bill, 2004 read a third time and passed.**

## **GOVERNMENT BUSINESS**

### **MOTIONS**

#### **Government Motion 6/04**

### **The Public Management and Finance Law (2003 Revision)**

**The Speaker:** The Honourable Leader of Government Business.



**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

March 2002 marked the beginning of a new era in banking in the Cayman Islands with the establishment of the Islands First Development Bank, The Cayman Islands Development Bank ("CIDB"). The mandate of the Bank is to provide credit financing for development activity to empower the people of the Cayman Islands to realise their full potential.

Mr. Speaker, I guess it is so late in the afternoon and we are all so tired that I moved on without moving the Motion and if I may do so at this time.

**The Speaker:** Please continue.

**Hon. W. McKeeva Bush:** Sorry about that, Mr. Speaker, and thank you very much.

**"WHEREAS section 9 of the Public Management and Finance Law (2003 Revision) provides that the no guarantee may be given by or on behalf of the Government unless it has been authorised by a resolution of the Legislative Assembly;**

**"AND WHEREAS section 16 of the Cayman Islands Development Bank Law 2001 provides that the Cayman Islands Development Bank may raise money or otherwise raise capital, including the issue of Bonds and debentures for the purpose of financing its operations under the Law ;**

**"AND WHEREAS it is proposed that the Cayman Islands Development Bank shall borrow funds up to a principle amount of US\$12,000,000 (the equivalent of Cayman Islands Dollars 10,000,000) for purposes of on-lending and debt consolidation;**

**"AND WHEREAS it is proposed that in order to assist in the rehabilitation of the small business sector following the ravages of Hurricane Ivan the equivalent of Cayman Islands dollars \$3,000,000 of the proposed borrowing of Cayman Islands Dollars \$10,000,000 be earmarked for on-lending and concessionary terms for projects in this sector under the Cayman Islands Development Bank's Small Business Hurricane Disaster Recovery Program;**

**"BE IT THEREFORE RESOLVED THAT this Honourable Legislative Assembly acting in accordance with section 9 of the Public Management and Finance Law (2003 Revision) authorizes the Government of the Cayman Islands to issue a guarantee to secure borrowings by the Cayman Islands Development Bank for an amount not exceeding US\$12,000,000 (the equivalent of Cayman Islands \$10,000,000);**

**"AND BE IT FURTHER RESOLVED THAT this Honourable Legislative Assembly acting in accordance with section 9 of the Public Management and Finance Law (2003 Revision), authorises the Government of the Cayman Islands to issue individual guarantees to secure borrowings from the Cayman Islands Development Bank by beneficiaries under the Small Business Hurricane Disas-**

**ter Recovery Program which guarantees cumulatively shall not exceed Cayman Islands Dollar 3,000,000."**

**The Speaker:** The question is that BE IT THEREFORE RESOLVED THAT this Honourable Legislative Assembly acting in accordance with section 9 of the Public Management and Finance Law (2003 Revision), authorises the Government of the Cayman Islands to issue a guarantee to secure borrowings by the Cayman Islands Development Bank for an amount not exceeding US\$12,000,000 (the equivalent of Cayman Islands Dollars 10,000,000);

BE IT FURTHER RESOLVED THAT this Honourable Legislative Assembly acting in accordance with section 9 of the Public Management and Finance Law (2003 Revision), authorises the Government of the Cayman Islands to issue individual guarantees to secure borrowings from the Cayman Islands Development Bank by beneficiaries under the Small Business Hurricane Disaster Recovery Program which guarantees cumulatively shall not exceed Cayman Islands Dollars 3,000,000.

The Motion is open for debate. Does the Honourable Mover wish to speak thereto?

**Hon. W. McKeeva Bush:** Thank you very much, Mr. Speaker.

I was saying that the mandate of the Bank is to provide credit financing for development activity to empower the people of the Islands to realise full potential. Since inception the Bank has focused its energies on establishing the infrastructure to deliver on its mandate.

Towards this end the Bank now has in place under the able chairmanship of Mr. Eddinton Powell, a strong Board of Directors with diverse expertise and a clear vision to chart the way forward and transport the organisation on the road to helping our people to convert dreams into reality. I would also like to pay tribute to the manager of the Bank and her staff for their role in assisting with the transition of the Cayman Islands Development Bank to a full fledged Development Bank. I wish to reiterate that the primary role of the Cayman Islands Development Bank is to assist strategically with the medium to long term sustainable development of the Cayman Islands, particularly, in the area of affordable housing, small entrepreneurial financing and counselling, assisting Caymanians with new business start-ups, educational loans and by participating with other Government agencies and private sector organisations as a catalyst for economic development in the Islands.

An example of interagency cooperation is the recently announced joint initiative between Cayman Islands Development Bank and the Cayman Islands Investment Bureau to support small businesses in the aftermath of Hurricane Ivan by pooling the expertise of both organizations. While a central role of the Bank is to ensure that Caymanians are able to access the

economic opportunities available in Cayman, I wish to remind this Honourable House that the Bank must operate within the stringent regulatory requirements of the Cayman Islands Monetary Authority and that its operations must be consistent with good banking practices.

Also the Bank is complimentary to the commercial banking sector and is not in competition with them. As an example, the Bank does not provide checking accounts so that a client of the Bank who is a new business start up would be encouraged to open a checking account at a commercial bank. As the first order of business the new Board of Directors has adopted a strategic philosophy of continuous improvement in its operations and service delivery and has commenced work to implement an appropriate framework to carry the organisation forward. In the process the services of a human resource consultant has been commissioned with the mandate of identifying and implementing the optimal configuration and human resource skills requirement of the organisation. Already qualified and experienced management and staff who have fully embraced the vision of assisting Caymanians in attaining full economic independence are working there; they are in place.

Additionally, the Bank has developed a rolling three year business plan and a number of the short term objectives it set itself have been achieved including acquired and implemented state of the art information technology platform to improve both the decision making process and customer service delivery. They have obtained equity injection to the tune of \$3.3 million from the Government up to 25 October, 2004. In May 2002 the Bank successfully raised loan funds of \$5 million from the Caribbean Development Bank for on-lending specifically to alleviate the high demand for low-income housing by Caymanians who are first time home owners and they facilitated an establishment of several local small business projects, notably a beverage manufacturing plant and a woodwork facility in Bodden Town.

They enlarged their portfolio by 353 per cent with an opening figure of \$1.7 million to our \$7.7 million as at 30<sup>th</sup> September, 2004. They increased total assets by 64 per cent to \$8.4 million and as 30<sup>th</sup> September, 2004 over the opening figure of \$5.1 million. They approved over 255 loans totalling \$9.7 million as at 25<sup>th</sup> October, 2004 and of this amount mortgage loans represents 50 per cent, small business loans 23 per cent, student loans 23 per cent and other loans 4 per cent. They have relocated to more accessible and attractive premises within the business sector.

They contributed to the development of young Caymanians by participating in the mentor program at the university college of the Cayman Islands, the work experience program at John Gray High School and providing summer employment for undergraduates. Having met these short term strategic goals as in enunciated in the business plan, the Bank is prepared to play a greater role and it must play a greater role in

meeting the development needs of the people of the Cayman Islands once it obtains the necessary funding to sustain its lending programs for small businesses, housing and human resource development sub-sectors.

As we all know, the Islands have over several years, recorded positive economic growth especially in the construction, financial, and tourism sectors.

*[Laughter]*

**Hon. W. McKeever Bush:** Mr. Speaker, I guess I was thinking of the Foreign and Commonwealth Office (FCO) when I was moving this Bill in this amount of money for guarantees.

The Islands over several years recorded positive growth especially in the construction, financial, and tourism sectors. If the saying that a healthy small business sector is a reflection of a state of the economy of a country then the surge in demand for small business loans that the Bank has witnessed over the past year could be an indication of the buoyant economy, and that which the Islands have experienced up to the end of August, 2004.

As is being experience now, in the aftermath of the hurricane, during these several months a tremendous amount of Caymanians, that is young Caymanians, have been talking to me because they are looking for assistance in either their ongoing business or to start new businesses. I believe that we must be in a position, if we are going to continue, whether we have a board or whether we have the Bank as it is; that we must be in a position to be able to assist them. In keeping with the Government's National Strategic Plan Vision 2008 the Bank intends to put full support behind the small business micro-enterprise sector through the provision of creative financing and technical support for that group of people. The Bank recognises the importance of this sector and the contribution that it makes to both the economy of the Islands as well as the development of society. Small businesses provides a source of new jobs, it gives income generation, technological advancement and overall economic growth.

The recent passage of Hurricane Ivan has created major economic dislocations. The small business sector was particularly affected and there is a great need for a special relief funding. In response the Ministry with the Bank has devised a Small Disaster Recovery Program through which it will provide loans to projects that are most in need of this type of support to help resuscitate their operations. The benefits under this program include lower interest rates, less stringent collateral requirements, moratorium on repayments and waiver of bank charges. Special attention will be given to projects in the tourism, agricultural and other service industries. The Bank, however, is mindful of the inability of most small business owners to adequately collateralise their loans at this time in order to obtain the required financial support despite the critical

role of these players in the economic life of these Islands.

The most effective way of ensuring that the required assistance is made available to those most in need is for the Government to guarantee facilities being offered by the Development Bank under its Small Business Disaster Recovery Program. A credit line of C\$3 million should be specially earmarked for this purpose as we are trying to do. Loans guaranteed under that program will be assessed using normal credit assessment criteria and granted to viable small businesses with reliance being placed on the guarantee only to the extent of any collateral shortfall.

Furthermore, in the event of default the Development Bank will pursue recovery by first realising the collateral provided by the customer. In addition to this funding initiative the Bank has begun to work in close collaboration with the Cayman Islands Investment Bureau, the Employment Services Centre and the Chamber of Commerce to assist in rebuilding the small business sector. Specifically, the Development Bank has made its facilities available for the establishment of a Small Business Assistance Centre which offers business training, guidance and counselling and networking opportunities. Office support services such as fax, internet and photocopying services are under consideration now.

Establishing a small business assistance centre is a crucial component in fostering the strengthening of entrepreneurship in these Islands. Understanding that there are four key resource needs of new ventures, the program will provide entrepreneurs with the opportunity to develop their skills and capabilities, to obtain information of value to their business, to gain access to networks of support and assistance and through the program to the financial resources needed for their development. These initiatives provide a holistic package that addresses both the short and long term needs of small businesses. In this way the creative work of the Caymanian entrepreneur can be kindled and encouraged to grow. Towards this end, on 18<sup>th</sup> October, 2004 the Bank began holding one-on-one counselling sessions with small business owners to assist them in working through problems being encountered as a result of the passage of Hurricane Ivan. These sessions will continue through the month of November and the Bank has introduced special Saturday opening hours from 9.00 am to 12.00 noon for this purpose as well as to facilitate the processing of loan applications connected to the recovery effort.

Additionally, the Bank hosted the first business recovery planning forum at its office on Monday, 25<sup>th</sup> October, 2004. Participants representing a wide-cross section of small business types used the forum to air their concerns over the extent of dislocation suffered and to enquire about possible assistance to re-launch their business and the timeliness of this assistance. Officials from the Development Bank and the Cayman Islands Investment Bureau, and the Department of Employment Services provided useful planning and

operational insights to guide the small business owners on the road to recovery. They also noted the concerns of the participants and undertook to assist in finding appropriate solutions to the issues raised.

Another key area being addressed by the Development Bank is the provision of mortgage financing. Shelter as we know is one of the most crucial needs in a persons life, and particularly so today. Recognising this critical need, the Government over the years placed housing as a high priority area in its strategic plan. While the Government has assisted the very low-income sector through the new affordable housing program as well as provided for those who qualified under the Government Guaranteed Home Mortgage Scheme, it recognises that the Bank also plays a key role in mortgage financing for a niche sector of the population. In this regard over 60 loans totalling \$4.8 million have been approved in the housing sector by the Development Bank over the past 18 months.

Human resource development is another priority area of Government. Our young people must be educated and afforded the opportunity to obtain the necessary tertiary level qualifications that will enable them to move up the career ladder. The CIDB is the major provider of financing for human resource development. Over 110 student loans amounting to more than \$2.2 million have been approved since the establishment of the Bank.

Step by step the Development Bank is positioning itself to become the primary provider of development financing in these Islands, however in order to fulfil its mandate the Bank needs to ensure that it has adequate funds on hand. The Bank is therefore seeking to raise the US\$12 million equivalent to C\$10 million primarily by way of a 10 year bond issue. The bond issue will be offered to both local and overseas investors and a sinking fund will be established into which transfers will be made from cash flows to allow the retirement of the bond on maturity. We want to encourage Caymanians to buy into this. Here is an opportunity for all Caymanians who might have money at this time to invest in the Country's future and we hope that they will join and lend their support to this effort. Beyond that we will have to look outside of the Islands.

Trends both in approvals and in enquiries over the past two years reflect high demand for development financing. The Development Bank's analysis of these trends helped to form the basis of its 10 year operating projection, which indicates that the Bank should become profitable in 2006 – 2007 when its loan portfolio is expected to be in the region of \$25 million, moving from \$1.7 million at its inception in March 2002. Increasingly the trend is pointing to a need for micro enterprise financing and in response the Bank expects to have a portfolio mixed of 40 per cent to the small business sector, 40 per cent in mortgage and 20 per cent in human resource development.

The guarantee being requested is expected to assist the Bank to respond appropriately to the market

trend in the short to medium term and is within the targeted amount approved by the Legislative Assembly in the Governments annual plan and estimates for 2004 – 2005. The request as presented fits comfortably into the Governments long term vision of all Caymanians continuing to enjoy a standard of living second to none in the region where they have invested in their country.

It is worthy of our support and the Government therefore requests that all Members of the Assembly approve the issuance of the guarantee in the amount of CI\$10 million to enable the Cayman Islands Development Bank to raise the necessary funding primarily through a 10 year bond issue for the purpose of on-lending and debt consolidation, and to approve the issuance of guarantees to secure the borrowings from the Cayman Islands Development Bank by beneficiaries under the Small Business Disaster Recovery Program which guarantees cumulatively should not exceed CI\$3 million.

Mr. Speaker, I hope I do not get a surprise on this one as I did on the other one and hopefully Members will agree and if they are going to speak they will keep the speeches to a minimum. Thank you very much.

**The Speaker:** Does any other Member wish to speak?

The Honourable Leader of the Opposition.

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

Mr. Speaker, the Government Motion No 6/04 is one that is welcomed by the Opposition. Several of the points raised by the Leader of Government Business are issues which we ourselves looked at and spoken to in various forums. Perhaps without going into too much detail I would like to raise a few points, to make a few observations and a few suggestions to the Government with regards to the proposed Motion.

First of all it dawned on me when the Leader of Government Business was winding up his introduction and he spoke about the bond issue and the sinking fund, which is all fine, as it obviously ties in with the best rate that the market will allow so that the on-lending charges by the Cayman Islands Development Bank (interest rates) can be as low as possible to benefit people who are getting the loans. Certainly, administrative costs and all of that would have to be taken into consideration when the percentage is decided. However, the Government Motion which allowed for the vast majority of the central debt to be paid off not so long ago, it was about a year ago, where by the time the negotiations were completed, there were some \$21 million to \$22 million that had been paid down on the loans by the time it was all over so those amounts could be put into general reserves.

The point that was brought home when the then Honourable Third Official Member brought that Motion was that comparing that with a regular bond issue the interest rate being charged for that method of financing was one which allowed for payments to be

both on principle and interest to be done during the term of the financing package, which in turn would mean that the amount borrowed, paying back in that method would mean less interest to be paid over the life of the financing compared to a straight bond issue. All I am saying is that if there is access to that type of financing it would certainly be in the Banks interest to utilise that type of financing because the Leader of Government Business did mention a sinking fund which meant the Bank intended to make the payments on a regular basis in any case to create that sinking fund. They just may want to consider utilising that method of financing if it is made available because at the end of the day when the Cayman Islands Development Bank is making its projections with regards to what the financing package is going to cost them, which in turn will decide on how their on-lending will be to the individuals that will benefit from this, then certainly, the less that the financing packing is going to cost the Cayman Islands Development Bank means that that benefit can be passed on to the customers. I make that observation right off the bat for the Government to consider.

It is a fact and it is more evident on a daily basis that small business and I am not suggesting that new business is not important but there are many small businesses who were established and doing well in recent times but the devastation that has caught them has left them in a position in some instances of not being able to be up and running as quickly as they can. Some are waiting on insurance, some did not have proper insurance and some did not have insurance. The real point that I want to raise here, which is in line with what the Government is saying, is that what we do not want to happen, and I say this guardedly but I say it pointedly, what we do not want to happen is the many local businesses that were operating well before Hurricane Ivan passed through our shores to not be able to get up and running, and which would then create openings for new businesses which are not necessarily Caymanian businesses and who have easy access to capital, to be able to jump in and get going and replace them before they are able to get back up and running again and find their little niche again. Because it is those types of local businesses, in every sector that you could think of, which will always give the right injection to your domestic economy. It is those types of businesses that while neither of them singly employ huge numbers of people, collectively they employ many, many individuals, not only Caymanians but residents alike and there is the spill over effect.

I want to speak to that for a minute because while the Minister— and I am moving on now trying to do this very quickly— but while the Minister spoke to mortgages and student loans and small businesses, and I am not suggesting that it is not included but I want to make sure that the business of small rental properties, and I am talking about the decent one, I am not talking about the ones that the Second Elected

Member for George Town referred to in an earlier debate, the ones that were not fit for humans to live in.

**Mr. Alden M. McLaughlin, Jr.:** Who said that?

**Hon. D. Kurt Tibbetts:** Earlier on when we were speaking about price gouging.

**Mr. Alden M. McLaughlin Jr.:** Oh yes.

**Hon. D. Kurt Tibbetts:** What I want to say in this debate is that there are several individuals and many of them are older Caymanians. I am not saying there are not some younger ones but many of them are older Caymanians who saw the business of rental accommodation as their little pension plan and some of these places have been damaged at various degrees, some of them had insurance, some did not have adequate insurance, and some did not have any insurance. One of the problems that many of these individuals are going to have is that of ordinary financing. When you look at their ages some of these people are in their late 60's and early 70's and there is going to be a problem for orthodox financing for them to repair the units. People are still living in some of the units which are in sub-standard conditions because of damage, but they cannot collect any rent because the places are not worth anything, they do not have the actual cash to repair the units and the truth is that it is difficult for many of them to expect any of the other type of assistance being offered because the units actually have an income. Therefore it is difficult to put them in a line-up of 2000 people when you can only help 1000 and say we are going to assist you while we have somebody who is with three or four children and not able to manage.

So, I am saying that I trust that what is being done by CIDB will be able to accommodate those types of people. Mr. Speaker, it is also the opportunity, with all of the technical advice with a combination of the Cayman Islands Investment Bureau and everything else, to be able to educate individuals on insurance regardless of how they compare the cost of property insurance it is going to necessarily be required when collateral is being held in any case. However, in many instances just because they could not see an event such as this happening they decided by choice not to insure because they thought that they would be saving money when in fact what befalls them now, they could have paid insurance for 20 or 30 years and still been paying less than what it is going to cost them now to repair.

I do not think that it is outside of the ambit of this debate, but I want to make one very quick point when it comes to insurance. Regardless of what transpires in the future property insurance is going to be needed. A suggestion that I would like to throw out for someone to grab on to and for it to get to the right ears, is this, and I compare it if you have a 12 month loan. The loan simply calls for it to be retired in 12

months and there are 12 equal instalments of the payment due and at the end of the 12 months you finish paying. If you wish to re-instate for the same amount no back is going to refuse you because you are a good paymaster and you can do the same thing for the next 12 months and you can continue to do that and the bank will continue to lend to you once you develop your track record.

When it comes to property insurance no property insurance company is going to have all of the premiums falling due on the same date, they are scattered just like ages. Everybody builds their homes and they go out and take out insurance at a different date; that is why the business has to open Monday to Friday every day of the week all throughout the year because it is on different days that these premiums come due throughout the entire year. I contend that if insurance premiums, all insurance premiums were divided into 12 monthly payments, equal monthly payments, and it was spread out that the insured could pay over that period of time, they would simply budget straight down like every other monthly bill and make that payment. It could not affect the cash flow of the insurance companies because there has to be the law of averages coming into place. Not all the premiums are coming due at the same time, therefore they are not collecting those premiums at one time; it is spread out throughout the year.

So, if they have some of the money coming in all of the time, the cash flow has to balance out and it cannot affect their cash flow. It would avoid people having to find \$1,500 - \$2,000 next month, and deciding not to bother with it because they do not have a mortgage. Or even those with mortgages may make that same decision consciously because they have something else to pay, a school fee or something to pay for their children, and then they end up in a situation like this with \$160,000 or \$180,000 worth of damage and a mortgage and do not know what to do, that is the type of situation we are faced with.

While I know that this is about a Government motion, it does have a role to play in all of this when this money is being lent because from a collateral point of view the bank is going to need to hold property and other things as collateral when it comes to these loans. I make that suggestion because I cannot see how it can be ignored by the insurance company. In my view, it would mean more business for them, because people who have not been insured will now insure because they can meet the payments on a monthly basis, and at the same time, it would be a relief again for all of the people who have faced this devastation but now will have to renew their premiums in the future. I chose to just take this opportunity to speak to that.

By and large in the "Whereas" section of the Motion when it says—"AND WHEREAS it is proposed that the Cayman Islands Development Bank shall borrow funds up to a principal amount of

**US\$12,000,000 or CI\$10,000,000 for the purposes of on-lending and debt consolidations.”**

It has been explained by the Honourable Minister presenting the Motion exactly what the purposes are. We do like to hear the business of the technical support because many small business owners who have the best ambition in the world, the best drive in the world, probably do not have ready access to certain information and they would be much better equipped if they are better informed and they have more knowledge of either the product they are selling or the business they are involved in. This will certainly present better opportunities for them to maximize their efficiencies and also to perhaps increase the value of their product to the customer. In general terms we do support the Motion and we certainly would ask Government to consider the few points being raised, not excluding the point in relation to the method of financing. Thank You.

**The Speaker:** Does any other Member wish to speak?

The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker.

It is very clear from the Motion itself that the total guarantee requested is a maximum of \$13 million, that is, up to a maximum of CI\$10 million guarantee to the financiers of the Cayman Islands Development Bank's intended borrowing, plus a further \$3 million in individual guarantees in respect of borrowings by small businesses from CIDB. The intention of the Motion is therefore very clear as everyone is agreeable to. The possible \$10 million guarantee by Government will provide financiers with the added security that they require in order to loan up to \$10 million or its equivalent US\$12 million to CIDB.

Once CIDB receives the \$10 million it will lend up to \$3 million of that \$10 million to small businesses in the Cayman Islands. Government is also being asked to guarantee the \$3 million and hence the Motion addresses this further request. It is very important to explain why Government is being asked to guarantee the borrowings by small businesses from CIDB and why the Government is agreeable to this request.

Firstly, any bank will have amongst its standard practices a requirement to obtain security for loans made by the bank. In the instance of loans to small businesses, coupled with the difficult times in the aftermath of Hurricane Ivan, it is likely that small businesses will not be able to provide the security for their intended borrowings themselves. Hence the Government is being asked to provide that security in the form of a guarantee to CIDB. The Government has operated a very similar mechanism for many years when it issued Government guarantees to local banks to assist individuals and families on lower incomes that could not provide the required security themselves to local banks in their quest to obtain their own property.

Secondly, CIDB is regulated by the Cayman Islands Monetary Authority. The Monetary Authority will not look favourably on CIDB if it attempted to grant loans to small businesses without any underlying security for those loans. This is another reason why Government is being asked to guarantee the individual borrowings. The Members of the House may be concerned that Government may be getting itself in a risky situation by providing the requested guarantees, there are however several factors which mitigate against the guarantees becoming an actual liability for the Government.

Firstly, the applicant must make some contribution towards the loan sought. The applicant must make some monetary contribution towards the desired level of loan funding sought or put their own assets at risk, for example by allowing a charge to be placed over their property. It is well known that when loan applicants have their own assets at risk there is more incentive to manage their affairs well as opposed to the case in which the applicant does not have any of its own assets at risk. Applicants are also being asked to participate in business courses offered by CIDB or the Chamber of Commerce. Applicants have to submit evidence to indicate that their intended business operation is viable. Applicants are also required to submit periodic financial statements to show CIDB the results of their business operation. The Government will guarantee in respect of each loan a maximum of \$50,000.

It is also important for us to explain why Government supports the request stated in the Motion. There are tremendous amounts of small business in the Cayman Islands. In the Cayman Islands Economic Development Plan 2004 – 2009 that was tabled in the House earlier this year, it is stated in that Report that there are approximately 2,500 domestic businesses excluding financial service organisations. The definition of “small” that is applied in the plan, are for those businesses that employ 125 or fewer people. Small businesses of a country are a reflection of the ingenuity and the spirit of free enterprise of its people. Small businesses create jobs, they contribute to the GDP and they spur additional cross-business spending. It is for these reasons that Government is willing to help.

Another thought that entered my mind when I read the Motion was, what impact was this going to have on the net debt ratio of Government as stated in the Public Management and Finance Law. Page 270 of the Annual Plan and Estimates for 2004 – 2005 that was tabled in the House in May shows a net-debt ratio of 55.6 percent. On page 262 of the same document, the Annual Plan and Estimates it is also shown there a listing of guarantees that the Government plans to make during 2004 – 2005. When we look at that listing it shows a guarantee of \$15 million in respect of CIDB, of course the Motion in front of us speaks of \$13 million, so it is slightly less. The impact of the guarantee is therefore already included within the stated net-debt ratio of 55.6 per cent. The issuance of Guarantees, as requested, under this Motion will therefore not in-

crease the net-debt ratio that is already included and stated in the Annual Plan and Estimates.

The Leader of the Opposition did make a very good suggestion when he stated that the Government bond issue itself was an amortising bond, and what that meant was that the interest payable on that bond would be less in that situation than if we had a case of what is often referred to as a bullet bond, where the principle is paid back at the very end, at the very life or the maturity of the bond. That is certainly a true observation and in discussion briefly with the Honourable Leader we agreed that the CIDB should be encouraged to explore that possibility. I do not think that that should be a difficulty at all.

I should like to mention at this point in time that the National Housing and Community Development Trust executed a bond issue just last week for a 20 year bond, again an amortising bond with the principle repayable over the course of the 20 years, not at the end, and it got a very good interest rate. The conditions in the market at present give a fairly good chance of a decent interest rate being achieved. It is likely that this particular bond, if the CIDB does go for a bond, would be based on the 10 year US Treasury and the yield on that is approximately four per cent at the moment, so we can expect an interest rate in the region of five per cent. So, the conditions are reasonably good for a competitive interest rate. Certainly, his suggestion that an amortising bond be looked at as opposed to a bullet bond is a good suggestion and one I believe that the Government and CIDB will take on board. I commend this Motion to the House and all Honourable Members. Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to Speak? Does any other Member wish to speak? If not would the Honourable Mover wish to exercise his right of reply?

**Hon. W. McKeever Bush:** Mr. Speaker, just to thank those who spoke, the Leader of the Opposition and the Honourable Financial Secretary. I would just like to say that the matter of financing was raised by the Leader of the Opposition and in regards to that we will just agree to the best package that is offered to the Bank and there are some already. I would certainly like to thank the Financial Secretary that is the Third Official Member for his assistance, not just for the support here but the assistance needed to get the matter here. In fact, in doing that I also need to thank the First Official Member who also worked on it.

**The Speaker:** The question is: BE IT THEREFORE RESOLVED THAT this Honourable Legislative Assembly acting in accordance with section 9 of the Public Management and Finance Law (2003 Revision) authorises the Government of the Cayman Islands to issue a guarantee to secure borrowings by the Cayman Islands Development Bank for an amount not

exceeding US\$12,000,000 (the equivalent of Cayman Islands \$10,000,000);

BE IT FURTHER RESOLVED THAT this Honourable Legislative Assembly acting in accordance with section 9 of the Public Management and Finance Law (2003 Revision) authorises the Government of the Cayman Islands to issue individual guarantees to secure borrowings from the Cayman Islands Development Bank by beneficiaries under the Small Business Hurricane Disaster Recovery Program which guarantees cumulatively shall not exceed Cayman Islands Dollar 3,000,000.

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

**Ayes.**

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

**Agreed. Government Motion No. 6/04 passed.**

[ADDENDUM ORDER PAPER]

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Orders 45 and 46(1) (2) and (4)

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.

Mr. Speaker I beg to move the suspension of Standing Orders 45 and 46 (1), (2) and (4) to allow The Proceeds of Criminal Conduct (Amendment) Bill, 2004 to be read a first and second time.

**The Speaker:** The question is that Standing Orders 46 and 46 (1), (2) and (4) be suspended to allow The Proceeds of Criminal Conduct (Amendment) Bill, 2004 to be read a first and second time. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. Standing Orders 45 and 46 (1), (2) and (4) are accordingly suspended.

**Agreed: Standing Orders 45 and 46 (1), (2) and (4) suspended.**

## FIRST READINGS

#### The Proceeds of Criminal Conduct (Amendment) Bill, 2004

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for a second reading.

#### **The Airports Authority (Amendment) Bill, 2004**

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for a second reading.

#### **The Civil Aviation Authority (Amendment) Bill, 2004**

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for a second reading.

### **SECOND READINGS**

#### **The Proceeds of Criminal Conduct (Amendment) Bill, 2004**

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I beg to move the Second Reading for The Proceeds of Criminal Conduct (Amendment) Bill, 2004.

**The Speaker:** The Bill has been duly moved. Does the Honourable Mover wish to speak thereto?

**Hon. Samuel W. Bulgin:** Yes, Mr. Speaker, thank you. I must apologise to Honourable Members of this House for the relatively short notice of the Bill before this House. I nearly said that it is going to be two minor amendments, but the last time my colleague to my left used those words it turned out to be otherwise. Therefore I would just say two innocuous amendments.

The Bill before the House carries a Memorandum of Objects and Reasons which in itself is self explanatory. I seek the support of this Honourable House and its Members in its passage. For many years we have had concerns, and I say we meaning within Government, that the Crown should not be at risk of having costs awarded against it, in instances where it seeks pursuant to the Mutual Legal Assistance Treaty (MLAT) and the Law and similar provisions to fulfil our international obligations to offer mutual legal assistance to other countries. We are talking about mutual legal assistance pursuant to the MLAT Law, the Proceeds of Criminal Conduct Law, the Criminal Justice International Corporation Law, and in more recent times the Terrorism Law. Just to put it in perspective, Sir, we are talking about instances where pursuant to that obligation we are required to restrain properties that are the proceeds of crime, be it money laundering, tourism, drug trafficking or fraud.

The concern about the awards of costs took on added significance about four years ago when as

part of our obligation we had to pursue an MLAT request before the Grand Court in a matter named McCorkles. This was a case where a husband and wife had defrauded a lot of investors through a tele-marketing scheme and some of the monies from that enterprise wound up in the banks in the Cayman Islands. We had an MLAT request through the United States Department of Justice to restrain the proceeds and the Grand Court at the time, having been satisfied on the face of the records which were presented, that there was justification for granting the restraint order went ahead and did so. The restraint order was subsequently challenged and at the end of the day after a long fight all the way to the Court of Appeal, the order was discharged on a technicality, and that technicality has to do with the fact that although we did our part in the Cayman Islands, there was a holiday in the United States and that affected the time within which a certain application had to be made there. So, instead of being made on the Monday, which was a holiday in the United States, it was made on the Tuesday therefore the Grand Court and the Court of Appeal found that it was done one day late, in the United States; nothing to do with us. Suffice to say that at the end of that exercise the order was discharged and we were hit with a costs order, penalised for want of a better word. Clearly that was matters beyond our control.

It ought to be borne in mind that invariably the Crown and the Attorney General's office is seeking to do no more than to fulfil an obligation to provide assistance to foreign law enforcement agencies. Where the obligation is certified as existing by the relevant central authority under the MLAT law it would be the Honourable Chief Justice, under the other laws it would be the Attorney General's office. Where that obligation is certified to exist the Attorney General's office in law has an obligation to take the matter to the Court, it cannot refuse to do so. Where in such instances for technical reasons the application fails, it is, in my view, inappropriate for the Crown to then be hit with a cost order and penalised under those circumstances.

Indeed, it is different from the usual civil inter-parties hearing between contesting parties in litigation. Here the application is usually made what we call *ex parte*, that is, one side appears before the Court and applies and the Court having been satisfied on what is presented to it grants the order. The usual thing is that contested inter-parties hearing usually comes at a later stage where the party who is restrained usually is sometimes a convicted criminal or someone who is accused based on very cogent evidence that is presented before the Court. They employ very experienced, able and expensive Queens Counsel to challenge these orders and sometimes they are successful in doing so because they are able to produce to the Court materials which are peculiarly within their knowledge and which would cause the Court to discharge or vary the order in some instances. It is my view, that in those circumstances, the Court should not be allowed to impose a cost order on the State for merely seeking



to do its public duty, which is to enforce the criminal law of these Islands as well as the criminal law of other countries. It is a public duty.

Recently we were in the United States and we went to the Department of Justice and had certain discussions. Suffice it to say that they were amazed to know that where in the Cayman Islands we restrain proceeds of criminal conduct, that the Grand Court here has the power to vary those orders to allow a defendant to pay legal expenses out of it. They were surprised to know that.

*[Inaudible interjection]*

**Hon. Samuel W. Bulgin:** No! Restraint! Prior to conviction, where the person is accused and the proceeds have been earmarked as proceeds of crime. We have a very generous system here where the Court has the power to vary those restraint orders to allow the defendants to pay legal expenses out of it. Sometimes by the time the matter comes to a conclusion the funds are dissipated. We know just from the McCorkle case that I mentioned a while ago, that in the United States if a lawyer allows himself to be paid out of such funds and it turns out at the end of the day that the Court makes a finding that the funds are proceeds of crime they have to pay it back. We had the same problem recently with F. Lee Bailey in the McCorkle case, where he was hit with contempt of Court proceedings because he was paid out of what turned out to be proceeds from the McCorkle matter. We have a very generous system here.

What we find is that the matters we are dealing with are a restraint order and an enforcement of confiscation order. Just for the benefit of Honourable Members, a restraint order is where a person has been accused of a crime, fraud, money laundering, drug trafficking, whatever it is, and the police or the investigating body has evidence to suggest that there are monies that are the proceeds of that lying somewhere in a bank account in the Cayman Islands, and in order to prevent that money from dissipating before the trial is concluded we are asked to obtain an injunction from the Grand Court to immobilize the funds in the account pending the outcome of the trial. So, proceeds of crime, invariably it turns out that the prosecutor's instincts are right, because the paper trail shows that they are proceeds of crime. It is important because in the case of fraud, eventually when there is a confiscation order, the confiscation order is made after the person has been tried and convicted, the Court makes a final order that yes it is the proceeds of crime then we have what is known as an application to enforce the confiscation order, which is final. Those proceeds are then invariably used to pay restitution to victims as was in the case of McCorkle. Therefore it is important that those funds wherever they are that they be tracked down and be immobilised pending the outcome of the trial and be used to pay restitution

Similarly, the principle is also germane where the proceeds itself are the proceeds of drug trafficking, ill-gotten gains as we call them. Then there is a general public policy that persons who are convicted of those offences should not benefit from the proceeds of those offences. So it should be made available to the State machinery to assist in its suppression and fighting of drug trafficking and in more recent times terrorism. There is every reason why the state as a matter of public policy must pursue these accounts wherever they are and restrain them with a view to confiscating them at the end of the day.

In seeking to do so, the Crown and the Attorney General's Department should not be at risk of being penalised with an order for costs in instances where for purely technical reasons those orders or the application is unsuccessful. It is my view, that there is every reason once the Court having been moved initially is satisfied that the application is justified, if it has to be discharged later then the Crown should not be penalised.

The foregoing presupposes that when the Crown makes those applications it does not do so in bad faith, there is no demonstration of vexatiousness or frivolities. In those circumstances I think the Court ought to reserve the right where it is so satisfied to impose a cost order and in light of that I have prepared and circulated a Committee Stage Amendment to address those concerns and that will allow the Court to make the order for costs where it is satisfied that in making the application it was done in bad faith or it was frivolous and vexatious.

The question might very well be asked as to why should the Crown not have costs awarded against it in pursuance of its international obligation to provide assistance and can the foreign countries not assist the Cayman Islands in offsetting some of these costs? The usual protocol, the usual convention carries a provision which says that each party to the convention or the agreement shall bear their respective costs as it relates to proceedings to provide assistance. There are some also which says that in some instances the cost of enforcing the order or providing assistance may be negotiated between the parties. Invariably what happens in those latter circumstances is that the costs that are covered is the cost of third parties, custodians of records who are put to great expense as in photocopying, searching, authenticating and otherwise, providing documents, but costs that relate to proceedings are not covered in those circumstances.

This brings me to the next point, where the question might be asked, 'well why don't you have asset sharing agreements?' The truth is that most of these agreements do have asset sharing agreements, but the stage at which the assets are shared are usually late in the day after proceedings have been concluded and in the case of fraud, only if there are no victims to be compensated and what we find in most of the cases where fraud is involved is that millions of dollars have been confiscated and the money has

been used to pay restitution to victims. In those circumstances there is usually nothing to share. In the last four years we have had something in the region of about \$464,000 worth of costs that have been claimed against the Government in these sorts of proceedings; a huge debt on our Budget and all because we are seeking to give effect to our international obligation to provide assistance in enforcing the criminal law of the Cayman Islands and those of other jurisdictions.

Sir, the Bill also has another provision dealing with an amendment to the Schedule that would address the question of whether it is only an affidavit that can be provided by the requesting country when these applications are made. In my view, the need for this amendment sort of highlights and ducktails into the other provisions because in a recent matter that we had before the court, an application from the Czech Republic, our schedule in the Proceeds of Criminal Conduct Law provides that a requesting country shall provide an affidavit setting out the allegation against the person who is being investigated, the circumstances leading up to the offence that has been committed and so on. 'Affidavit' in law is a term of art, it is a sworn document. The requesting country informed us that their law does not allow them to swear an affidavit, they can provide a document of a somewhat similar nature but it cannot be a sworn affidavit. When we went to the Grand Court with a letter from the competent authority setting out the reasons, the Grand Court said: "I empathise with you, but our law says an affidavit, there is no affidavit" and so the application failed. That is a matter that is entirely outside of our control.

There are in excess of 150 countries that are members or signatories to the Vienna Convention and most of these countries employ different systems and methods, and it is difficult for us to incorporate in our law the various systems that obtain in these member countries. Therefore what we seek to do is to amend the language in our law to cover as much as we can, the eventualities in these countries and so we are saying in the amendment in clause 3 that we would accept an affidavit by the appropriate authority of a designated country or a declaration or any other written statement by the appropriate authority specifying the things that are required in the Schedule. Hopefully in the future when those sorts of documents, non-affidavit, but documents having the same purpose turns up in a request then the request itself can be accepted and given effect by the Court.

I think I have articulated it the best way I can the reasons for the amendments and I seek the support of Honourable Members in effecting the amendments as contained in the Bill before this Honourable House. I thank you.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Mr. Alden M. McLaughlin, Jr:** Thank you, Mr. Speaker. With the greatest of respect to and regard for my good and learned friend, the Second Official Member, I have to say that after almost four years in this Honourable House I do not believe I have ever seen or heard of a more patently self-serving proposal for legislative change.

It is, and I say this with the greatest of respect, it is, in my view, tantamount to an abuse of office for the learned Attorney General, the Second Official Member, to propose to this Honourable House an amendment to the Proceeds of Criminal Conduct Law which would exempt in its original form entirely, the Attorney General from paying costs, well it would prevent the Grand Court from ordering that the Attorney General pay costs in relation to any application, in relation to a confiscation order, restraint order, charging order or related order. I am somewhat—I do not know how to say this Mr. Speaker—I see that the Honourable Second Official Member has sought to address the initial concern that I mentioned to him privately about this matter by proposing a Committee Stage Amendment which now would allow the Grand Court to order payment of costs in circumstances where the application was made in bad faith or was frivolous or vexatious. However, I should say up front that I do not believe that that even begins to address what is fundamentally wrong about this proposal.

We have heard the Honourable Second Official Member outline the reasons why applications fail. He has talked about fraud, about terrorism, about the bad guys and how we need to make sure that we are able to track down, access these funds and keep them so that they can be paid in appropriate circumstances for restitution. There is nothing at all wrong with that, except this, everything he said proceeds on the assumption that the money that is being tracked down is the proceeds of criminal conduct and the persons who are affected by all of this are 'bad guys', in the language of my second son.

I have spent about 15 years of my career doing asset recovery therefore I understand how difficult a task that is. I understand the need to ensure that funds are properly restrained so that at the end of the day if you win there is something there to pay everyone involved and to allow restitution. I have no argument with that. However, it has to be something fundamentally wrong to pass legislation which would prevent the court from deciding that in appropriate circumstances costs ought to be awarded against the Government, and that is what this is proposing.

The Honourable Second Official Member is unhappy, the Government is unhappy because some CI\$264,000, CI\$294,000, I cannot remember which, in costs have been awarded against the Government as a result of applications which have failed and the reason the applications fail is simply this. The Government, the Attorney General's office got it wrong, technical reasons or not. Applications brought on a public holiday in some other jurisdiction or not brought as the

case may be, the reality is the applications failed because there was something wrong or they were unable to establish to the satisfaction of the court a proper basis for the claim or for the order that was sought. That is the reality! We all know how much money it takes to run litigation. When any defendant is brought before the court on an application which was misconceived, ill-founded, technically wrong or for whatever reason, he, she or it has to pay substantial fees to have that application defended, if the application proves to have been ill-founded or misconceived or wrong or technically incorrect or whatever euphemism you want to employ, why should that innocent—and I use that word advisably—defendant be forced to carry his, hers or its costs and the Government goes scot-free.

In the usual run of things and in the legal language which we are used to employing, costs follow the event. That means if you win, you get paid; if you lose, you pay the other side. The court generally has a jurisdiction and discretion to decide in appropriate circumstances to depart from that rule except, if those circumstances are very limited, very restricted and carefully circumscribed. However, the court does have that discretion.

What we are proposing here is to restrain the ability of the court to exercise that judgment and that proposal is being brought by the Government and, in particular, by the office of the Government charged with the constitutional function of prosecuting these sorts of actions.

**The Speaker:** Honourable Member, I would like to suspend for five minutes to allow the change of the recording tape.

**Proceedings suspended at 7.38 pm**

**Proceedings resumed at 7.59 pm**

**The Speaker:** Proceedings are resumed.  
The Second Elected Member for George Town continuing.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, thank you, Sir. I hope I really have not been too hard on my good friend, the Honourable Second Official Member and that he will come back.

Seriously, Mr. Speaker, I believe this piece of legislation is without precedent. It is unfair in the extreme and it creates the presumption that the Attorney General's office is always right in these applications. It is bound to lead to a more cavalier approach to the making of the applications once those involved know that there are no cost implications for the Government. In my view, it substitutes the judgment of the office of Attorney General for that of the court and there must be something very, very wrong about that. We have seen in other instances of legislation the court's unhappiness of having its hands tied, being forced by

legislative restraint or constraints to act in a way which either prevents the exercise of discretion by the court or severely restricts the ability of the court to make certain rulings or impose certain sentences.

For the life of me, and I have sought over the brief intermission to think why it would be deemed necessary to undermine the court's discretion in the way proposed, and I have considered the learned Attorney General, Second Official Member's statements or submissions on this point. I must say that I find them entirely unconvincing. Let us use one of his examples, if for instance there is some technical reason why the application fails because there was something that ought to have been done, for instance the United States which was not done as it ought to have been done, and even though the Cayman end of it through the Attorney General's office had done everything they ought to have done properly, the application failed. I can see why the Attorney General here would say the Cayman Islands Government ought not to be bound to pay those fees, I can see that, but for the life of me I cannot see why those costs ought to be visited upon the innocent defendant. If there is something that has gone wrong because for instance, the USA of the arrangement has not done everything they ought to have done then the USA end ought to pay the defendant's cost.

So, the order is made against the Cayman Islands Government because they brought the application and it is over them that the court has jurisdiction and they must have in place an arrangement to recoup those costs from the USA end. It cannot be right!

Let us use another example which everyone may relate to, and this is real because I have been involved in these sorts of things. Suppose the application is brought against one of the local banks, let me not call any name for fear that somebody may take it the wrong way, because there is an account at that local bank. As the Second Official Member has said, that bank incurs significant costs in hiring a firm of attorneys together with highly paid Queens Counsel to defend the application. We all have to remember, the bank has a duty to their client; they just cannot be paying out money because somebody in the Attorney General's office says the money ought to be paid out. So, they have to go and present the facts to the court in certain circumstances. If an ex-parte order is made, they may want to make an application to vary the terms of that order or to have it discharged entirely. If it then turns out on the application to discharge that the order ought not to have been made in the first place because there was some technical reason, there was something that ought to have been done in Miami that was not done and despite the best efforts of the Attorney General's office the order, though granted, is discharged because of a technical point, why should a local bank be out of pocket, or have to look to the client or their customer to recoup the significant outlay of fees when they are completely innocent in every respect because they are not the customer? It is the

customer's account but the bank is forced by circumstances to become involved. It happens all the time. As a matter of course it happens.

Somebody else should pay besides the innocent parties and if it is not the Cayman Islands Government then it ought to be the instructing Government. What is being proposed here, if passed, will have the effect of preventing the Cayman Islands Court from looking at the circumstances and saying '*I hear what you are saying Mr. Attorney General, but your application either fails or the order is discharged because of so and so. Costs are awarded against the Government.*' As I said, for the life of me I can see no reason, fairness or logic. Nothing tells me that there is any reason whatsoever why this piece of legislation, this amendment ought to be made and why it ought to get the support of this Honourable House.

I cannot and I will not agree to substitute the judgment of the court, the learned Chief Justice or the Court of Appeal and the President and Judges of the Court of Appeal for that of the learned Attorney General as much regard and respect as I have for him and his office. That function of deciding against whom costs ought to be ordered is one that ought to continue to be reserved to the court. It is not right; it is not fitting; it is not proper and it is not any of those things for this Honourable House to pass legislation to remove that function from the court. In my view, it is even less proper for such an application to be brought by the office of the Attorney General who is intimately and integrally involved in these applications and to whose benefit such a piece of legislation will derive. I thank you, Sir.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, under normal circumstances I would certainly not rise because the Attorney General can defend the cause. It is late in the evening and normally I would not try to challenge anything from the Bar Association but the Government should never be at risk of having costs awarded against it whether it seeks through the MLAT to fulfil its obligations to grant international legal assistance. Dealing with such cases it is international criminals that the Cayman Islands face and it is not the Honourable Attorney General, it is not the person but it is the Cayman Islands that we are talking about.

There are very sound reasons why costs should not be awarded against the Government and why the Bill should be supported. The first of course, is the fact that the Crown is seeking to do nothing more than to fulfil an obligation to give assistance. Where that obligation is certified as existing by the central authority or so advised to exist by the Office the application to the Court for a restraint order is therefore obligatory. Therefore the Crown is not taking just mere

partisan litigation as in other civil actions where costs may be awarded. The same principle would hold true whether the Cayman Islands acts in the right of a foreign government or in the right of the Cayman Islands in seeking to enforce domestic criminal laws of this country. Either way, the Attorney General's office has an obligation to act and so it would seem to me that the Crown should be protected from the risk recognising the public interest in the enforcement of the criminal law abroad, but also in the land here.

I am sure that the Second Elected Member for George Town would find those considerations are recognised in law if he searched far enough and if he wanted to make the case that way, but he is presenting a case against, so he is not going to find that these things are recognised in law. I remember the Stowers Law where they brought a motion to protect just the Commissioner of Police; that was a different thing and this for instance, is the MLAT and the Government has an obligation to act.

I would not want to continue further. I am not a lawyer but I do understand a few things and certainly, as a member of the Cabinet the Attorney General has a duty to do these things. I certainly want to put on record my support—I think I can say our support, the Cabinet's support because it came here by way of Cabinet, in supporting what he is doing. He has never misled us yet and if anything it can be said he errs on the side of caution. Certainly, I would want to support him and continue to support in this Assembly on what he is trying to do.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? If not would the Honourable Second Official Member wish to exercise his right of reply?

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I think I just need to clarify one issue that has been raised by my learned friend and colleague, the Second Elected Member for George Town. He mentioned and gave an example that where an application is brought by a bank in opposition to a restraint order, he questioned why is it that the bank should be saddled with the costs of seeking to vary or discharge the order and I am using his words.

I would dare him to tell me one instance where proceeds of crime have been restrained in a bank and the bank seeks to have the order discharged or varied. Never! It cannot be done unless the bank is acting in collusion with the criminal. The bank has to be a neutral party in those proceedings. It cannot seek to discharge the order. It cannot! The bank gets involved when what is known as a Production Order for documents is served and the bank as a custodian under the Confidential Relations and Preservation Law cannot disclose the information unless it makes what is known as a section 4 application to the Grand Court, and the Grand Court gives directions under what circum-

stances the information can be disclosed and so insulates the bank from any civil action in breach of its common law contractual duty to its client. That is where the bank makes application to the court.

Where the court prima facie is satisfied that proceeds of crime is laying in an account somewhere in some bank and issues a restraint order immobilising those funds, the bank has no interest at all in whether the funds are immobilised or not. They cannot as a third party, in those circumstances, properly bring an action to either vary the restraint order or to have it discharged. So, I think what he really meant must have been in instances where an application is made to produce documents to the bank or the agency as custodian of records but certainly not as an account holder, the bank cannot do that. If they start doing that then we are going to have to start taking a good look at them.

In making a section 4 application they do incur costs and usually what happens is that most of the agreements that we have provide for third party costs. If we look, for example, at the most recent concluded agreement with the United States under the Tax Information Exchange Authority, there is a provision that provides for third parties costs to be paid under those circumstances. We are not seeking in any way at all to undo those things because it would be unfair to impose an onerous obligation on the bank to search, photocopy, authenticate, transport records and be unable to recover their costs when they are in fact as my learned friend says 'innocent third parties in those circumstances'.

What we are concerned about is ring fencing, tainted money, the proceeds of crime which it invariably turns out to be, then our concern is that you cannot seek to further enrich a criminal in those circumstances by having to hand out the money from the State to him and say go and have yourself fun because by virtue of some technicality we have failed or were unsuccessful in the application.

Giving an example without belabouring the point, in the McCorkle matter, they pleaded guilty before the court to the telemarketing fraud, \$140 odd million were involved, yet we had to discharge the order in Cayman and turn around and pay them costs, there is no question of them being innocent in those circumstances. However, the money that was confiscated and the United States made sure that it never went back into their hand because they sent down here a stipulation order which allows the bank to send the money to a USA marshals account in the United States and so the victims were compensated, but we had to turn around and pay costs out of our funds here. That is morally and legally wrong and I am not in any way, would never seek to trespass on the authority of the Grand Court, a Court of superior record, the Courts constitutionally recognised and usually, as a matter of policy you would seek to in somehow ensure that you are not in any way derogating from the au-

thority that is vested in the Court constitutionally, or trespassing in any way on their remit.

I thank the Honourable Member for his contribution to the Bill and I also thank the Leader of Government Business, and Members of the House and I do commend the Bill to this Honourable House. Thank you.

**The Speaker:** The question is that a Bill shortly entitled The Proceeds of Criminal Conduct (Amendment) Bill, 2004 be given a second reading. All those in favour, please say Aye. Those against, No.

**Ayes. No.**

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

**Mr. Alden M. McLaughlin, Jr.:** May we have a division, Sir?

**The Speaker:** Madam Clerk, would you please call a division?

#### Division No. 8/04

**Ayes:** 6

Hon. W. McKeever Bush  
Hon. Gilbert A. McLean  
Hon. George A. McCarthy  
Hon. Samuel W. Bulgjin  
Hon. G. Kenneth Jefferson  
Capt. A. Eugene Ebanks

**Noes:** 3

Mr. Alden M. McLaughlin, Jr.  
Ms. Edna M. Moyle  
Mr. V. Arden McLean

**The Clerk:** The results of the Division. 6 Ayes, 3 Noes and 8 Absent.

**The Speaker:** I concur with the count, the Motion is accordingly carried.

**Agreed by Majority: The Proceeds of Criminal Conduct (Amendment) Bill 2004 given a second reading.**

#### The Airports Authority (Amendment) Bill 2004

**The Speaker:** The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker. I beg to move the Bill entitled "A Bill for a Law to confer upon the Cayman Islands Airports Authority Responsibility for the control of Air Navigation Services and for Incidental and Connected Purposes."

**The Speaker:** Does the Honourable Mover wish to speak thereto? The Bill has been duly moved.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

This amending Bill seeks to confer on the Cayman Islands Airports Authority responsibility for the control of Air Navigation Services and for Incidental and Connected Purposes. In particular, the Bill seeks to remove from the responsibility of the Civil Aviation

Authority the responsibility for air navigation services. This is necessary for this country and the Civil Aviation Authority to meet the demands of the United Kingdom Government and also the recommendation of the International Civil Aviation Organisation with regards to regulatory and operational functions. This Honourable House should know that in March two pieces of legislation were passed, the one which I am now speaking to relates to the operational side of the Cayman Islands Airports. The service of air traffic control, air navigation services as it is generally called, is normally a part of operations. However, when the Law was passed it was seen by the expert who advised on this legislation that the regulatory authority keeping the provision of air traffic control would bring to it a revenue stream which it would not have otherwise. In effect if this is transferred to the airports authority, which I trust this Honourable House will do, most of the revenue that is coming in to Civil Aviation on a whole will be going to the Airports Authority.

There are some small revenue streams in other areas which will be going to the Civil Aviation Authority but it will not be sufficient for its operation. This will mean that some of the monies generated from the Airports Authority will have to be allocated to the operations of the Civil Aviation Authority. For example, this will be similar monies which are collected on behalf of Government by the Cayman Islands Monetary Authority. Part of these monies will go to its operations and it is clearly segregated.

When this matter came about it was carefully looked at and it was felt at this time that it would be appropriate for the Civil Aviation Authority to have the operation of air traffic control. As usual the legislation was sent to the U.K. and it was found acceptable then, however since that time the Air Safety Security International (ASSI), which is a company that has been formed by the British Civil Aviation Authority (BCAA) has said that it must be removed from the Civil Aviation Authority and brought into the Airports Authority.

It is a very serious matter that I am speaking to. It is easy enough Act for us here in this Honourable House to do but it is taken more seriously. Why I say it is serious is because this company, Air Safety Security International has been created to look after and in effect manage, on behalf of the United Kingdom Government, the business of aviation in the territories. From information available to me that I have seen, it appears that ASSI, which is the acronym for the company, is poised to take over the control of the Cayman Islands Civil Aviation services if we do not comply even in an instance where they can present a weak argument where we would be in non-compliance. They have now partially taken over the Turks and Caicos operation and there are recommendations in place with regards to the British Virgin Islands and the Falklands.

It is a serious Act that we are asked here to deal with, one simple as to what we can do but its implications are strong. I do not believe any Member of

this House would want to see things change where after 50 years of effort and struggle and dedicated service we have brought our airport to a category 1 rating by the Federal Aviation Authority (FAA). Should we not comply I stand here and say to the Honourable Members of this House it can have far reaching effects. In fact these Bills should have been brought here about two and a half months ago when we came to the last meeting of the House, but because of the adjournment at time it did not come to the Floor. However, I am aware that there are certain entities in the UK waiting to see whether this will be done or not and if it is not done then they will act as I am sure they have already decided they would like to act.

The question then for the House is that we remove the responsibility for the control of air navigation services from the Civil Aviation Authority and confer that on the Airports Authority, as we are obliged to do for reasons which I have stated. I could add more to this and I will, if necessary, but I think in a brief summary I have presented the information that relates to it and I so recommend it to Honourable Members.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Leader of the Opposition.

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

Mr. Speaker, when the two Bills had come originally, as the Minister referred to just a while ago, we had looked at them and we had been made aware in discussions off the microphone of the reasoning behind the two Bills and I know that they are individual Bills but my little contribution is going to reflect on both so that we do not have to go into the same detail again.

Understanding what the situation is, certainly the Opposition have no objections to the Bills that are proposed at present. It would be enlightening for us if perhaps in the Ministers winding up if he could just share with us the arrangements that will be made with regards to what was formerly the physical assets of the Civil Aviation Authority, now that you are going to have the Airports Authority, which will be the operational side of it and the Civil Aviation Authority being the regulatory side.

I notice in the Bill to confer upon the Cayman Islands Airports Authority responsibility for the control of air navigation services and for incidental and connected purposes that in section 2 subsection (b) the Airports Authority Law, 2004, is proposed to be amended in section 5(1) by repealing paragraph (b) and substituting the following paragraphs:“(b) to **provide and maintain such runways, taxiways, aprons, terminals and other services and facilities, including associated lighting fixtures, as are in its opinion necessary or desirable of the efficient operation of the airports or as the Governor of the Director-General may require;**

I understand that the "Director General" is the new terminology for the individual who heads the Civil Aviation Authority. From the regulatory side of it we now understand that the Civil Aviation Authority will still require of the Airports Authority all of the necessary arrangements to be put in place for the safety and everything else to be upheld, and the standards to be upheld as they were or have been under the one umbrella.

So, we do not have disconnect in the functions, we just simply have a separation of the responsibilities but there is still an overarching responsibility for the regulations and the standards that will be vested with the Civil Aviation Authority. It is important to make that point because if one does not clearly understand, not only the purpose of the two Bills but of the functions of the two units as they are separated, including the responsibility which is being shifted here, one might question whether there is any disconnect with safety standard and such the like. We are satisfied that there is no such thing and that while the activities are separated from operational and regulatory the truth of the matter is that it is very likely from here on in that safety standards especially, may well be enhanced because of the separation because there are clear lines of responsibility now and the regulatory side will be calling specifically because that is their responsibility and they have no connection with the operational side, and they will simply be ensuring that the requirements on the regulatory side are met. The operational side will be able to simply concentrate solely on the operations and the running and management of the airport itself and know full well what the requirements are and the standards that they have to meet. Therefore there is no problem with that.

With regards to assets, I raise the question because of what is unsure now. This is because of the separation and where the assets will lie; where the income will be generated and how this situation will normalise itself. I know the regulatory side will have an income in various areas but the physical side, which was vested with the CAA when the Authority itself was initially formed, we are not quite sure how that is going to be in play. That does not decide on the support for the Bills; that is simply a matter of us having knowledge of exactly what those things are.

Certainly, the Opposition is in support of both Bills at hand and would like to see safe passage of them as quickly as possible. Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? If not would the Honourable Minister for Health wish to exercise his right reply?

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

There is really little to add in that I think that the Leader of the Opposition very well explained the situation, however, he has asked if some clarification could be made with regards to the assets. The assets

of what used to be the CAA will largely now all go to the Airports Authority. There will be very few things left except the building that housed the management offices of what used to be the old CAA, but assets on a whole will go to the Airports Authority. However, the old CAA had approximately \$3 million to its good in capital. The consultant that we have been dealing with has, along with the accountants for the two, sat down and looked at what it would cost in terms of salaries, electricity and all the rest. Recommendation has been made as to how these monies should initially be shared and thereafter projected as to what the regulatory side will bring in as revenue for the licensing, registration of aircrafts and the fees they will charge for inspection of the various aircraft, and so on, which arrive into the Island, including light aircrafts, and where that falls short it will have to be topped up by revenues from the CAA.

That is a point of discussion as to whether it will be something similar to the way it is done in the National Roads Authority where a certain percentage will be designated, or whether it will be more appropriate for the CAA to build the Airports Authority, which they must for the regulatory role they play, and whether that will reach an amount that will offset exactly what they have to do.

The rentals from the terminal building and all the rest of that will go to the Airports Authority. One will be largely revenue earning and the other will be lesser in that regard. However, that is the way that powers greater than ourselves think that it should be and that is what we have to comply with. I thank the Member who spoke and other Members for their tacit support on this particular amendment to the Airports Authority Law.

**The Speaker:** The question is that a Bill shortly entitled The Airports Authority (Amendment) Bill, 2004 be given a second reading. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed: The Airports Authority (Amendment) Bill, 2004 given a second reading.**

**The Civil Aviation Authority (Amendment) Bill, 2004**

**The Speaker:** The Honourable Minister for Health.

**Hon Gilbert A McLean:** Mr. Speaker, I beg to move a Bill for a Law to Divest the Civil Aviation Authority of Responsibility for the Control of Air Traffic and the Provision of Air Traffic Services to confer upon the Authority Responsibility for the Regulation of Air Traffic and for Incidental and Connected Purposes.

**The Speaker:** The Bill has been duly moved, does the Honourable Mover wish to speak thereto?

**Hon. Gilbert A. McLean:** Mr. Speaker, I think I have explained the situation in speaking to the amendment to the Airports Authority Law and there is little more that I could add to this unless Honourable Members should wish that I explain some point. I would recommend it to Honourable Members. We are in effect removing one clause from one law, placing it another and vice versa.

**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. Gilbert A. McLean:** Mr. Speaker, just to thank Honourable Members for their tacit support to this amendment which I trust will put us ahead of the desire to take away from us what we have rightfully earned by having this amendment made. Thank you.

**The Speaker:** The question is that a Bill shortly entitled The Civil Aviation Authority (Amendment) Bill, 2004 be given a second reading. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. The Civil Aviation Authority (Amendment) Bill, 2004 given a second reading.**

**The Speaker:** The House will now go into Committee to consider the Bills.

**House in Committee 8.52 pm**

## **COMMITTEE ON BILLS**

**The Chairman:** Please be seated. The House is now in Committee and 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 state the Bill and read the clauses.

### **The Proceeds of Criminal Conduct (Amendment) Bill, 2004**

**The Clerk:** Clause 1 Short title.

**The Chairman:** The question is that clause 1 forms part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. Clause 1 forms part of the Bill.

**Agreed: Clause 1 passed.**

**The Clerk:** Clause 2 Insertion of section 40A in the Proceeds of Criminal Conduct Law (2004 Revision) – costs.

**The Chairman:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Chairman.

Mr. Chairman, in accordance with the provision of Standing Order 52 (1) and (2) I the Second Official Member seeks to move the following amendments to The Proceeds of Criminal Conduct (Amendment) Bill, 2004 that the Bill be amended in clause 2 and the new section 40A proposed for insertion and the principle Law are as follows: by substituting a “comma” for the “full stop” appearing at the end of paragraph (b); and by inserting below paragraph (b) the words “unless it is shown to the satisfaction of the Grand Court that the Attorney General’s application in relation to the confiscation order, restraint order, charging order or relater order was made in bad faith or was frivolous or vexatious”.

**The Chairman:** The question is that the amendments form part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**Agreed: Amendment passed.**

**The Chairman:** The amendment forms part of the clause. The question now is that the clause as amended forms part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes**

**The Chairman:** The clause as amended forms part of the Bill.

**Agreed: Clause 2 as amended passed.**

**The Clerk:** A Bill for a Law to Vary the Law Relating to Confiscation Orders, Restraint Orders and Charging Orders; and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title forms part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The Title forms part of the Bill.



**Agreed: Title passed.**

**The Airports Authority (Amendment) Bill 2004**

**The Clerk:**

Clause 1 Short title and commencement.  
 Clause 2 Amendment of section 5 of the Airports Authority Law, 2004 – functions of the Authority.

**The Chairman:** The question is that clauses 1 and 2 form 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 forms part of the Bill.

**Agreed: Clauses 1 and 2 passed.**

**The Clerk:** A Bill for a Law to Confer Upon the Cayman Islands Airports Authority Responsibility for the Control of Air Navigation Services; and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title forms part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The Title forms part of the Bill.

**Agreed: Title passed.**

**The Civil Aviation Authority (Amendment) Bill 2004**

**The Clerk:**

Clause 1 Short title and commencement.  
 Clause 2 Amendment of section 5 of the Civil Aviation Authority Law, 2004 – functions of Authority.

**The Chairman:** The question is that clauses 1 and 2 forms 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 forms part of the Bill.

**Agreed: Clauses 1 and 2 passed.**

**The Clerk:** A Bill for a Law to Divest the Civil Aviation Authority of Responsibility for the Control of Air Traffic and the Provision of Air Navigation Services; to Confer upon the Authority Responsibility for the Regulation of

Air Traffic; and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title forms part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The Title forms part of the Bill.

**Agreed: Title passed.**

**The Chairman:** This brings to an end the committee stage. The House will now resume.

**House resumed at 8.57 pm**

**REPORTS ON BILLS**

**The Speaker:** Proceedings are resumed.

**The Proceeds of Criminal Conduct (Amendment) Bill 2004**

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to report that The Proceeds of Criminal Conduct (Amendment) Bill 2004 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 Airport Authority (Amendment) Bill 2004**

**The Speaker:** The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to report that a Bill for a Law to Confer Upon the Cayman Islands Airports Authority Responsibility for the Control of Air Navigation Services; and for Incidental and Connected Purposes 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 Civil Aviation Authority (Amendment) Bill 2004**

**The Speaker:** The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to report that a Bill for a Law to Divest the Civil Aviation Authority of Responsibility for the Control of Air Traffic and the Provision of Air Navigation Services to Confer

upon the Authority Responsibility for the Regulation of Air Traffic; and for Incidental and Connected Purposes 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.

### THIRD READINGS

#### Suspension of Standing Order 47

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.  
Mr. Speaker, I beg to move for the suspension of the relevant Standing Order to allow the Bills to be read a third time.

**The Speaker:** The question is that Standing Order 47 be suspended in order to allow for The Proceeds of Criminal Conduct (Amendment) Bill 2004 to be read a third time. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Standing Order has accordingly been suspended.

#### The Proceeds of Criminal Conduct (Amendment) Bill 2004

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.  
Mr. Speaker, I beg to move that The Proceeds of Criminal Conduct (Amendment) Bill 2004 be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Proceeds of Criminal Conduct (Amendment) Bill 2004 be given a third reading and passed. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Proceeds of Criminal Conduct (Amendment) Bill 2004 has been read a third time and is passed.

**Agreed: The Proceeds of Criminal Conduct (Amendment) Bill 2004 given a third reading and passed.**

#### The Airports Authority (Amendment) Bill 2004

**The Speaker:** The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move that a Bill for a Law to Confer upon the Cayman Islands Airports Authority Responsibility for the Control of Air Navigation Services; and for Incidental and Connected Purposes be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Airports Authority (Amendment) Bill 2004 be given a third reading and passed. All those in favour please say Aye, those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. The Airports Authority (Amendment) Bill 2004 has been read a third time and is passed.

**Agreed: The Airports Authority (Amendment) Bill given a third reading and passed.**

#### The Civil Aviation Authority (Amendment) Bill 2004

**The Speaker:** The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move that a Bill shortly entitled The Civil Aviation Authority (Amendment) Bill 2004 be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Civil Aviation Authority (Amendment) Bill 2004 be given a third reading and passed. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Civil Aviation Authority (Amendment) Bill 2004 has been read a third time and passed.

**Agreed: The Civil Aviation (Amendment) Bill 2004 given a third reading and passed.**

**The Speaker:** The Honourable Leader of Government Business.

### ADJOURNMENT

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker.  
Mr. Speaker, before I move the adjournment I wish to add my words of welcome to the Honourable Third Official Member, the new Financial Secretary. I have worked with him, Sir, and found him to be a very capable young man who knows what he is doing. These are challenging times but I believe he is up to the task and certainly will have my support at all times.

Mr. Speaker, The First Official Member has been with us a long time and has only moved to that one position. I certainly would like to congratulate him from this forum. He is a good Christian man and has served this country well. Leaving us as the Financial

Secretary with \$40 million in general reserves; that is a good position and I know how hard he has worked to build up a strong financial industry. Sir, he has my support and he will continue to have my support in the new position and I believe that the Civil Service of this country, and indeed, the Cayman Islands as a whole, will be well served in these new appointments.

Mr. Speaker, I move the adjournment of this Honourable House for a date to be fixed, sine die.

**The Speaker:** The question is that this House do now adjourn sine die, that is until a date to be fixed. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Speaker:** This Honourable House stands adjourn sine die.

**At 9.04 pm the House stood adjourned sine die.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**13 DECEMBER 2004**  
**11.28 AM**  
*First Sitting*

**The Speaker:** I will invite the Honourable Third Official Member responsible for the Portfolio of Finance and Economics to lead us in prayers.

**PRAYERS**

**Hon. G. Kenneth Jefferson:** Let us pray. *Almighty God, from whom all wisdom and power are derived: We beseech Thee so as 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 Cabinet 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 11.32 am**

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

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**

*By Mr. Kurt DeFreitas*

**The Speaker:** I call on Mr. Kurt DeFreitas to take the Oath or Affirmation. Please be up standing.

**Hon. Kurt DeFreitas:** I, Kurt DeFreitas, 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. DeFreitas on behalf of this Honourable House, I welcome you as the Temporary Second Official Member and will invite you to take your seat. Please be seated.

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

**Apologies**

**The Speaker:** Honourable Members, I have received apologies for absence from the following Members. Before reading this however, please accept sincere apologies for the late start of this morning's Meeting.

Apologies for absence, comes from the Honourable Minister of Planning, Communication, District Administration and Information Technology. Also, from the Second Official Member and the Fourth Elected Member from West Bay.

**PRESENTATION OF PAPERS  
AND REPORTS**

**Financial Statements of the Port Authority of the  
Cayman Islands - December 31, 2002 and 2001  
(Deferred)**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, I have to ask that this paper, although I have the paper, be deferred because there are matters that I would like to speak to and I do not have those notes as yet. So, I ask that it be deferred until later on today or another Sitting.

**The Speaker:** So ordered.

**Cayman Islands Economic Development Plan  
2004-2009**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg to lay on the Table of this Honourable House the Cayman Islands Economic Development Plan 2004-2009.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. W. McKeeva Bush:** Yes, Sir. Mr. Speaker, I am pleased to present to this Honourable House the Cayman Islands Economic Development Plan 2004-2009. This Plan provides a blueprint for continued strong economic performance of our country over the next five years.

The period from 2002 until 11 September 2004 demonstrated a solid turnaround of the Cayman Islands economy referred to also in the ECLAC Report just completed, which will be tabled in this House later on today and our movement away from the downturn of 1998-2001.

As we know the Cayman Islands economy is a small open economy highly dependant on events and circumstances beyond our borders. This can leave us vulnerable to outside shocks. It is therefore incumbent on us to plan and take actions that will fortify our economy.

I believe this Plan leaves us well positioned for continued economic health and prosperity and will ensure that our economy serves the wellbeing of the people of the Cayman Islands.

As you will recall, a number of months ago I tabled in this Honourable House a Draft Economic Plan which I had commissioned. The Report was produced by Deloitte and although the consultants' work included a process that involved input from various people and organisations, we needed to be sure that it was a plan that could be implemented. With this in mind the Draft Economic Plan was reviewed by senior Government staff to obtain their feedback and comments.

The Cabinet of the Cayman Islands Government and senior public servants then held a one-day retreat to review and decide on the plan.

This Report tabled today, the Cayman Islands Economic Development Plan 2004-2009, is a result of these deliberations and discussions. The plan provides not only a set of strategies for the country's economy, but it also presents a number of action steps to ensure that our economy continues along a successful path. By providing specific action steps, identifying agencies responsible for the implementation of the actions and a time frame for implementation, the plan is presented in a way to maximise implementation. In fact Government has already started implementing many of these actions.

#### *Overall Economic Targets*

The Government's macro economic targets for the country over the next five years are as follows:

- Sustained economic recovery with an average real gross domestic growth rate of 3 per cent per year.
- A small rise in inflation to an annual rate of 3.2 per cent.
- An unemployment rate of 4 per cent over the term of the plan.

Mr. Speaker, we will reach these targets by building on our past successes and strengths - the tourism and financial services industries. We will also build on our potential in other areas like e-business and small business.

I would like to now share with you some of the highlights from the Economic Plan by outlining some of the strategic directions the Government will pursue.

#### *Tourism*

Although the Government was severely criticised by the Opposition about tourism performance, up to 11 September 2004, there had been strong growth in stay over visitors and demonstrated growth of cruise ship visitors. To maintain and grow the Tourism Industry the Cayman Islands will focus its activities on the following strategies: -

- Through Grand Cayman, to position the Cayman Islands as a distinctive quality Caribbean destination for the discerning visitor.
- Improve the quality of visitor stays and deliver a unique Caymanian experience for which people are willing to pay a premium.
- Review Tourism zones and environmentally sensitive areas.
- Support development that has factored in economic, environmental and social implications.
- Manage visitors better at key attraction sites on land and water.
- Increase the proportion of Caymanians working in the hotel and restaurant sector.

#### *Financial Services*

The Financial Services Sector has been subject to a number of international regulatory and tax initiatives over the past five years. Competition from on shore as well as off shore jurisdictions has increased. Both of these threats to the Financial Services Industry in the Cayman Islands are expected to continue in the next five years, but even in the face of this, most components of the industry have continued to experience robust growth and we want this to continue. The strategies to grow the Financial Services Industry are:

- To establish an aggressive marketing programme for the Cayman Islands Financial Services Sector through Grand Cayman.

- To organise a more strategic response mechanism to deal with competitive and regulatory challenges.
- To continually improve efficiency and service when dealing with licence applications and queries from the industry to develop an educational and training framework to meet challenges of the evolving workplace.

We also need to move aggressively into new areas to maintain the strength of the Tourism and Financial Services Industry and to diversify our economy.

### *E-business*

Mr. Speaker, e-business is having an ever increasing impact on the international market place. It is providing increased competition for the Tourism and Financial Services Industry, and in fact, for all of our domestic businesses. E-business is essentially to not only grow Cayman's businesses but also to maintain our competitive position.

The Government strategies for e-business include, developing the physical infrastructure necessary for e-business. Work has already started on this by the deregulation of the telecommunication sector and we want to thank you, Mr. Speaker, for your efforts in that particular initiative and in moving it along.

- To increase the number of information and communication technology professionals.
- To increase public awareness of its benefits.
- Expand internet based e-Government services.
- Develop additional supporting legislation that is required for the development of e-business including protection of privacy legislation.

### *Small Businesses*

The small businesses of the Cayman Islands reflect the people's ingenuity and spirit of free enterprise. Small businesses contribute jobs and wealth to the country. The strategies to grow the small business sector are: –

- To improve coordination of all supporting organisations that serve small businesses.
- To actively encourage and promote small business.
- To provide small business with better access to information.
- To facilitate access to financing for start up or growth of small business.
- To increase the quality of and access to human capital.
- Review enforcement of laws relating to the importation of goods.

### *Cayman Brac and Little Cayman*

The economies of Cayman Brac and Little Cayman are relatively underdeveloped compared to Grand Cayman. A number of studies and plans for the development of Cayman Brac and Little Cayman have been completed.

Now is the time to move beyond studies and develop an Economic Implementation Action Plan that is acceptable to the people who live on Cayman Brac and Little Cayman. I have established a committee of seven of the more senior representatives of government, to put together this action plan. It includes the Minister responsible for Cayman Brac and Little Cayman, the Minister for Health and Public Works, the Financial Secretary, the Cabinet Secretary, the Chief Secretary, the District Commissioner and I, as the Minister responsible for Development.

### *Inward Investments*

Mr. Speaker before I go to that, I would like to say, I believe more than ever, many others and I have been saying since the passage of Hurricane Ivan, that Cayman Brac must be utilised by the Cayman business sector. Businesses that need protection during any similar catastrophe should be moved to the Bluff and I know there are now people in Cayman Brac who are moving in that direction, to set up a system where Cayman businesses could move there and still function without disruptions that we have had here. I am going to encourage and support those people who are moving in that direction.

I move on now, Mr. Speaker, to inward investment. The Government has also recently created the Cayman Islands Investment Bureau and this will be a major tool in our tool chest for economic development. The Bureau will promote investment and provide assistance for investment proposals, both from within the country and from abroad. Work is well under way on a strategic investment policy for the Cayman Islands. The Bureau will promote the economic interests of the country through the Grand Cayman marketing programme, a flagship programme of the Investment Bureau.

Mr. Speaker, I would like to say it was not that Cayman was not receiving investments through the Investment Bureau, but, the work that I envisioned for the Investment Bureau was somewhat stymied because we did not have the staff complement. I am happy to say that we have been able to employ a young Caymanian, Mr. Dax Basdeo, who now heads the Investment Bureau. Due to September 11 we put off opening in Hong Kong, where Mr. William Connolly keeps the office, which we will open in February sometime, God willing. And also we will then open an office in Dubai, I believe later the same month, if possible.

Education and training need to be integrated, in line with economic and social development if Caymanians are to continue to benefit from economic growth. We know that an educated workforce will also

enhance productivity and the competitive position of the Cayman Islands.

The Cayman Islands Government education's strategies are:

- to relieve existing constraints in physical accommodations through new school construction and renovations;
- new strategy includes new high schools for Frank Sound and West Bay;
- to strengthen the opportunities, qualities and provisions for teacher training;
- to increase the number of Caymanians in the teaching profession;
- to improve the quality of education through progressive curriculum reforms;
- to raise the skill levels of adults and youth through continuing education;
- to develop self dignity, positive attitudes and sound moral values among Caymanian students;
- to expand the range of available tertiary programmes;
- to assess the knowledge of our students relative to global standards and;
- to improve the quality of education and labour market information.

#### *Health and Social Stability*

The Cayman Islands enjoy an excellent health care system. However, there are concerns about rising health care costs and the increasing incidence of life style diseases. Health strategies to deal with these concerns are:

- 1) To ensure sustainability of the health insurance system so that cost effective and affordable health care is available and accessible to all;
- 2) To establish a national multi-agency health promotion and protection programme;
- 3) Improving health care regulations for a more responsive promotion and delivery of health care;
- 4) Establishing cooperation among health industry partners to maximise cost effective utilisation of resources;
- 5) To ensure that quality health care standards are set and maintained in a fiscally viable manner;
- 6) To create the environment to attract, retain and develop competent caring health care professionals;
- 7) To expand the supply and distribution of safe water to the communities; and
- 8) To develop a national social plan.

The quality of education, health and employment systems affect the size of the vulnerable population. Stronger links between these areas and the economic sector can minimise the cost of the social safety net. Cracks in one area create clients for another area.

Social strategies are:

- 1) Ensuring the sustainability of social safety net programmes;
- 2) Implementing programmes to prepare youth for productive participation in our society;
- 3) Facilitating the movement of social assistance recipients into the workforce;
- 4) Encouraging a holistic approach to community development;
- 5) Providing intervention that addresses the needs of at-risk individuals;
- 6) Enhancing internal security and community well being.

#### *Transportation*

The transportation sector or section of the Economic Plan covers roads, maritime and air transportation. The objectives for this area, Mr. Speaker, are to ensure a manageable infrastructure development process and to ensure the viability of the transportation system.

#### *Environmental Sustainability*

The environment plays a major role in the sustainable development of our country. Strategies for environmental sustainability include:

- 1) Enacting legislation to promote environmental sustainability;
- 2) Establishing a national protected area system;
- 3) Passing a national development plan which will include land use and growth management strategies; and
- 4) Supporting environmental awareness and public education programmes.

#### *Good Governance and Macro Economic Stability*

Mr. Speaker, the stable economic environment of the Cayman Islands, namely low inflation, low unemployment and solid economic growth can be attributed to fiscal prudence. In addition to a commitment to good fiscal policy, this section of the plan includes public service reforms and strengthens policy making and coordination. These strategies build upon the good governance provisions of the Public Management and Finance Law and the Public Service Act.

The strategies are:

- to enhance the buoyancy of government revenues;
- to rationalise fees for public goods;
- to improve monitoring, analysis and targeting of revenues;
- to ensure the overall effectiveness of multi-year expenditure programmes, in supporting economic growth and fiscal prudence;
- to conduct fiscal risk management in the public sector;
- to improve standards of fiscal discipline for public authorities;

- to reduce costs of policy uncertainty; to strengthen implementation of the Public Management and Finance Law (PMFL);
- to implement civil service reforms; and
- to enhance public sector policy coordination.

In conclusion, as was once said by that great American baseball legend, Yogi Bera, 'You got to be careful if you do not know where you are going because you might not get there.' Well, Mr. Speaker, this Government knows exactly where it wants to take the Cayman Islands economy and this plan outlines how we will get there. As I have said earlier, we are well on our way to implementing this plan.

Thanks are due to Deloitte and the many people and organisations that have participated in the process and helped to develop this plan. While this plan is one for economic development, we must now, more importantly, pay attention to the way forward, post Ivan. Mr. Speaker, any economic plan has to recognise the correlation between it and an overall national strategic plan.

As Leader of Government Business, I am also responsible for Vision 2008. The country must now move forward with a national strategic plan which builds on the strategies and objectives of Vision 2008 but also recognises where the country needs to be headed in the next 25 years. Several things must be considered. However, to move such a plan, Mrs. Basdeo will lead that strategy through my Ministry, which will include the cooperation of other government key departments, such as Planning.

As I said, many things will have to be considered. I had put forward to Cabinet a plan for disaster preparedness and recovery, but it was not accepted; that was some time ago. This is now, clearly, a must do for the Cayman Islands and I will continue with the Honourable Chief Secretary to drive home that initiative. I think everyone now recognises that we must have a disaster preparedness, and even more so, a recovery plan should a disaster hit us.

I am also of the opinion that to secure our children and grandchildren's future, we must stake decisions that will have long lasting positive impacts on our social and economic development. The rebuilding of our homes and businesses is paramount. The continued improvement in our schools' education services and our desire to have a healthy and socially balanced population are the high priority objectives of the Government. The protection of our environment is also key to our continued success. Also, projects for a new airport and dock, a new east-west corridor and improved public transportation are some of the key infrastructure developments needed. The need for new government accommodation and services cannot be overlooked.

There is also an urgent need for a new revenue base to be identified and this is, particularly, evident post Hurricane Ivan. This situation has been talked about for many, many years and by successive

governments. However, it must now be addressed in the national strategic plan.

Mr. Speaker, I lay the Cayman Islands Economic Development Plan 2004-2009 on the Table of this Honourable House, recognising that it was developed pre-Hurricane Ivan. There is obviously the need to update it accordingly, but more importantly, recognising its ongoing value, public interest and eventual contribution in the preparation of a national strategic plan, which I intend to fully pursue.

Thank you, Mr. Speaker.

### **The Cayman Islands Development Bank Report for the six-month period ended 30 June 2003**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, I beg to lay on the Table of this Honourable House the Cayman Islands Development Bank Report for the six months period ended 30 June 2003.

**The Speaker:** So be ordered. Would the Honourable Member wish to speak thereto?

**Hon. W. McKeever Bush:** Mr. Speaker, in accordance with section 22 (2) of the Cayman Islands Development Law, I hereby table the Cayman Islands Development Bank (CIDB) report and audited financial statements of the six months' period ended 30 June 2003. As you aware, under the new Public Management and Finance Law, the Government as well as statutory authorities are required to maintain a common fiscal year end of June 30 and this report for the CIDB is in keeping with that requirement under the law.

During the half year ended 20 June 2003, the Bank continued to pursue its overall strategic plan of enlarging its loan portfolio to a level that would enable it to break even within the medium term, while improving its organisational efficiency including the computerisation of its operation. The result of these undertakings was reflected in the growth of the portfolio by a resounding 105 per cent over a six month period when compared to the first ten months of operations. Since inception, the Bank recorded approvals of \$5.47 million representing 116 loans. During this period, the mortgage sector of the Development Bank's loan portfolio showed the most significant growth and accounted for almost 42 per cent of the value of the loans on the Bank's books. It is expected that this trend will continue as the CIDB seeks to market a much needed shelter product to low income groups on competitive terms.

The provision of financing and technical assistance for micro and small business development also continues to be one of the Bank's primary areas of focus, as it sought to respond to the desire of Caymanian entrepreneurs to set up their own establishments.



Loans requested under the Bank's micro and small business sector were, for a variety of purposes, in the services. Tourism and fishing sub sectors loans showed a 40 per cent increase over the 2002 approvals while the loans for human resource development represented 32 per cent of the total value of the Bank's loan portfolio.

The total assets of the CIDB as at end of the six month period ended 30 June 2003, stood at \$5,860,000 reflecting an increase of 8.5 per cent over the 2002 figure. Of particular note was the significant shift between investments and loans receivable, resulting in the reduction of cash and deposits and an increase in loans receivable from \$2.2 million to \$4.5 million. In the fiscal half year in 2003, the Cayman Islands injected \$500,000 into the Bank as equity capital bringing the total equity to over \$2 million at the end of the period. Loan interest income for the six months to June 2003 almost equated to the amount earned in the prior ten month period ended 31 December 2003 and was 98 per cent of overall income of \$138,000 dollars. Additional costs resulting from the Bank's relocating to more accessible premises contributed to its overall operating loss of \$25,532 compared to a net profit of \$80,764 for the previous ten month period.

The Business Plan for the fiscal plan for 2003-04 anticipated an increase in demand in all sectors, as well as the need for increased funding to meet all those needs. The core of the business plan included identification and sourcing of new funds, continued enlargement of Cad's loans portfolio, full computerisation of the Bank's operation, development of new financial products and greater emphasis on staff training.

Mr. Speaker, July 2003 to June 2004 signalled the first complete fiscal year for CIDB. I believe the Bank has come a long way and is serving its purpose. It still needs funds and as Members we know about preparing to issue bonds to get \$10 Million for the Bank. It is serving its purpose and this is not bad for one that came under so much criticism from the Opposition. I wish to express my sincere appreciation to the Chairman and Board of Directors of the Bank as well as the management and staff, for their dedication and commitment to the success of the CIDB.

#### **The Financial Statements of the Port Authority of the Cayman Islands for the period 31 December 2002 and 2001**

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg to lay on the Table of this Honourable House, the Financial Statements of the Port Authority of the Cayman Islands ending 31 December 2002 and 2001.

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

**Hon. W. McKeeva Bush:** Mr. Speaker, the Port Authority continued to perform well during the 2002 fiscal year. Operating income was up by 8.6 per cent over the previous year. As the economy improved so did the tonnage of cargo imports which was up by 21 per cent over the previous year. The volume of cruise ship passengers also increased by 17 per cent over the period of 2001. With this increased activity at the Port Authority operation, expenses increased by only 1.4 per cent over 2001. The Port Authority continues to implement policies that drive efficiency and effectiveness. Long term debt in 2002 was decreased by 21.86 per cent to \$6,469,796, due to the scheduled repayment of loans. No new loans were entered into by the Port Authority in the year 2002. Net income before extraordinary items equalled \$1,686,780 in 2002 as compared to \$341,966 in 2001. It reflects the growth in the economy.

The 2002 year saw the reconstruction repairs to Cayman Brac dock, which was severely damaged by Hurricane Michelle in November 2001. This was funded from the insurance claim, (notes are in the financial statements) plans were also set in motion to effect repairs to the finger pier of the George Town cargo dock. In February 2002 the Salt Rock dock in Little Cayman was formally transferred after many years to the Port Authority. I know you remember that well, Mr. Speaker, because that was something that was on every Government Member's desk, but just did not get it done. No fault of Government I would say; just that the whole operation and discussion took that long convincing. The Port Authority also paid an annual dividend to the Cayman Islands Government of \$350,000 in 2002.

Mr. Speaker, the Port Authority is one of the most important assets to the economy of these Islands. The passage and results of Hurricane Ivan again has proven beyond a shadow of doubt how vital a role the Port plays in our lives. The Port Authority was not spared from the brutal forces of the hurricane, and suffered an estimated \$1.5 million in damage.

Severe flooding at the Cargo Distribution Centre left equipment and buildings inundated with salt water. The wind damage was particularly severe to the warehouse facility which lost a portion of its roof. At the dock, the cruise ship terminals were damaged, with the North Terminal being hit hard. The main administration building on the waterfront fared well but the dock worker building sustained extensive damage. In addition, the cranes and other equipment suffered damage from the salt water at the dock location. The Port Authority has over the years experienced its share of inclement weather and has learnt to recover expeditiously from the effects, being most aware that the survival of these Islands depends on cargo imports.

Through heroic efforts, the staff of the Port Authority was able to handle the first cargo ship on Thursday, 16 September 2004 under less than ideal circumstances, four days after the passage of the hur-

ricane. These efforts from the staff continued and their commitment has been unwavering having worked with little time off over the last eight weeks.

Again, it spells out why we need a new cargo dock in this country. I have seen some of my predictions come true in my short life and more so my predictions in my short time as Leader of Government Business.

In West Bay where they told me there should not be any building of any seawall and where every step was taken to stop me, and where every accusation was made against me for building it, something said to me, 'Go ahead and do it; get it done' and were it not for that seawall Central West Bay would have been a disaster because it is all sand as much as any other place. It would have been a little more protected because of the West Bay anchorage but it would have suffered, as it did.

So we need a new dock and we need to move it from Central George Town. We need to have it somewhere, we have to give up something so to enhance something else, and that is the continued good running of our lives.

The volume of imports has more than doubled since Hurricane Ivan and the Port Authority has had to use innovative measures to cope. The measures have proven very successful. However, the only disappointment has been the slow rate by which the public has taken possession of imports from the Cargo Distribution Centre. This has resulted in congestion as the Port Authority is receiving and processing the cargoes at exceptionally fast rates.

In the last eight weeks, the Port Authority has handled 77 cargo ships carrying 88,668 tonnes of cargo, worked 646 ship-hours and handled 11,861 20-foot containers. It has moved from two to seven ships per week. This gives us a sense of the congestion at the Port Authority and at the Cargo Distribution Centre.

In anticipating possible damages to the Port Authority buildings prior to the arrival of Hurricane Ivan, arrangements were made with a local building contractor to be on standby to immediately effect repairs. These repair works began immediately after the hurricane with concentration on having the cargo facilities on line as the imports of relief supplies were deemed essential.

The South Terminal Cruise Facility, after repairs, was reopened on 1 November to two cruise ships, the *Inspiration* and the *Imagination*. The North Terminal is partially open while it continues to undergo repairs which will be fully operational by the end of this month.

The cruise schedule is now set for a maximum of four ships per day averaging over 12,000 passengers on four ship days. The Port capital works have been set back some weeks; however, both main contractors are on site and works are continuing.

The main works being carried out by Meisner are expected to be completed by the end of January

2005 and the land base works carried out by Hurlstone Ltd largely complete by May 2005.

Mr. Speaker, the Port is having serious difficulties and I had made a statement already which I will not bother to go through in this House but that is caused from several matters and I would like to say to this House, one is that people have imported quite a bit of things and are not collecting them from the Cargo Distribution Centre. So we have had to take several measures. That is caused by several reasons. People have imported hoping they would be ready to build and they are not ready to build and they do not have storage. We have had people asking us to keep things in storage for them but we cannot do that forever and that is a problem.

It takes a long time because containers are so high and although they know where it is, they have to take time to get to it when people do clear it. The other factor is that there are so many vehicles being imported there is just not enough space in the Cargo Distribution Centre.

As you know we do have some extra property and we are clearing that so that we can have extra space for parking vehicles and containers but for containers because we intend to take vehicles and containers off site because there are so many being imported, and we are securing a piece of property where you can store them and have more space and manage that site also.

We are also going to work from 8.30 am to 10 pm for four days from Monday to Thursday. Also, Customs and shipping companies are involved in this. It is a new initiative we took at the last Board Meeting to be able to handle the situation we have.

We are not in regular times and I wish that both sides of this House will understand that. I wish that the public at large will remember where we were on 12 September of this year. This is not easy times. While we have managed and doing well, there are still tremendous areas of problems that you just cannot clear immediately. Some impact overseas and in particular to the dock, it impacts even the Miami and the Port Everglades Docks. There is so much cargo, moving from two to seven ships per week, that they do not have containers to do shipping and because there have been so many problems in our region, the Miami area and the coastal United States where the storms have hit this past year.

So I believe that the Port Authority is doing well in considering what we have gone through. I pray for God's guidance on all of our undertakings and hopefully for a renewed spirit of love and unity during this Christmas and into the New Year.

Thank you, Mr. Speaker.

### **The 2003 Cayman Islands Compendium of Statistics**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, I beg to lay on the Table of this Honourable House the 2003 Cayman Islands Compendium of Statistics.

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

**Hon. G. Kenneth Jefferson:** Yes, Sir. Thank you, Mr. Speaker. I am pleased to table before this Honourable House the 2003 Cayman Islands Compendium of Statistics.

The production and release of statistics that matter are a part of open and transparent Government. The data in the Compendium is in three main parts, namely, macro economic, sectoral and social data. As the Compendium contains in excess of 100 pages of in-depth information, I will not attempt to cover in detail all of the specific areas but will highlight key statistics in certain selective areas.

#### *Macro economic Data*

1. Gross Domestic Product or GDP: Real GDP grew by 2 per cent in 2003, compared to 1.7 per cent in the previous year.
2. Inflation: Consumer inflation was 0.6 per cent in 2003, compared to 2.4 per cent in 2002.
3. Unemployment: The unemployment rate fell from 5.4 per cent in October 2002 to 3.6 per cent in October 2003.
4. Prime Lending Rate: The Cayman Islands' prime lending rate in the fourth quarter of 2002 decreased from 4.5 per cent to 4 per cent in the last quarter of 2003.
5. Trade: The value of imports increased from \$494.4 million in 2002 to \$553.5 million in 2003, and exports rose from \$3 million in 2002 to \$4.3 million in 2003.

#### *Sectoral Data*

1. Financial Services: Mutual fund registrations rose from 4,285 in 2002 to 4,808 in 2003. Insurance licences increased from 629 in 2002 to 672 in 2003. The year end total companies registered figures increased from 65,259 in 2002 to 68,078 in 2003.
2. Tourism: Cruise arrivals rose from 1.57 million in 2002 to 1.82 million in 2003. Stay over arrivals declined very slightly from 0.3 million in 2002 to 0.29 million in 2003.
4. Construction: The value of planning approvals rose from \$243.9 million in 2002 to \$273.9 million in 2003.
5. Real Estate: The value of free hold real estate transfers increased from \$269.9 million in 2002 to \$324.3 million in 2003.

#### *Social Data*

1. Population: The Cayman Islands resident population grew from 43,004 in 2002 to 44,144 in 2003.
2. Population Growth: Population growth in 2003 amounted to 2.7 per cent compared to 2.6 per cent in 2002.
3. Student to Staff Ratio (from Reception to Secondary Education): The student staff ratio dropped from 12.2 in 2002 to 12 in 2003.
4. Doctors per 1,000 of the year-end population: The number of doctors per 1,000 people decreased slightly from 2.2 in 2002 to 1.7 in 2003.

Mr. Speaker, the 2003 Compendium of Statistics provides a wealth of both new and previously published information about our Islands, all in one convenient publication. The Director of Economics and Statistics, Ms Catherine Reid, who at this stage has actually left – she departed last week - has produced wallet sized cards of key statistics entitled "Cayman Islands at a Glance". These have been sent to all Honourable Members who should find these cards useful references in respect of information about the Cayman Islands. The Portfolio of Finance and Economics is striving to meet its objective of producing "statistics that matter and research that counts".

Mr. Speaker, I would encourage all members of the public, if they are able, to purchase a copy of the Compendium of Statistics, the price is CI\$25 or US\$44 including postage.

I should say that the Compendium is an annual Compendium of Statistics that runs through the period January to December hence whilst we are in December 2004, the 2004 Statistics would not have been obviously compiled as yet and will be produced next year in 2005.

Those are my brief remarks. Thank you, Mr. Speaker.

### **STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE CABINET**

**The Speaker:** The Honourable Leader of Government Business.

#### **MC Restoration Contract**

**Hon. W. McKeever Bush:** Mr. Speaker, I am indeed grateful for the opportunity to clarify for the Members of this Honourable House and for members of the public some of the rumours that have been circulating on the issue of MC Restoration.

Unfortunately, we have seen that in times of crises, we are vulnerable to rumour mongering, particularly when the media choose to foster that rumour mongering. It is therefore important that the circumstances of this contract be made known. I am also aware that Members have tabled questions otherwise I may have been content to leave it to the publication of the Auditor General's findings. I want to assure everyone as well that the Report will be published and I am looking forward to it. Unfortunately however, it will, I understand, take some time to be completed. That time frame and other reasons make it additionally important for Members and the public to understand the issues right now. I must say that I am looking forward to the Auditor General's findings.

The process by which this contract was granted was in complete compliance with the established procedures under the Law and with the Policies that Government has determined provide the appropriate due diligence.

In turn, the Central Tenders Committee, whose members are responsible for ensuring that we dot every "i" and cross every "t", provided its usual diligent oversight. To assist Members and the public to understand the issues I would like to first review the sequence of events that led to the selection of MC Restoration. As you are all aware, during the first weeks after Hurricane Ivan the Governor formed a public/private committee, the National Recovery Committee (NRC). The NRC which the Governor chaired was with the National Hurricane Committee which was still in force running the show at that time. At that time, there also existed a committee that had evolved from among a core group of civil servants with some private sector individuals who had described themselves as the Clean-up Committee. They had assumed the task of finding solutions of to the urgent clean up of Grand Cayman.

That Committee brought to the National Recovery Committee representatives of a company that had appeared here uninvited. In their presentation that company, Custer Battles, proposed a clean-up exercise which they told us would cost \$40 to \$80 million depending on whether or not we supplied some equipment and if we were to use the Civil Service, if I recall correctly.

Mr. Speaker, I can tell you that most of us on the National Recovery Committee were very surprised. I had watched the whole proceedings for some days as certain members of the National Recovery Committee moved in and out of that room to where Custer Battles were with the so called National Clean-up Committee.

If we had \$80 million to give away, which we do not, we would certainly have wanted to put it in housing for our people and not hand it out to some sharks waiting for some feeding frenzy. So we said 'No' but while some of us may be forgetting how Ivan had trashed our environment, the National Recovery Committee as well as the Cabinet of these Islands

which resumed control about two months ago, understood very well that the number one priority after security was the clean up of Cayman. This was what everyone had written to say was the priority because of health hazards and other matters: 'Clean up Cayman'.

As one of the first actions after the emergency powers were lifted, Cabinet signed a company that had long standing expertise in disaster recovery, James Lee Witt and Associates. The principal of that company, Mr. James Lee Witt, who visited us last week, had served for eight years as the head of the United States Federal Emergency Management Agency commonly referred to as FEMA. We were confident that their track record would have provided us with the support we needed to get through this crisis as well as help us prepare in such a way that we would not suffer as much if we faced another disaster. We want to ensure that we are not quite as overwhelmed as we were when Ivan struck, when disaster strikes again; and we can really know when something like this could happen again. As a small island, we do have certain vulnerabilities.

James Lee Witt recommended an organisational structure headed by the Cabinet and a Recovery Manager, who reported directly to Cabinet. The Cabinet asked the Cabinet Secretary to assume the role of the Recovery Manager. The Governor appointed me the Minister of Tourism and Leader of Government Business with the responsibility for the overall recovery answerable to this Honourable House.

The structure we adopted provided for private sector involvement and for permanent secretaries to serve as a steering committee. Another tier down was a number of sub-sectors, chiefly operations and logistics.

The operational sub-sector was further broken down into key target areas, and was made up mainly of civil servants who are normally involved in the work of those areas.

We wanted, however, to have a manager for those areas to assist in coordination and to ensure effective cross flow, up and down and across the organisation. That individual would also be a part of the Witt team, which makes a lot of sense, as the consultant's job is to influence the work of the organisation in fulfilment of their contract.

So, Witt cast around for someone, and Mr. Mark Scotland, with his expertise as a former Public Works Department (PWD) engineer was recommended to them. Mr. Scotland was then employed as an essentially employee of Witt, but was not a party to the contract, nor was he involved at the stage at which the contract was entered into, as the Cabinet dealt with the contract.

It makes absolute sense for local people to be employed by overseas companies working in any area but particularly in sensitive areas, especially in

such sensitive times as after a major disaster. So, Mr. Scotland is a very capable employee of Witt.

Now, following the appointment of Witt, a debris removal company by the name of DRC made an initial visit, and made a proposal to Cabinet. It was the only proposal at that time, so initially the Cabinet, following what people wanted, accepted the proposal which was not sent to Central Tenders Committee. However, Cabinet later rejected it, because of concerns about some conflicts of interest, not to do with anybody locally but overseas. Cabinet was very concerned about those conflicts and responded very strongly in rejecting the proposal.

Subsequently, Cabinet was advised that several other companies were interested in bidding for the contract. Cabinet directed that all proposals should go to the Central Tenders Committee (CTC), and tendered in accordance with all policies and procedures, and with the full oversight of the CTC.

The companies that tendered their bids were as follows: Ash Britt for \$19.04 million; Crowder-Gulf - \$18.99 million; HCI - \$12.696 million; MC Restoration - \$10.71 million, and DRC - \$8.767 million.

For reasons explained earlier, the Cabinet again rejected DRC even though they were the lower bid because of the conflicts of interest. MC Restoration, being the lowest of the remaining bidders, was sent to the CTC.

I must also add that all of the companies we have named were non-Caymanian, and we made no invitation to them to bid. We did not then, and up to now, have not received any tangible expression of interest from any local company.

I can understand why. At the best of times, we do not have the equipment on-island for the intensive and specialised demands of the clean-up effort, and our limited capacity was further greatly reduced after Ivan. Regardless, no local company approached us with any proposal to undertake this work. However, Mr. Speaker, due to my concerns and that of the Cabinet Secretary, who was dealing on a daily basis with it that Caymanians get business where they can, I arranged a meeting with a group of local heavy equipment operators and Mr. Connor, the Cabinet Secretary and Manager of the recovery, to assure them that local Caymanians and local equipment which was available at a reasonable rate would be used. At that meeting, they even gave me HEAVO's rates per hour for heavy equipment but no mention or indication at all that they wanted to bid or intended to bid. Their concern was that Caymanians be employed and equipment locally be used where possible. This was what we agreed with them and this is what we ensured.

Getting back to the rigorous process through which the MC Restoration contract was put, the next step after the CTC awarded the contract was to negotiate the details of the contract by means of a panel that comprised the Recovery Manager, Witt our consultants and the Solicitor General.

On completion of that examination of the contract by the CTC and negotiations, the contract was signed on 19 November. Incidentally, I would like those persons who are running around with a supposed copy of the contract to be aware that the contract that they have is not the one that Government signed. The contract that was signed on 19 November followed tough negotiations by Government, that committee I just mentioned; the Recovery Manager, Witt and the Solicitor General and so has been considerably modified in the interest of efficiency and cost-effectiveness. For example, we negotiated away from the "per-hour" debris removal costing methodology to the per-cubit-foot measure. That is already saving Government quite a bit of money. I know this is so because while we were cleaning up in West Bay without anybody and Government was paying for it, I know how costly it was and this exercise is much less costly! Even though Caymanians were doing it and even though I helped them to get the work but the truth has to be told. That cost this country nigh onto \$1 million and if we had not put a contractor in place it would have continued to cost much more when you consider the size of George Town and the damage that was done to the districts of George Town, Bodden Town and East End; it would have cost Government a tremendous amount more.

I would also like to observe that there is no requirement for Government to publish the contract, no more so than for any commercial company. Not that there is anything to hide, we have nothing to hide; this practice is purely from a business point of view. We have to respect that when we enter into contracts with private companies. Governments of the past and present have never done so with any private company in the past.

And those individuals who have unlawfully obtained this dated copy which is the wrong one and which is obviously not serving their political ends, since they are now demanding the final contract, they should be aware that they might very well be in breach of Common Law as well as Civil Service Regulations. However, that does not matter. I have seen in my office where somebody logs on to the computer in my office and takes out on a floppy disk complete information including my signature.

So, that does not say very much for Civil Service Regulations. I lay no particular blame on anybody but I hope that when those things are pointed out to those people in charge, the next time that it happens that something will be done because when someone is in office from 8 o'clock to 11 o'clock and the Computer Services Department logs it when that person goes on to the computer with a floppy disk because that is what was done and that is what the computer shows. I hope when that is pointed out to authorities that something is done because it is untenable for things like that to happen in this country. Untenable! If they want a commission of enquiry, they

should call a commission of enquiry on that one but peck pecks do fly.

Once the contract was signed on 19 November, MC Restoration then enlisted the help of a respected law firm, very well experienced in immigration policies and requirements, to guide it through the process of fulfilling those legal requirements.

In doing so, MC Restoration applied to the relevant Immigration Board for a Local Companies licence. Those of us familiar with this particular licence will be aware that this is not required where there is a local 60/40 partner. Obviously, had there been any local beneficial shareholders or partners, MC Restoration would not have needed to apply for a Local Companies licence to operate here.

So the Opposition want to see who the shareholders are. One of the Opposition asking for this is a lawyer. Go to the Registrar of Companies and find out! Easy!

The local law firm guiding MC Restoration was obligated under law, as well, to carry out the necessary due diligence, as is required of all businesses in the Cayman Islands, particularly when there is overseas involvement.

This due diligence, commonly referred to as "know your customer," and other legal and policy requirements, satisfied the Trade and Business Licensing Board, which then issued at the same sitting both required licences – the Local Companies and the Trade and Business licences.

So, Mr. Speaker, everything that was done has been undertaken diligently and stringently in compliance with every related policy, regulation and law, but not just to satisfy the law, but to save the Government money also.

Given that the Auditor General's Report will not be ready for sometime, I hope that I have succeeded in allaying any fears that may have been so unfortunately stirred up by those with political agendas.

I appeal to everyone, as well, to exercise some due care when rumours come to your attention; dig a little to see if they are authentic rather than trying to write a letter which accuses somebody. Go and see if the rumours are authentic.

Unfortunately, this week I have had to write to the editor of one newspaper threatening a legal suit if they do not do different than they have done in publishing and making accusations. If they do not do the right thing under the Law, I will take it all the way to the Privy Council if necessary.

I realise that at times, when you hear parts or distortions of the facts, things may seem entirely different from what they really are. So I hope that the information that I have shared with this House today will help to fill in the gaps, and so make clear what others have tried to muddy.

Mr. Speaker, the Leader of the Opposition of all people and his General secretary, the Second Elected Member from George Town have gone to the

papers and on the radio to ask questions which cast aspersions, that is the Leader of the Opposition and of course his mouth champion, the Second Elected Member from George Town, and General Secretary of the People's Progressive Movement was there doing what he only has done since being in this House. That is to make accusations without doing any work which could sort out the problems of the Cayman Islands.

Firstly, let me say to the Opposition, and to the Leader of the Opposition, that since they are saying that we handled this matter in a reprehensible manner and the Leader of the Opposition has pointedly said that the Leader of Government Business has handled this matter in a reprehensible manner, when indeed we followed all the correct procedures through the CTC and Trade and Business Licensing Board, that should tell this country how much the Leader of the Opposition regards proper procedures and the CTC.

In their charge of 'possible corruption', they should bring the facts, but they cannot because there has been no wrong doing. I believe the Scripture when it says that 'as a man thinketh, so is he'.

What was reprehensible, Mr. Speaker, was the manner in which so much Government printing was done and so much Government funds were spent without CTC involvement. That is what has been wrong in this country for so long.

What was reprehensible was the way Custer Battles was going to get that \$80 million dollar contract signed, if the Chief Secretary, Mr. James Ryan, had not walked in and stopped the contract being signed. And what the country really deserves to know is whether the Leader of the Opposition had anything to do with Custer Battles, or any PPM Member were part of it or whether in fact any PPM Member is in deep enough financial trouble and was or is dependent on such a contract or contracts for funds to get them out of their mess. As far as them wanting an inquiry, let them get it done. Let them do an investigation.

Mr. Speaker, I believe in the Audit System. The Public Accounts Committee (PAC) is well known. It comprises Members of this Honourable House in good standing. I see that the General Secretary and the Second Elected Member from George Town has said that he has no confidence in it. It comprises Members of this House in good standing. It has two well known Members of this House who are Opposition Members, and who are capable Members and have my confidence and I believe that they have the country's confidence. The fact that the Second Elected Member from George Town has no confidence in the Public Accounts Committee is his problem. However, I will not allow him to go unchallenged while trying to defame, and blame, and accuse every institution in this country because he cannot have his way. Remember that is the same Member who ran after the Attorney General, who we had to get rid of,

to see him in his private or personal or professional capacity.

Until, we can provide the public with a published accounting, I ask for patience and that an open mind is kept until all the facts are in.

The Biblical advice "judge not that ye be not judged" has much application here; that counsel was not given lightly – it is inherent in our humanity and it is the cause of a lot of ill in this world!

As a politician, I have long accepted that I will be the target of smear campaigns. One politician said that when they put him in the lead, he did not know it was in the lead to be shot first. My family has had to suffer much. However, I chose this walk, at least for now, so I have had to learn to live with it, and have learned to minimise the impact on me personally. People are still asking me why I am not losing weight and why I look so good.

I pray that the Opposition and their cohorts on the outside who need this contract consider the harm that rumour mongering can do to civil servants. As a politician I can take the licks, I have taken it for 20 years and I have withstood it and the West Bay people have stuck by me; so if that is their objective they can go fly a kite but they must consider the harm and rumour mongering that will do damage to civil servants who are dedicatedly serving this country, and private citizens who are striving to make a contribution, especially during this stressful time of recovery.

I do have to ask the question - have we forgotten what we went through on the 11 and 12 September? It seems as though we have forgotten it. I see it more and more every day. I enjoin us to put all our energies into the rebuilding of this our Island home that we all love so much.

You know, as the head of the recent United Nations ECLAC Mission to Cayman said that no country that has been hit the way we have, has remained the same – most have emerged better than before. That's where we need to focus our hearts and minds – and I pray that with God's help we will press on, regardless of the hurdles and the obstacles and the discouragements, and that at the end of the road on which we are travelling, we will all claim the victory Cayman has recovered.

The Opposition's cry for an enquiry--let them do an enquiry because I have some questions that I would like to ask of the Leader and I did.

Thank you, Mr. Speaker.

**The Speaker:** Honourable Members, I propose that we take the luncheon suspension at this time and resume at 2.30 pm.

**House suspended at 1.03 pm**

**House resumed at 2.49 pm**

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

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READINGS

##### **Suspension of Standing Orders 45 and 46 (1) and (2)**

**The Speaker:** The Honourable Leader of Government Business. Would you move the suspension, please?

**Hon. W. McKeeva Bush:** Mr. Speaker, I move the suspension of Standing Orders 45 and 46 (1) and (2) to allow the Bills upon the Order Paper to be read a first and second time.

**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. Standing Orders 45 and 46 (1) and (2) are accordingly suspended.

##### **Agreed: Standing Orders 45 and 46 (1) and (2) suspended.**

##### **The Health Services Authority (Amendment) Bill 2004**

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for a second reading.

##### **The Merchant Shipping (Amendment) Bill, 2004**

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for a second reading.

##### **The Coat of Arms, Flag and National Song (Amendment) Bill, 2004**

**The Speaker:** The Bill has been read a first time and is set down for a second reading.

#### SECOND READINGS

##### **The Health Services Authority (Amendment) Bill 2004**

**The Speaker:** The Honourable Minister for Health Services.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move a Bill entitled A Bill for a Law to Amend The Health

Services Authority Law (2003 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:** Thank you, Mr. Speaker. Over two years ago, I stood in this Honourable House and proposed to establish a Health Services Authority as a long term flexible frame work for an organisation aiming to provide the highest standards of patient care for the people of these Islands at the best possible cost. Changing the Health Services Department to an Authority was not a panacea. It has not solved all the problems or completely eliminated the spiralling cost of healthcare. However, good things have, and continue to occur as a result of this significant organisational change. The key to creating and sustaining a successful 21<sup>st</sup> Century organisation is leadership. Not only at the top of the hierarchy but also throughout the entire entity.

During and after the passage of Hurricane Ivan, the benefit of giving greater authority and decision-making power to healthcare workers, that is, the persons who have direct contact with patients, was very evident. It would be remiss of me if I did not take this opportunity to again publicly commend Mrs. Eloise Reid, Chief Executive Officer, and the staff of the Authority for their outstanding work in keeping The Cayman Islands Hospital operational under extremely difficult circumstances.

Like any other private entity, the Health Services Authority has a Board of Directors that is responsible for the policy and general administration of the affairs and business of the organisation. Board Members who hold office at the pleasure of the Governor in Cabinet carry a heavy responsibility, both to the Authority and to the public which they serve. The time and energy required of Board Members is substantial and the remuneration is small. It is, therefore vital that we do everything possible to minimise the risk of personal liability of persons willing to volunteer their time and skills to serve on boards.

This Bill proposes to amend the Health Services Authority Law (2003 Revision) to change the immunity provisions of the Law as well as to provide an indemnity section by repealing section 12 and substituting the following section: **“Neither the Authority, nor any director or employee of the Authority, shall be liable for damages for anything done or omitted in the discharge of their respective functions or duties unless it is shown that the act or omission was in bad faith.”**

After section 12, the following is proposed to be inserted at 12 (a): **“The Authority shall indemnify a director against all claims, damages, costs, charges or expenses incurred by that director in the discharge of his functions or duties except claims, damages, costs, charges or expenses caused by the bad faith of that director.”**

The Bill also amends Schedule 1 which sets out the properties vested in the Health Services Authority. The property known as Dr. Hortor Memorial Site was transferred by the Authority with the approval of Cabinet to the National Housing and Community Development Trust for the purposes of housing development and therefore it is necessary to amend the schedule. I believe that this Bill strikes an acceptable balance between ensuring that the Health Services Authority Board is held accountable for its activities, and affording protection to individual Board Members who conscientiously carry out their community service mandate.

Mr. Speaker, having made those brief remarks, I recommend this Bill to Honourable Members for the reasons stated.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you. Mr. Speaker, in reading through the Bill and listening to the Honourable Minister in putting it forward, some questions come to mind.

If we look at the Memorandum of Objects and Reasons in the Bill proposed, it says that this Bill would amend the Health Services Authority Law (2003 Revision) to change the immunity provisions set out in section 12 of the Law as well as to provide an indemnity section which would be the new section 12 (a). It says that it was felt by the Directors of the Authority that section 12 did not fully protect them against legal cost and expenses which may be incurred by them in any legal proceedings relating to the exercise of their powers or duties.

Now, the existing Law, the main Law's section 12 which is being sought to be repealed reads as follows, with your permission: **“Neither the Authority, nor any director or employee of the Authority, shall be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions under this Law unless it is shown that the act or omission resulted from their dishonesty, fraud or wilful neglect.”**

The proposed change which would seek to repeal what I just read, reads similar to a point except it deletes 'or purported discharge' and after 'of their respective functions' adds 'or duties' and at the very end where it speaks of 'resulted from their dishonesty, fraud or wilful neglect', they seek to dislodge that and simply say 'was in bad faith' So, Mr. Speaker, dishonesty, fraud or wilful neglect seems to be a part of bad faith but when they make the sweeping statement 'was in bad faith' it seems to me that what is being sought is other bad faith besides dishonesty, fraud or wilful neglect. We need to understand what that means.

So, while I hear what the Memorandum of Objects and Reasons is stating, thus far, what I have heard and what I have read does not explain to me



exactly what is being sought. I read it, and I believe I have a fair understanding of the Queen's English but I want to know specifically what is so different about what exists and what is proposed.

As I said, it seems to me that 'bad faith' is an all encompassing term and one may have the question: Where does neglect come into it? The existing section 12 in the Law now, refers to wilful neglect. This section simply says 'bad faith.' Now, I am assuming 'wilful neglect' would be 'bad faith' but how is it specific in its definition? I think, others may well speak after me and expand that argument. I do believe for what it seems is being sought and while I respect the fact that the Members of the Board need to be protected and perhaps indemnified, this is going to be legislation that will become part and parcel of the main legislation. So, I believe we need to have a very clear understanding.

The other question I have in this is under the same Memorandum of Objects and Reasons; it says: **The Bill also amends Schedule 1 which sets out the properties vested in the Authority. The property known as Dr. Hortor Memorial Site was transferred by the Authority to the National Housing and Community Development Trust for the purposes of housing development and it is therefore necessary to amend the Schedule."**

If we go to the main Law and we look at how Schedule I presently reads, when it refers to the Doctor Hortor Memorial Site, it has two asterisks alongside it because this Schedule speaks to properties to be vested in the Authority and it has property on the one side and location on the other. The property is the Doctor Hortor Memorial Site and the location is Block 15C, Parcel 28. The two asterisks and the footnote below the Schedule says that this Block 15C, Parcel 28 does not include land occupied by other buildings.

If my memory and sense of direction are correct, the area where the Fairbanks Prison is, that is a part of this property. Hence, the reason why there was this footnote with the asterisk which does not include land occupied by other government buildings.

So, Mr. Speaker, as I see the purpose of the existing law in this Schedule, what it would mean is that the property that was vested in the Health Services Authority was property that was undeveloped thus far at that site. Fairbanks - partially built when the hospital was originally going there - and later converted and completed into a semi-purpose built facility for female prisoners.

What is being sought in the Bill says to me that, and if I may move from the Memorandum and Objects and just look on section 4 of the Bill, it says the principal Law is amended in Schedule 1 by repealing the words 'Dr. Hortor Memorial Site', and the words 'Block 15 C and Parcel 28'. This says to me that the entire site, including Fairbanks Prison, has been vested in the National Housing and Community Development Trust. If we delete that, then the footnote cannot apply to anything because it is not there.

So the footnote cannot say anything to the property that is vested in the National Housing and Community Development Trust.

Mr. Speaker, I would wish for clarification there because what this Bill is saying to me is that the entire property is being vested in the NHCDT, including Fairbanks Prison. At present, the same Minister is responsible for both; it certainly cannot be the intention of the NHCDT to be in charge of our female prison. We would like to get this clear Mr. Speaker, and perhaps we would then be in a better position to look at the passage of the Bill.

Mr. Speaker, it is a short Bill so it is really no need on my part to extend the discussion beyond what exists. We will wait to hear the comments on that and then make our decision.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Aiden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. As I look at this short amending Bill, in particular section 2, which proposes to delete and repeal section 12 and substitute a new provision, I am reminded of the old adage that the 'chickens do come home to roost'. This provision I will term the 'Elliott amendment', for it appears to me, Mr. Speaker, that this attempt to provide both 'belt and braces' to the immunity and indemnity of the Directors of the Health Services Authority has been brought about by concerns that they may face liability in light of the lawsuit that has been brought by Mr. Elliott against the Health Services. It is being alleged, among other things, the breach of contract and that contract related to his former employment by the Health Services Authority at a salary which a local publication has recently described as the highest salary paid any public servant, some C\$435,000 per year, I believe. I do not have the publication but do recall reading it just this past week.

I and other Members of the Opposition spent considerable time and resources seeking to elicit from the Honourable Minister responsible for the Health Services Authority information in relation to Mr. Elliott's contract of employment, and the remuneration package was, to no avail. We then sought to elicit details of events and circumstances surrounding his mysterious departure from the Health Service Authority, again to no avail.

I have learnt that in my relatively short life that the truth will come out, and in the fullness of time, if you should live that long, all will be revealed. No doubt all will be revealed if the litigation proceeds and if there is eventually a result.

I believe, one of the immediate consequences, is that this Honourable House is now being asked to amend the Health Services Authority Law. It seems to provide or to make provision for holding members, directors or employees of the Health Au-

thority harmless. I think in particular the provision that is now proposed, the amendment for section 12, the replacement for section 12 speaks to both directors and employees. What I have been unable to determine is why such an amendment is necessary. Unless there is some concern by directors or employees of the Authority that something they did or did not do may result in them being found personally responsible for cost or damages awarded by the court in relation to the Elliott litigation. Indeed, any other litigation.

My colleague, the Leader of the Opposition, did read both the current and the proposed replacement section. He pointed out correctly that the current section 12 provides that no “**director or employee of the Authority shall be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions under this Law; unless it is shown that the act or omission resulted from their dishonesty, fraud or wilful neglect.**”

The proposed section 12, again says that “**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 or duties, unless it is shown that the act or omission was in bad faith.**” As the Leader of Opposition has pointed out, no explanation has been given to this Honourable House as to the distinction between ‘bad faith’, which is the proposed change, and ‘dishonesty, fraud, or wilful neglect’.

Personally, I would have great difficulty, particularly knowing something about the background of this proposal, to amend the Law at this stage, to give the directors and/or employees of the Authority, additional protection and indemnity by the Government by changing this subsection. The result of providing immunity or indemnity to the directors or employees is essentially saying whatever you have done, as long as it was not in bad faith, the government will become financially responsible. If employees and directors have done something which is, to use current words of the section, dishonest, fraudulent or wilfully neglectful, then in my respectful view, they ought to be held liable for it.

This was an extraordinary contract, the highest sum I believe ever paid to a public servant in these Islands. There were complaints, questions throughout the community, in particular in this Honourable House, about this matter. It was an unusual case. The Government is now coming down here this afternoon, expecting this House to sanction retrospectively what directors or employees may or may not have done in relation to the award of this contract.

**Hon. Gilbert A. McLean:** Mr. Speaker, on a point of order.

#### Point of Order

**The Speaker:** Honourable Member, would you please state the point of order?

**Hon. Gilbert A. McLean:** Mr. Speaker, the Second Elected Member for George Town is on his favourite horse that he has been riding for the past two years. It seems as if the information he wishes to have about a contract he is talking about now, which he has, he is going on and on about that and suggesting, which would be, without taking legal advice from the Honourable Second member, would almost be criminal if I should bring a Bill here that would thwart the course of justice.

That is what he, I suggest, is imputing. Moreover, the contract he is talking about has been seen in the papers and is a matter before the court. So to be debating it here is improper. The course of debate, Members are required to refrain from such a thing. Therefore, Mr. Speaker, it is irrelevant and I suggest improper for him to be raising his favourite issue rather than talking about the two amendments, which he can debate the value of or have his own legal view about, Sir. He is a lawyer and he should know what ‘bad faith’ means and whether it covers wilful neglect and so on.

**The Speaker:** Honourable Members, I have taken the point raised by the Honourable Minister for Health Services Standing Orders 35 (4) does in fact speak to the question of imputation of improper motives to another Member. I would now call on the Second Elected Member for George Town to reply to the point raised by the Minister for Health Services, whether in fact he was in fact imputing improper motives on behalf of that Minister

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. I certainly was not imputing any improper motive on behalf of the Minister. I take issue with the Government bringing this Bill at this time. However that is a very different thing from seeking to impute anything improper at all to my good friend, the Minister of Health.

**The Speaker:** Honourable Members, we have heard the point of order, the reply from the Second Elected Member for George Town. He has stated that it was not his intention to impute improper motives to the Honourable Minister.

So, I would now ask the Second Elected Member for George Town to be very careful in the continuation of his debate on this Bill to refrain from any semblance of an imputation of improper motives.

Would you please continue, Honourable Second Elected Member for George Town?

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker, I am grateful to you. This whole question about the responsibilities of directors, in particular is one I believe, on which considerable education is

needed. It often seems to me that people accept these roles as directors of Statutory Authorities, without understanding the tremendous responsibility that goes along with that. There is a fiduciary duty that is imposed in relation to the company as a result of someone becoming a director. That duty requires the individual who is the director to act in the utmost good faith, to act with diligence, to act with caution, to act responsibly generally. It is the directors who make the decisions, whether they are in relation to the hiring or firing of people or to what direction the Authority takes in relation to any matter.

I believe it is fundamentally wrong to permit any director or employee to have such a blanket immunity or indemnity. That essentially allows them 'an out', no matter what they do, unless it is the most blatant and flagrant case which could possibly be termed as bad faith.

Section 12 as it currently stands, in my respectful view, provides the necessary and proper immunity and indemnity. The law ought not to go further. What is being proposed in my view Mr. Speaker, by section 2 of the amending Bill, is to give the directors and employees of the Health Services Authority immunity now and indemnity in relation to anything they have or have not done, unless it is the most flagrant and blatant case of disregard or consideration for the affairs of the Authority.

Why is it being brought now, since the Minister objects so strenuously to my references earlier? Let him explain that to the House, Mr. Speaker. Let him explain the distinction between bad faith, wilful neglect, fraud and dishonesty. This is a fundamental change brought in circumstances which are public knowledge, which as recently as Thursday 9 December, appeared in *The Cayman Observer*, 'HSA Launches Defence to Elliott Lawsuit'. Let him explain why this provision is being brought at this time, if it is not for the reasons already articulated. It is my view Mr. Speaker, that it is wrong, wrong, wrong. If directors of the (Health Services Authority) HSA have acted improperly, have not carried out their statutory duty and function in accordance with the law, then they ought to pay for it. Government ought not to be holding the bag for that because I remind all Honourable Members of this House; it is ultimately the people of this country who contribute to the revenue of this country and of the Government, who are going to pick up the tab.

**The Speaker:** Honourable Member, I would ask you again if you could just move away from that subject at this point, regarding the 'Elliott case' because it is now sounding to hinge on the point of order initially raised by the Honourable Minister. So, I would ask you to please speak in generalities not specifically to the 'Elliott case'.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker, I will be so guided. The result of the section, henceforth and hereafter, is that all directors and employees of the Authority, unless it is possible to show that they have acted or not acted in bad faith, are going to be relieved of any responsibility, that they otherwise would have had under the current legislation, as section 12 presently stands.

That is the result of the proposed amendment and I believe that the country and Honourable House are owed a proper explanation by the Honourable Minister as to the reasons for this fundamental, radical change. None has been provided; therefore I believe we can be forgiven for having questions about the purpose behind the proposed amendment. I can say that unless a proper, clear, forthright response is forthcoming by the Honourable Minister, this Bill will not receive my support.

**The Speaker:** Does any other Member wish to speak? The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Thank you, Mr. Speaker. I would like to have your indulgence while I address the issue which the Second Elected Member for George Town dwelled upon. It appears to me that since he is a lawyer, he might have discovered something regarding this amendment brought by the Minister of Health, which I have been unable to discover. Namely, I see that the original clause of the Law which says, "**Neither the Authority, nor any director or employee of the Authority shall be liable in damages for anything done or admitted in the discharge or purported discharge of their respective functions under this Law, unless it is shown that the act or omission resulted from their dishonesty, fraud or wilful neglect.**"

The amendment says basically the same. It says, "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 or duties unless it is shown that the act or omission was in bad faith."

So, the question is whether or not dishonesty, fraud or wilful neglect is the same as bad faith. It is my contention that bad faith means all of these. Dishonesty is bad faith; fraud is bad faith and wilful neglect is bad faith. So, the word 'bad faith' covers all of the words used in the original law. The fact that somebody is trying to be a little bit more economical about the wording does not necessarily suggest any type of improper motive on the part of the Minister or the Government.

It is of course, the role of the Opposition to make everything that is clear, cloudy and in particular, my good friend the Second Elected Member from George Town, always likes to suggest that there has to be some dishonesty on the part of Government and its Members. I remind him that his understanding will

also suggest that bad faith is dishonesty, bad faith is fraud, and that bad faith is wilful neglect.

**The Speaker:** Honourable Members before I call on the next speaker, I would like to draw Members attention to Standing Orders 35(1), to read it to refresh your minds. It reads, "Reference shall not be made to any matter on which judicial decision is pending in such a way as might, in the opinion of the Chair, prejudice the interests of parties thereto." So, I would ask you to remember that section of the Standing Order. Does any other Member wish to speak? 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 to reply?

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker. This Bill is before this Honourable House because it was considered by the Board of Directors long before now, and the favourite time or incident of the Second Elected Member for George Town that the Board felt there should be a change to the wording in section 12.

Also, the Board has been discussing from last year the question of indemnity. Various correspondences have gone on between the Board of the Health Services Authority and the Legal Department with proposed wordings.

The present wording here is what I have been given as legal advice from the Government's Chief Legal Advisor. I have let the Board understand that the Constitution says that Government's Chief Legal Advisor is the Attorney General and when I am given a wording that he or she thinks is acceptable to meet the wishes of the people who serve on the Board of the Health Services Authority, I am obliged to accept that.

I can say to the Member that there is certain disagreement still with the legal wording but the wording that I have to use or to bring to this Honourable House is that which satisfies the Legal Department of Government and the Attorney General.

I brought it to answer the Second Elected Member for George Town because I am always prepared to do what has to be done, what is right to be done when it needs to be done and in this case the closest we got to acceptable language and indeed the new proposed clause on indemnity was now and therefore I brought the Bill to this Honourable House. I repeat that this has been a matter which has been ongoing from last year long before his friend, Elliott, got into the picture, or that he took up, it seems, unpaid representation on his behalf.

So, it has nothing to do with any such case but I can understand that is something which the Second Elected Member for George Town cannot free his mind from and that he would now use that to discuss the two clauses which are proposed for inclusion in the Health Services Authority. If he was making advocacy for what might come of the case he cited, I am sure the judiciary will take due note of

what is said in here, including what he and I said and make its own determination.

The section that you drew Members' attention says that where there is a matter which judicial decision is pending on, it should be avoided in debate.

I will not take any more time to discuss the most favourite subject of the Second Elected Member for George Town in my presentation.

Mr. Speaker, as the Minister of Community Affairs stated, it is my understanding, under advice, that the words "dishonesty", "the acts dishonesty", "fraud", and "wilful neglect" are covered under the term "bad faith". He may have noted that the words "or purported discharge" has been taken out of the proposed insertion and I am made to understand that if anything that may have given greater comfort to Directors but that has been taken out. Again, he has his legal view and I am sure that the Legal Department has theirs.

The indemnity was not included in the Law at all. I can recall from the very first meeting of members of the Board of Directors asked why there was not an indemnity clause. These are business people and they understand having a fiduciary duty as the Second Elected Member for George Town has said and they enquired about it. It is only now that it had been done and we have heard that the wheels of justice grind slowly but surely and I think that is true of Government's action as well.

So, both of these amendments are before this Honourable House for no other reasons than they are seen to be sufficient and they have gotten as close as possible to meet the desires of the Board of Directors and the Legal Department. I can give no better explanation than that.

The requests that an amendment be made to Schedule 1, in the Law, to remove the words "Dr. Hortor Memorial Site" and the words "Block 15 Parcel 28" also meet the requirement that this particular parcel of land will no longer be vested with the Health Services Authority. Which Ministry it goes to is a completely different matter.

The buildings that are standing on Dr. Hortor Memorial Site are now in use by a department of government under the responsibility of a ministry and whether all of the parcel will be used or how the buildings will be utilised, it is a separate matter and I am not here to speak to that in any way. I would point out that the two asterisks, which the First Elected Member for George Town and the Leader of the Opposition spoke to, does say where they appear 'it does not include land occupied by other government buildings'.

However, right above that are the North Side Health Centre, the West Bay Health Centre, and Little Cayman Health Centre - so those asterisks will still need to be remain where they are and there is no request to move them from the Schedule. So I did not get the point that the Leader of the Opposition was making in that regard. They would not apply any more

to the Dr. Hortor Memorial Site and Block 15 Parcel 28.

Mr. Speaker, I can offer no more explanation than I have and I leave it to the Members of the Opposition to exercise their right to vote as they see fit and I think that I can count on the Second Elected Member for George Town not voting for it, as he said he would do because he feels it would enhance his on-going dialogue about a situation which I believe is best left to the Court and I will not comment on that.

I recommend this Bill to Honourable Members and state that the explanation I have given is the only one that I am factually aware of.

Thank you.

**The Speaker:** The question is that a Bill shortly entitled, the Health Services Authority (Amendment) Bill 2004 be given a Second Reading. All those in favour please say Aye. Those against, No.

### Ayes and Noes

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

The Second Elected Member for George Town.

**Mr Alden M McLaughlin, Jr:** May we have a division, Sir?

**The Speaker:** Madam Clerk, please call a division.

### Division No. 9/04

#### Ayes

Hon. W. McKeeva Bush  
Hon. Gilbert A. McLean  
Dr. the Hon. Frank S. McField  
Hon. George A. McCarthy  
Hon. Kurt Defreitas  
Hon. Kenneth Jefferson  
Mr. Rolston M. Anglin

#### Noes

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

#### Absentees

Hon. Roy Bodden  
Hon. Juliana O'Connor-Connolly  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden, Jr  
Mr. Lyndon L. Martin  
Mr. V. Arden McLean

**The Speaker:** The results of the Division Ayes 7, Noes 4 and Absentees 6. The motion is accordingly carried.

**Agreed by Majority: The Health Services Authority (Amendment) Bill 2004 given a second reading.**

### The Merchant Shipping (Amendment) Bill, 2004

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to move the Second Reading of a Bill

entitled the Merchant Shipping (Amendment) Bill, 2004.

**The Speaker:** The Bill has been duly moved. Does the Honourable Mover wish to speak thereto?

**Hon. G. Kenneth Jefferson:** Yes, Mr. Speaker. The Merchant Shipping (Amendment) Bill that is now before this Honourable House seeks to amend the Merchant Shipping Law (2004 Revision). The Bill refers to the Merchant Shipping Law as being "the Law". I wish to briefly explain the origin of the Bill.

The Cayman Islands are subject to the provisions of the International Convention for the Safety of Life at Sea by virtue of the United Kingdom being a contracting party to that Convention.

The International Convention for the Safety of Life at Sea is well known as the SOLAS Convention. The present Merchant Shipping Law contains as Part 7 of that Law, a section that specifically deals with safety of life at sea. Changes to the SOLAS Convention necessitate changes to the Merchant Shipping Law.

The SOLAS Convention has been amended and the Convention Conference at which this was done simultaneously adopted the provisions of the International Code for the Security of Ships and Port Facilities often known as the ISPS Code.

On the basis that the SOLAS Convention has been changed and the ISPS Code was also adopted at that meeting, it has become necessary to amend the Merchant Shipping Law to reflect those changes. This Bill seeks to incorporate those changes into the Law.

Changes to the SOLAS Convention and the ISPS Code introduce new procedures in relation to the maritime security in response to the risks of terrorist activities.

Mr. Speaker, I will comment briefly on the clauses in the Bill.

Clause 1 simply gives the title of the Bill.

Clause 2 defines the term, referred to in the Bill, as "the Law" to mean the Merchant Shipping Law 2004 Revision.

Part 7 of the Law is presently titled "Safety of life at sea". Clause 3 seeks to amend this title by adding the words "and maritime security". So if the Bill is successful, Part 7 would read, "Safety of life at sea and maritime security".

Clause 4 of the Bill seeks to insert at Section 171 of the Law certain definitions or terms such as the ISPS Code and maritime security.

Mr. Speaker, the substance of the Bill is contained in Cause 5 which seeks to insert new provisions after Section 206 of the Law and these new insertions are desired to be Sections labelled 206 A to 206 F. These would give domestic or local effect in the Cayman Islands to the SOLAS Convention changes and the ISPS Code.

If this Bill is passed, the inserted section 206 A in the Law would make provision for the ISPS Code to apply to all Cayman Islands registered ships wherever they are in the world and also to make ships registered in other countries subject to the ISPS Code whilst they are in Cayman Islands waters.

The Code does not apply to ships of war and troop ships, cargo ships of less than 500 tonnes, ships not propelled by mechanical means, wooden ships of primitive build, pleasure vessels not engaged in trade and fishing vessels.

Section 206 B would enable the Director of Shipping to permit any Cayman Islands ship to implement alternative measures to be put in place, That is alternatives to those stated in the SOLAS Convention and the ISPS Code, but these alternative measures can only be implemented if the Director of Shipping is satisfied that the alternatives are as at least as effective in every respect as those described by the Convention and Part A of the ISPS Code.

Section 206 C would authorise the making of regulations to implement the SOLAS Convention and the ISPS Code. Those regulations have already been drafted but they can only be approved by Cabinet and brought into effect upon the passage of this Bill into Law.

Section 206 D would impose duties and responsibilities on the Director of Shipping in relation to maritime security. It speaks to the delegation of those duties by the Director of Shipping and it enables the Director to act as an agent for another Government in cases of absolute necessity.

Section 206 E would provide for the Governor, in his discretion, to set security levels and requires the Director of Shipping to communicate to Cayman Islands registered ships information concerning those security levels set by the Governor.

Section 206 F would enable the Government of the Cayman Islands to agree on an alternative security arrangement with a foreign SOLAS state to cover short term international voyages on fixed routes between ports within their respective territories.

The passage of this Bill will not only strengthen and benefit those who operate a Cayman Islands registered vessel but will also help to ensure the safety of our own people in our own territorial waters and ports.

The Bill will enable the Cayman Islands to play its role in reducing the risks associated with global terrorist activities as well as the normal risks associated with the shipping industry.

I therefore commend The Merchant Shipping (Amendment) Bill, 2004 to this Honourable House for passage.

Thank you, Sir.

**The Speaker:** Does any other Member wish to speak?

Does any other Member wish to speak? Does any other Member wish to speak? If not, would the Hon-

ourable Third Official Member wish to exercise his right of reply?

**Hon. G. Kenneth Jefferson:** Just to thank all Honourable Members for their silent support.

**The Speaker:** The question is that the Bill shortly entitled the Merchant Shipping (Amendment) Bill, 2004 be given a Second Reading. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed. The Merchant Shipping (Amendment) Bill, 2004 has been given a second reading.**

### **The Coat of Arms, Flag and National Song (Amendment) Bill 2004**

**The Speaker:** The Honourable First Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I beg to move the Second Reading of a Bill entitled the Coat of Arms, Flag and National Song (Amendment) Bill 2004.

**The Speaker:** The Bill has been duly moved. Would the Honourable Mover wish to speak thereto?

**Hon. George A. McCarthy:** Thank you, Mr. Speaker. This Bill seeks to amend section 2 of the Coat of Arms, Flag and National Song Law (2004 Revision), to revise the Law relating to the use of the Coat of Arms and Flag of the Cayman Islands.

The Amendment will make it unnecessary for elected Members of this Honourable House or candidates for the Legislative Assembly to obtain permission from the Governor in Cabinet in order to use the Coat of Arms or Flag of the Cayman Islands for the purpose of an election campaign.

The Bill specifically widens the scope of Section 2 by inserting two new subsections (3) and (4).

The new subsection (3) reads: “**(3) Subsection (1) does not apply to the use by a person of -**

**(a) any advertisement circular or publication (whether transmitted by electronic means or otherwise);**

**(b) any article of clothing; or**

**(c) any other item,**

**that contains the Coat of Arms or flag of the Islands, where such use is with a view to promoting or procuring the election of a candidate at an election.”**

Subsection (4) continues and it reads; “**In this section –“candidate” means a person who intends to seek nomination, or who has been nominated, as a candidate to contest an election; and “election” means an election of a member or members to the Legislative Assembly.”**

Mr. Speaker, this is a very simple amendment in order to avoid Honourable Members of this House having to apply under section 2 for permission in order to use the Coat of Arms.

This is the substance of this Bill and I commend it to this Honourable House.

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

**Mr. V. Arden McLean:** Mr. Speaker, the only reason I have heard given for the moving of this amendment is to facilitate candidates in an election from having to apply to Cabinet for permission to use the Flag and the Coat of Arms for advertisement purposes in a campaign.

I really do not understand why candidates will have to be exempt from getting permission to use those two national identities and others have to do so. There is nothing to suggest that candidates will not abuse the use of the Flag, or the Coat of Arms. Maybe the First Official Member, in his reply, will give us some indication as to how he proposes to ensure that it is not abused or changed in any way. As I recall, when I applied sometime ago for permission through Cabinet to use the Coat of Arms, there were specific instructions sent to me as to how and where it is to be used.

Now, here we are not only giving candidates, Members of this Honourable House, who we hope would respect the Coat of Arms and the Flag . . . A candidate also means a person who intends to seek nomination which is usually 6 weeks away from election. So, we could have everyone in the country saying that they intend to seek nomination for election but they may never reach that stage or withdraw from any election race for a seat in this Honourable House.

I am extremely concerned with that section and maybe there is some way we will be able to publish or get to whoever uses the Flag and the Coat of Arms that they will understand how it can be reproduced. We could have different individuals using it in different ways and that we need to ensure never happens.

I have seen in other countries where the Flag is destroyed and otherwise; that is not to say that it will happen in this instance, but certainly it can be reproduced in a different manner than its original intent. I did not hear the First Official Member say how we are going to protect against one using the flag or the Coat of Arms under different circumstances than it should be used. I would appreciate if the First Official Member, in his reply, could inform this Honourable House and the general public on the provisions being made to ensure the integrity of the Flag and Coat of Arms remains.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does

any other Member wish to speak? If not, would the Honourable First Official Member wish to exercise his right of reply?

**Hon. George A. McCarthy:** Thank you, Mr. Speaker. The Honourable Member from East End has raised some very good questions but I am not sure that I will be in a position to give him the assurance he seeks regarding how to ensure that persons will not abuse the privilege that will be accorded to them in terms of purporting to be candidates, thus having the right to use the Coat of Arms.

One would imagine that the individuals who would be putting themselves forward as candidates seeking to be elected to this Honourable House would be responsible enough and possess the necessary integrity and good judgment that it would not result in an abuse of such an important national symbol such as the Coat of Arms.

Mr. Speaker, when the Honourable Member made an initial application and the instructions that were provided to him, the Law in its present state, not taking account of the amending bill, reads: “**(1) Subject to subsection (2), whoever, without the authority of the Governor in Cabinet, uses in connection with a trade, business, calling or profession, the Coat of Arms or flag of the Islands (or arms or a flag so closely resembling the Coat of Arms or flag of the Islands as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorised to use the Coat of Arms or flag of the Islands is guilty of an offence and liable in respect of a first offence to a fine of five hundred dollars, and in respect of a second or subsequent offence to a fine of five thousand dollars.**”

Subsection (2) which is the only subsection in the Law reads; “**Subsection (1) does not apply to the use by a proprietor of a trade mark that contains the Coat of Arms or flag of the Islands.**”

This is where the new two subsections that I mentioned earlier, subsections (3) and (4) are now being introduced.

Mr. Speaker, in anything that involves humanity, there is a risk element associated with it. We would hope that we would not have a situation as described by the Honourable Member – although such cannot be ruled out. One would imagine that there are other means to deal with such breaches where someone shows disrespect or puts himself in the position that results in a misuse of the Coat of Arms: I would imagine that not being the case. However, one can imagine the numerous requests that would be coming to Cabinet, especially leading up to general elections, seeking approval by prospective candidates for the use of the Coat of Arms. Based on past experience, this is what would have given rise to this Bill being presented to Honourable Members.

We have to rely on the conduct and good judgment of prospective candidates because at the

end of the day this is what in sum total the public at large will be relying on. Surely a candidate who would abuse the Coat of Arms, quite likely the elections process will avoid the opportunity for such a person to be allowed to inflict further abuse upon the community at large.

So, at the end of the day, it comes down to judgment and the integrity of the prospective candidates and I would say that would embrace the majority and all of the persons who would be putting themselves forward purporting to want to represent the people of the Cayman Islands.

Thank you, Mr. Speaker.

**The Speaker:** The question is that a Bill shortly entitled the Coat of Arms, Flag and National Song (Amendment) Bill 2004 be given a Second Reading. All those in favour please say Aye.

**Ayes.**

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

**Agreed. The Coat of Arms, Flag and National Song (Amendment) Bill 2004 read a second time.**

**The Speaker:** The House will now go into Committee to consider the Bills.

**House in Committee at 4.16 pm**

## 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 authorise the Second Official Member to correct minor errors and such the like in these Bills?

Would the Clerk please state the Bill and read its clauses?

### **The Health Services Authority (Amendment) Bill 2004**

**The Clerk:** The Health Services Authority (Amendment) Bill 2004.

#### **Clauses 1 through 4**

Clause 1	Short title.
Clause 2	Amendment of the Health Services Authority Law (2003 Revision) - repeal of section 12 and substitution - immunity.
Clause 3	Amendment of the principal Law - insertion of Section 12 A - indemnity.
Clause 4	Amendment of Schedule 1 - property to be vested in the Authority.

**The Chairman:** The question is that Clauses 1 through 4 form part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 1 through 4 passed.**

**The Clerk:** A Bill for a Law to amend the Health Services Authority Law (2003 Revision) and for incidental and connected purposes.

**The Chairman:** The question is that the Title forms part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Title passed.**

### **The Merchant Shipping (Amendment) Bill, 2004**

#### **Clauses 1 through 5**

**The Clerk:** The Merchant Shipping (Amendment) Bill, 2004.

Clause 1	Short title.
Clause 2	Definition.
Clause 3	Amendment of part 7 - safety of life at sea.
Clause 4	Amendment of section 171 - definitions in this part.
Clause 5	Insertion of sections 206 A to 206 F

**The Chairman:** The question is that Clauses 1 through 5 form part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 1 through 5 passed.**

**The Clerk:** A Bill for a Law to amend the Merchant Shipping (2004 Revision) to implement amendments to the International Convention for the Safety of Life at Sea and the provisions of the International Code for the Security of Ships and Port Facilities which relate to ships, maritime security and for incidental and connected purposes.

**The Chairman:** The question is that the Title forms part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Title passed.**



### **The Coat of Arms, Flag and National Song (Amendment) Bill 2004**

#### **Clauses 1 and 2**

**The Clerk:** The Coat of Arms, Flag and National Song (Amendment) Bill 2004.

Clause 1 Short title.

Clause 2 Amendment of section 2 of the Coat of Arms, Flag and National Song Law 2004 Revision – unauthorised use of the Coat of Arms or Flag an offence.

**The Chairman:** The question is that Clauses 1 and 2 form part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 1 and 2 form part of the Bill.**

**The Clerk:** A Bill for a Law to amend the Coat of Arms, Flag and National Song Law (2004 Revision) to revise the Law relating to the use of the Coat of Arms and Flag of the Islands in political campaigns.

**The Chairman:** The question is that the title forms part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Title passed.**

**The Chairman:** This concludes the proceedings in Committee. The House will now resume.

#### **House resumes at 4.21 pm**

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

### **REPORTS ON BILLS**

#### **The Health Services Authority (Amendment) Bill 2004**

**The Speaker:** The Honourable Minister for Health Services.

**Hon. Gilbert A. McLean:** Mr. Speaker, I have to report that a Bill shortly entitled The Health Services Authority (Amendment) Bill 2004 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 Third Reading.

### **The Merchant Shipping (Amendment) Bill, 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, I have to report that a Bill shortly entitled The Merchant Shipping (Amendment) Bill, 2004 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 Coat of Arms, Flag and National Song (Amendment) Bill 2004**

**The Speaker:** The Honourable First Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I have to report that a Bill shortly entitled The Coat of Arms, Flag and National Song (Amendment) Bill 2004 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 Third Reading.

Honourable Members I will take a suspension of 5 minutes.

#### **Proceedings suspended at 4.24 pm**

#### **Proceedings resumed at 4.25 pm**

**The Speaker:** Honourable Members you will have received an Addendum Order Paper and this seemed to be necessary in order to complete the business before the House.

By doing this we are able to complete the business in one day and no doubt the Leader of Government Business will later on move the adjournment sine die because the business on the Order Paper would have been completed.

I now revert to the Addendum Order Paper and call on the Honourable Leader of Government Business to make his presentation.

### **PRESENTATION OF PAPERS AND OF REPORTS**

#### **Impact of Hurricane Ivan in the Cayman Islands**

**Hon. W. McKeever Bush:** Mr. Speaker, I believe that you will agree that I should move for the suspension of Standing Order that would allow us to do business after 4.30 pm.

**The Speaker:** The time is now 27 minutes past 4 pm and the Honourable Leader of Government Business has said that he will not be very long so when we

reach the 4.30 pm mark I will call on him for the suspension.

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg to lay on the Table of this Honourable House, as I indicated this morning, the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) United Nations Development Programme (UNDP) Report on the impact of Hurricane Ivan in the Cayman Islands.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I am pleased to present to this Honourable House the United Nations Development Programme and the Economic Commission for Latin America and the Caribbean report on the Impact of Hurricane Ivan in the Cayman Islands.

The Economic Commission for Latin America and the Caribbean (ECLAC) is one of five regional commissions of the United Nations. It was founded for the purposes of contributing to the economic and social development of Latin America and the Caribbean, coordinating actions directed towards this end, and reinforcing economic relationships among the countries and with the other nations of the world.

In October 2004, a Cayman Islands delegation consisting of myself, the Honourable Juliana O'Connor-Connolly, Minister of Planning and the Honourable Kenneth Jefferson, The Financial Secretary, travelled to the United Kingdom to meet with the Foreign and Commonwealth Office and agreed that a full assessment would be carried out on the impact of Hurricane Ivan on our Islands.

In late November, an ECLAC-led mission arrived in Grand Cayman at the request of the Cayman Islands Government and the support of the United Nations Development Program. The purpose of the visit was to prepare a multi-sector, integrated damage and losses report. The ECLAC methodology was developed over the past decades and is recognised by international public and private sector organisations.

The work identifies impacts in three sectors: Social, Productive and Infrastructure. The impacts are classified in two ways: (1) damages - being the actual impact on physical assets; and (2) losses - being the effects on economic and social flows.

The major findings of the report are as follows:

- The total impact of the disaster on the Cayman Islands was CI\$2.8 billion. This is much greater than the total hurricane season damage this year to Grenada, Jamaica, Dominican Republic and Bahamas combined.
- The total amount of damage and losses is equivalent to about 183 per cent of Gross Domestic Product.

- The amount of damage is estimated at \$75,700 per person, the highest ever encountered by ECLAC.
- Over 80 per cent of the impact reflects damage and destruction of assets. Housing is the most significantly impacted. The remaining roughly 20 per cent of the impact is in the form of losses to future flows.
- The observed capacity for the best year in the past decade resulted in construction permits for about CI\$400 million, or one-sixth of the direct damage of CI\$2.8 billion.

#### *Social Sector*

Damages and losses by sector are as follows:

Total damage and losses to the social sector amounted to CI\$1.5 billion, or 53 per cent of the total impact. The most severely affected sub sector being Housing, which had a total impact of CI\$1.4 billion. The impact on education totalled CI\$44.8 million. The health sector experienced a total impact of CI\$18.9 million.

#### **Moment of Interruption**

#### **Suspension of Standing Order 10(2)**

**The Speaker:** Honourable Leader of Government Business, if this is a convenient point to move the suspension that we may continue?

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg to move the suspension of Standing Order 10(2) to complete business on today's Order Paper.

**The Speaker:** The question is that Standing Order 10(2) be suspended in order for the House to complete the business on the Order Paper. 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 Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, on the Productive Sector.

#### *Productive Sector*

The total impact to the productive sector equalled to CI\$931.4 million, or 33 per cent of the total impact. The two most impacted sub sectors being Commerce and Tourism. Commerce suffered an impact of CI\$463.4 million and tourism experienced a

total impact of CI\$462.4 million. Agriculture suffered a total impact of CI\$5.6 million.

### *Infrastructure Sector*

The total damage and losses to the infrastructure sector amounted to CI\$407 million or 14 per cent of the total impact. The most severely impacted sub sector was Road Transport, which had a total impact of CI\$194.9 million, followed by telecommunications at CI\$79.5 million. The electricity sub sector also incurred a significant impact of CI\$68.9 million.

### *Public Finances*

Turning to the health of public finances, the overall fiscal balance of Central Government amounted to a positive CI\$24.3 million pre-Ivan compared with an expected deficit of CI\$38.7 million post-Ivan. This is a change of CI\$63 million in Government's financial position.

### *Macro-economic Impacts*

The ECLAC study also projected a drop in Cayman Islands' GDP from the pre-storm level of 3.1 per cent down to negative growth rate or contraction of -2.2 per cent after the storm. The Consumer Price Index is expected to increase from 1.9 per cent to 3.1 per cent.

The mission's report findings point to the need for a closer link to be promoted between short to medium term environmental and social restoration, economic and physical recovery and long term management of a viable and sustainable development.

Considering the dynamics of our society and economy, the report refers to the "daunting" challenge posed by the need to restore our physical and housing infrastructure and the need to mobilise the required workforce, importation of the necessary building supplies and components and the urgency to restore the infrastructure in a short period of time.

Key elements for consideration include:-

- House reconstruction and urban rehabilitation, relocation and renewal coupled with job creation, income generation and restoration of social capital;
- Measures to reduce the physical vulnerability in the Islands;
- Access to public services as part of a systematic approach to increase resilience coupled to actions of land zoning and planning in an integrated approach leading to risk reduction;
- Rehabilitation and strengthening of the country's infrastructure coupled with more resilient local and regional development strategies;
- Institutional strengthening in terms of having both appropriate legislation that promotes risk management, transfer and reduction; and appropriate

information management and coordination among public sector offices and institutions and the private sector.

Mr. Speaker, while Government has already taken many measures to help those most in need within our society such as providing funding and interest free loans, as well as incentives and concessions to aid in the rebuilding of the Islands, however there is much more to be done. The Report points out that the assessment of damage and losses clearly indicates that the present Government resources, in the best of circumstances, are not enough even to cover the remaining emergency needs let alone the reconstruction process.

I would like to further emphasise the situation the Cayman Islands Government will have to deal with as a result of Ivan by quoting from page 79 of the ECLAC Report: **"There is an immediate short term liquidity problem facing the economy that, if left unattended may lead to an undesirable instability in the Cayman's fundamentally sound and dynamic economy. To face this is that the government requires external assistance. The Cayman Islands Government cannot face this task with its existing resources."**

I will be calling on the United Kingdom Government in the next week to discuss this most important conclusion with them. And I say that while Members were hot under the collar in the first days following the hurricane that we have had not received what they considered assistance from the mother country, I said in the House that the United Kingdom Government have time yet to redeem themselves. I do believe that time has come and in my report and in my visit to the United Kingdom with a delegation, we expounded and attempted to show the United Kingdom the tremendous loss in this country. The United Kingdom said we had to do a report because we are not Montserrat and we have to show that we have these damages.

We agreed that there would be this Report although we know that the damage is here. The United Kingdom must now understand where our need truly is. And if it is anytime at all that the United Kingdom is going to help us, this Report should, without a shadow of a doubt, speak with clarity to the United Kingdom in regard to what we face as a country as a whole and what the Government needs.

I trust that they will now come forward to do their part.

Thank you, Mr. Speaker.

## **GOVERNMENT BUSINESS**

### **BILLS**

#### **Suspension of Standing Order 47**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I move for the suspension of Standing Order 47 in order to take the Third Readings on the Bills.

**The Speaker:** The question is that Standing Order 47 be suspended to allow the Bills on the Order Paper to be read a third time. 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 Health Services Authority (Amendment) Bill 2004**

**The Speaker:** The Honourable Minister for Health Services.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move that a Bill shortly entitled the Health Services Authority (Amendment) Bill 2004 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Health Services Authority (Amendment) Bill 2004 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 Health Services Authority (Amendment) Bill 2004 given a third reading and passed.**

#### **The Merchant Shipping (Amendment) Bill, 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, I beg to move that a Bill shortly entitled the Merchant Shipping (Amendment) Bill, 2004 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Merchant Shipping (Amendment) Bill, 2004 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 Merchant Shipping (Amendment) Bill, 2004 given a Third Reading and passed.**

#### **The Coat of Arms, Flag and National Song (Amendment) Bill 2004**

**The Speaker:** The Honourable First Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I beg to move that a Bill shortly entitled the Coat of Arms, Flag and National Song (Amendment) Bill 2004 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) Bill 2004 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 2004 given a Third Reading and passed.**

### ADJOURNMENT

**The Speaker:** Honourable Members, before calling on the Honourable Leader of Government Business for the adjournment, I wish to advise and remind you that a Christmas luncheon has been planned by the staff for Thursday, 16 December. They felt that the House would go on for a longer period so the luncheon was planned for Thursday. I ask all Honourable Members to make every attempt to return to the Legislative Assembly on Thursday at 12.45 pm as the staff have gone to a lot of expense and put a lot of time in preparing a very interesting meal for Members. This is the annual Christmas meal. We had one last year and I would ask that all Honourable Members try to make every effort to be back here on Thursday, 16 December at 12.45 pm to join in the Christmas luncheon.

The Honourable Leader of Government Business, the adjournment please.

**Hon. W. McKeeva Bush:** Mr. Speaker, I would like to inform Members that there is a possibility that they will have to come back sometime after Christmas for a short debate on the Tax Information Exchange Authority Bill and we would hope to bring that after Christmas. It has to be done before 31 December. Members will be informed accordingly.

#### **Closing Christmas Greetings**

**Hon. W. McKeeva Bush:** Before the adjournment, and since we are not going to be back here until after Christmas, I would like to take this opportunity to wish you and your family a very healthy Christmas and a very bright New Year.

I also want to extend that to the Leader of the Opposition and his family and indeed all Members of this Honourable House, especially to our staff here who have served us so well in the past year. And what a year it has been!

If someone had told me that this would have happened, never in a thousand years would I have believed that the Cayman Islands would have been through what we have in the last three months. I keep saying that people forget where we were on 12 September and where we are today. We have gotten here by God's blessings. One Member said to me in the room earlier that we have to thank Almighty God that we are all here. That is so true. This has been a real test for us and will continue to be so and I think that all of us need to remember that.

General elections are nigh but that will not do away with the problems that we face and the hurt that we are experiencing and the real life challenges that our people now face from one end of this country to the next.

I know we all come from good sound Caymanian families and all of us believe that there is a God. I believe that all of us try to walk that path as close as we can. None of us in this House is perfect but I believe that we have done a good job. The cut and thrust of politics will continue, however, let us not forget that our families are most important to us and when we hurt one another here, we hurt them also.

I can say on behalf of the Cabinet that we are grateful for the fellowship, camaraderie and even the cut and thrust of debate in this Honourable House. Let us move into the New Year with a lot of hope, thankfulness and reasonableness on our part.

I wish for everyone a very merry, healthy and prosperous Christmas and a healthy and bright 2005. May God continue to bless all of our people from Cayman Brac and East End to West Bay.

**The Speaker:** Does any other Member wish to— the Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. The Opposition would certainly like to extend Christmas greetings to you and your family, Sir. As was said before, perhaps this is not the type of Christmas we all would wish to see but it behoves all of us to make the best of it. In that regard, we should be able to forget about the politics of it all for a short time.

I think it is certainly the time of year when Members should take the time out for families and friends and our constituents because I am certain with the times the way they are many of our constituents are not in the best of shape and while each of us has had our own personal losses they do look forward to us being part and parcel of Christmas in the various areas.

So, on behalf of the Opposition I would also like to extend heartfelt thanks and warm greetings to

the staff who we know toil very hard notwithstanding some of the circumstances that we put them under.

Last but not least, even when we do have our arguments and differences with the media, they do serve a very important purpose and I would also like to extend Christmas and New Year greetings to them. Even to those who we consider to be a bother outside sometimes, during this time of Christmas we will also have to extend greetings to them.

On a personal note, I would like to extend Christmas greetings to all of my fellow colleagues here in the Legislative Assembly and their families. As the Leader of Government Business has extended personal greetings to me and my family, certainly I would do the same because he does know that when it is all said and done, we are Caymanians alike.

Thank you.

**The Speaker:** Does any other Member wish to say a few words? The Honourable First Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I would like to wish you and your family, Honourable Members of this House and their families, the staff, the Civil Service, and everyone on Grand Cayman, Cayman Brac and Little Cayman the best for the upcoming Christmas and God's richest blessings for the New Year.

As both the Honourable Leader of Government Business and the Honourable Leader of the Opposition have said, this Christmas will be different from others we have experienced in previous years. A lot of people will not have the amenities that they have had in previous years but essentially we have life and hope. I think the experience we all encountered on 12 September, has given us a revitalised commitment towards our fellow man and towards our country in general.

We are certainly thankful to Almighty God for sparing our lives. The fact that He has left us with our lives sends a very good message in that at the end of the day wood and stone and automobiles and other things can always be replaced but life is very important. This is why God himself, in Christ Jesus, came out of Heaven and lived amongst humanity, put himself on that cross and paid that price for the redemption of our souls.

Mr. Speaker, we have a wonderful country and notwithstanding the fact that this year the exchange of gifts may not be as they were in previous years, I must say that since 12 September most of us have found ourselves in a position where we were just crossing and nodding and now we are taking time out to touch each other and to earnestly enquire about their well-being and welfare. At the end of the day we are all going to come through this experience as better people and as a result of that I think we will have a wonderful Christmas and hope, blessings and peace for the upcoming New Year. Thank you, Mr. Speaker.

**The Speaker:** If there are no other speakers, I would like to take this opportunity to thank each of you for your kind remarks and to associate myself with the kind sentiments expressed by the previous speakers.

This is going to be a wonderful Christmas for many of us. If it had not been for the grace of God we could have really suffered more losses than we did, even our lives could have been gone. So we have a lot to be thankful for. I want to wish every Member of this Honourable House a very peaceful and happy Christmas, a joyous, prosperous and safe New Year.

As I mentioned, we do have a programme, so this is not the end of it. I propose to say a few more words on Thursday. You do not want to miss it. I will take my presiding officer, my Speaker's privilege, to extend an invitation to the Press. Please come and get a nice piece of Christmas cake with us. You will not want to miss two specials. I will not tell you who they are from but two Parliamentarians will be offering two very special numbers in song. It is Thursday, 16 December at 12.45 pm in the Luncheon Room. Please make every effort to be present.

The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Further, before I move the adjournment of the House, I would like to announce to our West Bay senior citizens through this medium that our Annual West Bay Senior Citizens Christmas Party will be held on Tuesday, 21 December, at the John A. Cumber Primary School Hall at 6 pm.

Mr. Speaker, I move the adjournment of this Honourable House sine die.

**The Speaker:** The question is that this Honourable House do now adjourn sine die. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**At 4.49 pm the House adjourned sine die.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**10 FEBRUARY 2005**  
**11.13 AM**  
*First Sitting*

[Hon. Cline A. Glidden, Jr., Deputy Speaker in the Chair]

**The Deputy Speaker:** I will invite the Elected 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; 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 Cabinet 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**

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

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

**Apologies**

**The Deputy Speaker:** I have received apologies for absence from the Honourable Speaker, Honourable Leader of Government Business, the Honourable Minister of Community Affairs and the Third Elected Member from the district of Bodden Town.

**PRESENTATION OF PAPERS  
AND OF REPORTS**

**The Development and Planning (Amendment)  
Regulations 2004**

**The Deputy Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I beg to lay on the Table of this House the Development and Planning Regulations 2004.

**The Deputy Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I will reserve my comments for when I move the Motion at a later time.

**Annual Report of the Financial Reporting Authority  
for the period ended 30<sup>th</sup> June 2004**

**The Deputy Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Financial Reporting Authority Annual Report for the period ended 30<sup>th</sup> June, 2004.

**The Deputy Speaker:** So ordered. Would the Honourable Member wish to speak thereto?

**Hon. Samuel W. Bulgin:** Briefly, Sir.

Mr. Speaker, Honourable Members will recollect that the Financial Reporting Authority was created by the Proceeds of Criminal Conduct (Amendment) Law, 2003, which came into force on 12 January 2004.

In the wake of the EuroBank revelations, and in order to bring a long overdue sense of transparency to this important area of government business, a requirement of that Law is that the Financial Reporting Authority (FRA) statistics are to be published annually.

Much more than mere statistics has been incorporated in this Report and at some stage Honour-



able Members will have an opportunity to peruse the Report in its entirety and see the comprehensive nature of it.

It explains, in an easy to read format the role and responsibilities of the FRA and the business conducted by that agency. Additionally, it records the accountabilities of the FRA, its Director and its members of staff. Indeed, Honourable Members will recollect seeking assurances on this very issue when the Bill was being debated in this Honourable House.

The Report also explains the obligations the Law places on the Cayman Islands institutions, businesses and individuals when they believe or suspect another to be engaged in money laundering.

I certainly commend this inaugural Report to Members of this Honourable House.

Thank you.

## QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF CABINET

### Suspension of Standing Order 21

**The Deputy Speaker:** I call on the Deputy Leader of Government Business.

**Hon. Hon. Gilbert A. McLean:** Mr. Speaker, I move the suspension of Standing Order 21 which reads: **“A question shall not be asked, unless it is of an urgent character or relates to the business of the day and the Member has obtained the leave of the Presiding Officer, unless notice of the question has been handed to the Clerk no later than ten days prior to the commencement of the meeting of the House at which it is sought to ask the question.”**

Mr. Speaker, the recommendation of the Business Committee has been that we should suspend this Standing Order to allow Members of the House who wish to do so, to submit questions for answers after the commencement of the House, and I so move that suspension. I wish to add that the Business Committee also recommended that the House work until 8 pm to be able to finish the various business expected to come before it, or perhaps later than that if it is the case where a Member is speaking and the business of the House could be wound up by allowing a short time after 8 pm for this to be done.

I move the suspension of Standing Order 21.

**The Deputy Speaker:** The Second Elected Member from George Town.

**Mr. Alden M. McLaughlin, Jr:** Thank you, Mr. Speaker. I wonder if the Honourable Minister would be so kind as to explain the reason for the proposal to suspend that Standing Order, and to also indicate publicly when questions and motions must be submitted by.

**The Deputy Speaker:** The Honourable Deputy Leader of Government Business.

**Hon. Hon. Gilbert A. McLean:** Mr. Speaker, the decision was taken by the Business Committee, albeit that the suspension of this Standing Order had not taken place to inform Members that they would have the opportunity, up until Wednesday of next week, to submit questions to the Parliament. In keeping with what the Standing Orders prescribe, motions which Members wish to submit should be done by tomorrow, Friday. This went out in a letter to Members last week Friday, giving them the dates when they were invited to submit questions and motions.

**The Deputy Speaker:** The Elected Member from the district of East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I respectfully draw the attention of the House to Standing Order 86 which says: **“Any of these Standing Orders may be suspended at any time for a specific purpose by the consent of a majority of Members present.”** It is my understanding from the Minister that they were suspended by the Business Committee. We are now asking the House to suspend the Standing Orders to allow for the questions and motions to be submitted, it is also my understanding that we have five and ten days respectively.

I wonder if the Minister could tell us why we are only given until tomorrow, Friday, to submit motions because if it is five and ten it would not be tomorrow and that can only relate to the Business Committee suspending the Standing Orders which is *ultra vires* section 86.

**The Deputy Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. On a point of procedure, I believe the Honourable Deputy Leader of Government Business moved for the suspension of this particular Standing Order, therefore, it might be in order to put the question on that and then the debate can ensue as oppose to engaging into question times.

**The Deputy Speaker:** Thank you Honourable Minister.

The Motion has been put on the Floor. The question is that Standing Order 21 be suspended. All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

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

**Mr. V. Arden McLean:** Mr. Speaker, can we have a Division please?

**The Deputy Speaker:** Madam Clerk, please call a division. (We are waiting on the Division Paper, if the Members could give us a few moments please.)

### Division No. 10/2004-05

#### Ayes 9

Hon. Gilbert A. Mclean  
Hon. Roy Bodden  
Hon. Juliana Y. O'Connor-Connolly  
Hon. George A. McCarthy  
Hon. Samuel W. Bulgin  
Hon. G. Kenneth Jefferson  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Lyndon M. Martin

#### Noes 4

Hon. D. Kurt Tibbetts  
Mr. Alden M. McLaughlin Jr  
Mrs. Edna M. Moyle  
Mr. V. Arden McLean

#### Absent 3

Hon. W. McKeeva Bush  
Dr. the Hon Frank S. McField  
Mr. Anthony S. Eden

**The Clerk:** The result of the Division: 9 Ayes, 4 Noes and 3 Absent.

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

**Agreed by Majority: Standing Order 21 suspended to allow Questions to be submitted after the commencement of the Meeting.**

**The Deputy Speaker:** The Honourable Deputy Leader of Government Business.

### Point of Clarification

**Hon Gilbert A McLean:** Mr. Speaker, I would just like to rise on a point of clarification which relates to the question of the time of notice. I have in my hand a letter from the Clerk of the Legislative Assembly dated 4<sup>th</sup> February, 2005 which was sent out to all Honourable Ministers of Cabinet and Members of the Legislative Assembly. I think that everyone of us here knows, unless we want to play that we are an unknowing group of people, that the Business Committee cannot suspend a Standing Order of the House.

A Standing Order of the House can only be suspended when the House is in session. When the Business Committee Members met, including the Deputy Leader of the Opposition, the de facto Deputy Leader of the Opposition, he knew the decision taken that day, and in an effort to ensure that opportunity would be given to Members and no one would be denied the opportunity of submitting questions for answers or motions.

The decision was taken requesting the Clerk to send it out ahead of time, giving what would be the normal five days and ten days as of that time. It goes without saying as the Division has just shown, nine of us voted for and the other four voted no, so in effect we were sure that we could suspend the Standing Orders, but why were we suspending them? To give the Opposition the opportunity of submitting questions and

motions. I do not know why the attempt is being made that we start off here wrangling and trying to put forward ridiculous positions when we know what the whole situation is. The Members have the opportunity of submitting questions and motions.

**The Deputy Speaker:** Member from East End you are standing on...

**Mr. V. Arden Mclean:** Mr. Speaker, I crave your indulgence to speak on the matter that the Minister just spoke on.

**The Deputy Speaker:** Honourable Member, he is speaking on a suspension of Standing Order that he moved. There is no provision to allow you to question a motion that he brought, unless you are standing on some other point I will have to ask the Clerk to move on.

## STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE CABINET

**The Deputy Speaker:** I have received no statements.

## GOVERNMENT BUSINESS

### MOTIONS

#### Suspension of Standing Order 24(5)

**The Deputy Speaker:** The Honourable Deputy Leader of Government Business.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 24(5) to allow motions to be submitted after the commencement of the meeting.

**The Deputy Speaker:** The question is that Standing Order 24(5) be suspended. All those in favour, please say Aye. Those against, No.

**Ayes and No.**

**An Hon. Member:** Not for one day!

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

**Agreed. Standing Order 24(5) suspended.**

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Order 46(1) and (2)

**The Deputy Speaker:** The Honourable Deputy Leader of Government Business.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 46(1) and (2) to allow the Bills as read by the Clerk to be read a first time.

**The Deputy Speaker:** The question is that Standing Orders 46(1) and (2) be suspended. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed. Standing Order 46(1) and (2) suspended to allow The Tax Information Authority Bill 2005 and The Development and Planning (Amendment) (No. 2) Bill 2005 to be read a first time.**

## FIRST READINGS

### The Tax Information Authority Bill, 2005

**The Deputy Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

### The Maritime Authority of the Cayman Islands Bill, 2005

**The Deputy Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

### The Development and Planning (Amendment) Bill, 2005

**The Deputy Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

### The Development and Planning (Amendment) (No. 2) Bill, 2005

**The Deputy Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

## SECOND READINGS

### The Tax Information Authority Bill, 2005

**The Deputy Speaker:** The Honourable Third Official Member.

**Hon G. Kenneth Jefferson:** Thank you Mr. Speaker. I beg to move the Second Reading of a Bill entitled the Tax Information Authority Bill, 2005.

**The Deputy Speaker:** The Bill has been duly moved. Does the Honourable Mover wish to speak thereto?

**Hon G. Kenneth Jefferson:** Yes Mr. Speaker.

The purpose of the Tax Information Authority Bill, 2005 is to provide for cooperation between the Cayman Islands and other countries in respect of the provision of information pertaining to taxation matters. The Bill now before the House replaces the Tax Information Exchange Authority Bill, 2003 which was previously circulated to Honourable Members. The Bill, if enacted, would also establish the request based mechanism by which any formal agreements for the provision of information in taxation matters between the Cayman Islands and other countries will be given effect. As Honourable Members are aware there is currently only one concluded agreement which was signed with the United States of America in November, 2001.

This agreement covers US federal income taxes and this agreement is attached to the Bill as Schedule 1. Honourable Members are also aware that it is the Cayman Islands stated intention to conclude arrangements related to taxation matters with countries we decide, based upon the economic interest of the Cayman Islands. Such interest involves, not only commercial considerations but also a clear respect for the rule of law, due process, the right to privacy and non-discrimination.

Bearing this context in mind, the Bill before the House was carefully drafted, reviewed and considered. Before I deal with the specific clauses in the Bill it is important and helpful to note the main legislative precedents used in the drafting of this Bill. These are the Criminal Justice International Cooperation Law and the Mutual Legal Assistance Treaty United States of America Law, the latter popularly known as the MLAT Law. Like the treaty in relation to the MLAT Law and the UN Vienna convention in relation to the Criminal Justice Law, the agreements themselves with other states will be incorporated into the Tax Information Authority Law as individual Schedules.

This means that the provisions in the agreements become part of the Law. The Government requires that all such agreements include safeguards, concerning for example, the specificity of a request, confidentiality and permitted use of any information provided and not allowing an agreement to be used to circumvent applicable law and administrative practice in the country of the requesting party.

The objective of the Bill and any agreements is to permit effective, lawful provision of information and equally, if not more importantly, to prevent fishing expeditions, to bar retrospective requests for information and provide due process. The Government is grateful for the detailed comments submitted by the Financial Services sector on the legislation, all of which were carefully considered and which informed the drafting and design of this current Bill. I am also grateful for the assistance of the Attorney General in

relation to the Bill. I now turn to the key provisions of the Bill.

The Bill establishes a dedicated channel of assistance for taxation matters. This is done by clauses 4 and 5 establishing the Financial Secretary or his designate as the Tax Information Authority. The Government will employ an individual to perform the duties required of the Tax Information Authority. Simply to clarify—although it may be obvious to members of the House—that even though the word authority is used the establishment of a Tax Information Authority under clause 4 does not mean the creation of a new statutory authority. The Tax Information Authority will effectively be an office or a unit within the Portfolio of Finance and Economics.

A two track assistance mechanism is articulated in clause 8. The two track mechanism involves firstly, a request for information relating to civil or criminal proceedings and associated investigations, meaning investigations associated with civil or criminal matters and the provision of testimony being dealt with by the Chief Justice or his designate acting alone and in an administrative capacity. Secondly, all other requests dealt with by the Authority without the need for referral to the Honourable Chief Justice. The role of the Judiciary as articulated in this Bill has been discussed with the Honourable Chief Justice and, I should like to further note that the enforcement clauses of the Bill retain Grand Court jurisdiction. This will bring the tax information procedure in line with the MLAT procedure which is regarded as effective and efficient. In both types of requests the Authority is required under clause 7 to scrutinise incoming requests to ensure that they comply with the terms of the relevant schedule agreement in all respects. The Government fully recognises the critical role of the Authority and will ensure that appropriately qualified senior personnel are in place to support the Authority's function in providing the proper level of review and control.

There are a number of other key provisions in the Bill which I would like to comment upon.

Clause 3(6) provides that an order by the Governor in Cabinet adding an agreement to the Law, by way of scheduling or making any changes in respect of an existing scheduled agreement is subject to an affirmative resolution of the Legislative Assembly. This means that the Legislative Assembly will be kept informed of new agreements that may be negotiated and changes to existing ones and those new agreements and any changes purported would require an affirmative resolution of the Legislative Assembly.

Clause 3(2) is a statutory bar against agreements having retrospective effect. It is the Government's policy that agreements of this nature should not be retrospective.

Clause 3(4) is intended to make it clear corresponding with the scope article in the US Tax Information Exchange Agreement (TIEA) that information requested must have a sufficient connection or nexus

with a person subject to taxes in the state of the requesting party.

As I have already stated, it is not the policy or practice of the Cayman Islands to promote fishing expeditions or for that matter, do anything that would compromise the legal position of duly constituted Cayman Islands entities such as, companies, partnerships and trusts. We understand this policy or position to be appreciated by our existing and potential TIEA partners.

Clause 10 provides in respect of non criminal matters for tax payers to be notified of a request that relates to them, and for tax payers affected to make submissions to the Authority should they wish to do so. In doing so matters should be specified which they wish the Authority to consider in its determination as to whether a request is in compliance with a scheduled agreement. It is important to state that this Clause in no way lessens the responsibility of the Authority to perform a full and proper assessment itself of all requests for information.

Clause 15 of the Bill establishes the conditions under which an outside competent authority may conduct taxpayer interviews and examinations of taxpayer records in the Cayman Islands. This is a normal feature for tax situations and its availability is primarily a convenience to the taxpayer. The statutory provisions in Clause 15 which governs this feature has strong safeguards, the chief of which, is that it cannot occur without the taxpayers consent, that is, it is wholly voluntary.

The outside competent authority conducting such an interview has no powers of compulsion and no statement made to a representative in the course of a taxpayer's interview that can be used in evidence against the taxpayer.

This legislation is sensible, it is measured and it will assist us to discharge in a proper manner the obligations that the Cayman Islands have chosen to undertake.

I therefore commend the Tax Information Authority Bill to all Honourable Members.

Thank you.

**The Deputy Speaker:** Does any other Member wish to speak? The Second Elected Member from the district of George Town.

**Mr. Alden M. McLaughlin, Jr:** Thank you, Mr. Speaker. I would like to take this opportunity to offer a few observations in relation to this important piece of legislation. I do so, on behalf of the Opposition Members.

I listened keenly and must say I am disappointed not to have heard from the Honourable Third Official Member, any mention as to what this Government's policy is in relation to the exchange of tax information.

The question of tax information exchange has been around for some time and is one of the obliga-

tions which we have under the OECD commitment letter, which goes back a long time. Indeed this treaty arrangement with the United States is something that has been around since early 2002. However, fundamental concerns remain within the industry about the lack of information that has been forthcoming from the Government of its overall policy in relation to tax information exchange.

As far as we are aware there has only been one agreement negotiated and signed, and that is the one in relation to the United States of America. There have been criticisms about the broadness of the scope of some provisions in that agreement. However, even more fundamentally, nothing is known about where Government is in terms of negotiating other TIEA arrangements with other jurisdictions.

It has been accepted by the industry that these tax information exchange arrangements and agreements are necessary, indeed critical to the continuation and success of Cayman as a financial services jurisdiction. There is no issue about whether or not we ought to enter into these things or not. Given all that has transpired over the course of the last six to seven years there is no going back. The terms we agree to are of critical importance to this jurisdiction and as long as the Government continues to negotiate and deal with these matters in the dark there will be questions, rumblings and concerns from the industry and the people who utilise the industry, and the services that this jurisdiction provides.

Mr. Speaker, again fundamental concerns remain in the industry, in relation to trying to wrap all of these matters into one piece of legislation, which is the one we have before us. The considered view of many members of the industry is that there ought to have been one bill which dealt only with the arrangement with the United States and gave legal effect to that. What we are being asked to do here as legislators is to simply put our trust essentially in the Governor (the Governor in Cabinet) because ultimately he is the person, as I understand it, under this Bill to decide what the arrangements are to be with other jurisdictions.

I know the answer which the Honourable Third Official Member has already referred to, is to say that when a new country is added to the schedule that the Legislative Assembly then have an opportunity to consider it and decide whether or not to affirm that decision. However, with the greatest of respect and to all intents and practical purposes, there will then be a rubber stamping exercise by this Honourable House. That is what will happen. There is going to be no real debate or real discussion about the terms of that arrangement, and in the absence of the Government having articulated a policy there is little comfort that we can take from that provision and from the assurance given by the Third Official Member in that regard.

We come back to the long standing concern and overused phrase about the level playing field. The only card Cayman has left to play in relation to these matters to ensure that it continues to get its legitimate

share of the business, is to make sure that all of the other jurisdictions with which we have to deal are having to play by the same rules. The reality is that there is still a certain amount of discrimination and blacklists. Therefore, if we do not ensure, when we are making these agreements with other jurisdictions, that they are not going to discriminate against the Cayman Islands, I believe we are making a huge mistake and ultimately we are going to adversely affect the economic interest of this country.

Government ought to have articulated its position on its policy in relation to this matter a long time ago. I find it extraordinary that we have reached the point where we are actually about to pass a bill and that policy still remains hidden within the breast of the Members of Government. That is presuming that there is such a policy. I fear there may not be one. The little birds that whisper to me now and again have whispered to me that we are again under the gun in relation to this particular agreement, and that if the Legislative Assembly does not enact this piece of legislation within a relatively short time that our dear Mother is going to ensure it is enacted over there and extended to us.

This is an arrangement with the United States that is almost three years old. Why is it that we come again at one minute to midnight to have to pass this piece of legislation, which I believe is less than satisfactory?

Mr. Speaker, the Honourable Third Official Member has alluded to a consultative process. He said he was grateful for comments and submissions received from members of the financial services industry. It is true that the Government has received correspondence from members of the industry, but unless I am being told a fairy tale, the industry has not received any response to those two submissions—I have seen two letters. It also seems that the industry has not been apprised of Government's thinking on these matters, granted the Bill was circulated on 6 September, and I think all of us will recall that a few events have occurred since 6 September, which may have forced people's minds to concentrate on other issues. However, there is a subsequent document which purports to replace that document which was circulated to us on 28 January 2005 and from my observation I do not see too many changes to the original Bill of 6 September.

There are a number of points made by the industry which does appear to have found favour with the Government but by and large, from what I have been told, the Bill still falls short of what the industry would term as satisfactory.

Mr. Speaker, on 17 June 2003 a number of various associations involved with the financial services industry wrote a letter to the Honourable McKeeva Bush and with your leave I would like to refer to that.

**“Dear Sir,**

**“Re: Tax Information Exchange.**

**“We write with reference to the PSCC/NAC meeting on 9 June to confirm our support for the policy of offering to enter into Tax Information Exchange Agreements (TIEAs) with other countries, provided that this policy includes essential conditions noted below.**

**“We strongly recommend that the statutory framework for TIEAs on this basis should be established quickly, before negotiations are commenced with individual countries – and we further recommend that every effort be made to encourage the other leading offshore financial centres to do the same thing. If we can stand together with other OFC’s on the basis of responsible legislation, there will be a much better prospect of the CIGs policy succeeding. Furthermore, we could combine our efforts with other OFC’s to identify discriminatory laws or practices in other countries, a task that will, of course, be required on an ongoing basis.”** I pause there to say that again, I believe, we are putting the cart before the horse by trying to use the Bill whose principal purpose is to give effect to an arrangement with the United States Government which has been arrived at some years ago, to use that as a basis to anticipate arrangements which are yet to be entered into. Again, if those little birds that whisper to me are reliable I gather we are somewhere down the road of actually signing up with a number of undisclosed countries.

What these members of the various associations were saying, in that paragraph, is that we need to establish a statutory framework. We need to articulate what the Cayman Islands policy is in relation to tax exchange agreements generally for the world to see. That has a number of purposes, not the least of which is a good, or should be an essential public relations exercise giving comfort to those persons who do business in this jurisdiction that whatever arrangements and agreements the Government are going to sign, are going to be within these parameters.

That was 17 June 2003. We still do not have in my respectful submission, Sir, what is being proposed today in the Tax Information Exchange Authority Bill. It falls way short of those sorts of requirements and provisions.

The letter goes on to say, **“The essential conditions are: 1) Minimum standards are met by other country, particularly: (a) it meets international standards, not only in relation to tax exchange, but also in relation to crime, money laundering, terrorism and human rights.”**

We are held to certain standards and those who are expecting us to assist them in obtaining tax information ought to be on the same playing field. These are the sorts of challenges that have been levelled at us for years that we are not up to international standards; let us insist that those with whom we are in such arrangements are held to those standards as well.

**(a) “It is perceived to be free of significant official corruption, such that reliance can be placed on its adherence to the confidentiality requirements of the TIEA and.”**

Again, as far as clients and customers of the Cayman Islands are concerned this is of critical importance. There is no point of us having in our legislation or even the agreement, provisions for confidentiality and non disclosure of this information to third parties if the system of Government, of the countries with which we are contracting is so corrupt that it means nothing.

**(b) it has put its own house in order as regards the enforcements of its own tax laws.”** If you do not have effective provisions in your legislation and a proper system in place in your own country you cannot rely on us to assist you with collecting your tax.

**“1. The other country agrees to remove Cayman from any blacklists (or the equivalent), and agrees that Cayman will be permitted to compete for its financial services business on a level footing with other foreign financial centres, on-shore or offshore. An effective non-discrimination clause is essential, and we are glad to hear that CIG will be taking expert advice in each country that seeks a TIEA.”**

This is what the letter said: What is that expert advice, what have they said, which are the countries that are suitable for us to enter into these arrangements with? We do not know because the Government has not told us. We do not know what the Government is doing. I know that it is unlikely, in the twilight of their rule, that they are going to adopt a consultative approach to these matters but in my respectful view it is critically important that the country, the industry and the people who do business here are aware of what it is that Government is doing and proposing to do. I keep echoing myself about the need for the articulation of a policy.

The letter continues – **“2. The TIEA is limited to the provision of information and evidence upon request (not automatically or spontaneously) in criminal tax matters (or, at most, tax evasion), and does not permit fishing expeditions.”**

The Bill, as I see it, does not require the automatic or spontaneous exchange of information, so in that respect there is no criticism. The relationship with the United States, and now by extension to other countries, yet to be named who will be in this schedule on the basis of this Bill, do extend to matters that are non-criminal tax matters and, in my respectful view, does permit fishing expeditions. That is one of the reasons why the industry is adamant that there ought to be a different piece of legislation dealing with the other arrangements because in the view of many, the arrangements with the United States have gone too far. I am not trying to suggest that one could go outside the provisions of the agreement which has been signed between the United Kingdom Government, the Cayman Islands Government and the United States and try to play games, but what I am suggesting and what

the industry is saying, is that we ought not to make the same mistake twice, three times, however many times we end up signing agreements.

The letter goes on – **“The TIEA: (f) does not permit the circumvention of due process in Cayman or in the other country;”** I pause here again, because there are concerns about the arrangements with the United States Government. There is a very curious provision in the Treaty which, if I may quote it, seems to suggest that due process will be followed as long as it does not take too long.

Article 9 of the US TIEA states: – **“Nothing in this agreement shall affect the rights and safeguards secured to persons by the law or administrative practices of the requested party, provided and to the extent that these are not so burdensome or time-consuming as to act as impediments to access the information.”** So, the underlying philosophy arrangement of the arrangement of the United States Government is that due process is fine over there in your little banana republic as long as it does not get in the way of us getting the information swiftly.

So, there are fundamental concerns on my part to us ensuring that whatever it is we sign up to again does not include such loose language. Going back to the letter: –

**“(b) does not erode attorney/client privilege;**

**(c) gives due regard to the privacy rights of third parties;**

**(d) does not require the maintenance or filing of information or records by persons or entities in Cayman that are not required by existing law;**

**(e) makes effective provision for the confidentiality of information, and does not permit its use for any purpose other than that for which it was given;**

**(f) makes reasonable provision for the other country to pay the cost incurred in dealing with its request including those of financial providers and other third parties:**

**(g) is not retroactive.”**

The letter continues: **“The OECD’s model Agreement is not satisfactory in these respects.**

**“We should make it clear that we are not suggesting that Cayman should revoke its commitment to the OECD. By adopting this policy Cayman would be fulfilling part of its commitment even though there is still no sign that OECD countries are themselves adopting the same measures. But Cayman should make it clear that it will not fulfil the rest of its commitment (regarding civil and administrative matters) until OECD and other significant countries are doing the same.**

**“Finally we stand ready to assist in any way that we can, and we appreciate your statement that there will be continuing consultation with the private sector. We invite you to consider**

**the appointment of a small joint (CIG and private sector) working group to obtain the necessary expert help, draft suitable legislation, and approach other leading OFCs to investigate the prospects for cooperation in this respect.”**

I gathered from my discussions that the industry is by and large disappointed and that was not forthcoming, that no such working group materialised.

**Hon. Hon. Gilbert A. McLean:** Mr. Speaker on a point of order.

#### Point of Order

**The Deputy Speaker:** Can I hear your point of order?

**Hon. Gilbert A. McLean:** The Second Elected Member for George Town has been quoting at length from a letter which he says in his arguments largely represents the view of the private sector, when such is done the person speaking would normally table the document. I would ask that he table a copy of the document.

**The Deputy Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin:** Thank you Mr. Speaker, I am happy to do so. When I have completed my debate, Sir, it may be copied and a copy can be laid on the Table of this Honourable House.

The copy of the letter I have is signed by STEP Cayman Islands branch, that is the Society of Trust and Estate Practitioners the Cayman Islands Law Society, Cayman Islands Bankers Association, the Mutual Fund Administrators Association, the Cayman Islands Society of Financial Analysts, the Cayman Islands Real Estate Brokers Association, Insurance Managers Association, the Cayman Islands Chamber of Commerce and the Caymanian Bar Association.

There is provision for it to be signed by three other associations, the copy I have does not bear their signatures and I will not call their names. The letter was addressed to the Honourable McKeever Bush, the Leader of Government Business and copied to the Honourable G. A. McCarthy, who was then Financial Secretary and dated 17<sup>th</sup> June, 2003.

I am also in possession of a copy of a letter from the Cayman Islands Law Society dated 5<sup>th</sup> May, 2004 and addressed to the Honourable Financial Secretary. With your permission Sir, I am happy to lay this letter on the Table of this Honourable House. Mr. Speaker the letter reads:-

**“Dear Mr. McCarthy,**

**“Tax Information Exchange Authority Bill**

**“Thank you for allowing us extra time to comment on the Bill.**

**“With this letter I am sending you a report of a subcommittee of the Council (the “Commit-**

tee”) of the Law Society that has looked into the technical aspects of the Bill. A number of important points are raised, and I confirm that the Committee stands ready to assist in any way that it can.

“The Committee restricted itself to technical matters and left it to the President and Council of the Law Society to comment on policy matters. These are, indeed, a number of policy matters on which we would like to comment as follows:

“1. It is difficult for us and other private sector associations to make useful comments on the Bill without knowing more about Government’s policy with regard to future TIEAs. Would it be possible for this policy to be disclosed and discussed at this time?” Again, plaintive cry for information. The industry is operating in a vacuum as far as Governments policy in relation to TIEAs is concerned. That is not only unfair but incomprehensible.

“2. On 17<sup>th</sup> June, 2003 a letter was written by several of the professional associations, including the Law Society, making a number of suggestions and recommendations on the subject of tax information exchange. Can it be said at this stage whether and to what extent Government has accepted or will accept these suggestions and recommendations?” That is the letter which I have just read at length.

“3. In regard to future TIEA’s, one of the main points made in the June letter concern the need for an effective non-discrimination feature and an offer was made to help Government in the task of developing suitable language with the help of outside expertise. Can it be said at this stage whether that suggestion will be adopted?” No response.

“4. Another important feature of the June letter was the suggestion that in advance of negotiating with other countries, there should be legislation identifying by one means or another all the essential minimum features that Government proposes to insist upon in the negotiations. There were several reasons for this suggestion. It would provide some reassurance to those who worry about what Cayman may agree to or with whom. It would also improve to some extent the bargaining position of Government representatives when negotiating with other countries. And it would provide a good springboard for a PR campaign to promote Cayman’s policy in regard to tax information exchange, a campaign that seems as essential now as it did last year. The Bill does not seem to reflect that suggestion.

“5. Another feature of the June letter was the recommendation that future TIEAs should be concerned with criminal tax matters or, at most, tax evasion. From the Bill it appears that this may have been rejected.

“6. Another feature proposed in the June letter was that fishing expeditions should not be

permitted. Unfortunately because of the broadly-stated scope of the US TIEA, it does appear to authorize fishing expeditions, and the language of the Bill seems to indicate that future TIEAs may be similar in this respect. We hope that this is not what is intended.

“7. At the risk of being over general the approach of the Bill seems to be to give greater priority to the hand-over of requested information to requesting states than to the need for due process, or the rights of the alleged taxpayer and any third parties who may be affected by the disclosure. It appears to us that the US TIEA does not require this. Article 9 of the US TIEA states:”

This is the bit I read a little while ago, the same article: *“Nothing in this Agreement shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested party provided and to the extent that these are not so burdensome or time consuming to act as impediments to access to the information”.*

“We think it is very important as a matter of principle and in the economic interest of this country, that persons should not be deprived of their established rights of privacy except by due process after being given a proper opportunity to challenge the requests. Indeed, we understand that this was accepted by the OECD.

“8. For a number of reasons some technical (see the enclosed report) and some concern with policy and consultation (as noted above), we recommend separate legislation to deal with the US TIEA, on the one hand and further TIEA’s with other countries on the other. This would enable Government to bring forward the legislation for the US TIEA quite quickly and give some more time for consultation in regard to future TIEAs.

“Yours faithfully,  
“Charles Jennings  
“President”

“cc: Hon Leader of Government Business  
Law Society Council Members.”

The letter also encloses the Report which is referred to by Mr. Jennings entitled the Tax Information Exchange Authority Bill Law Society Subcommittee Comments. I am not going to trouble this Honourable House with that detailed and very technical document by going into it myself in my debate. However, it is attached to the document which will be laid on the Table of the Honourable House and all Honourable Members will have the opportunity to view it and comment on it if they so wish when they rise to speak.

I have to say that unfortunately there has not been very much discussion and consultation on a Bill as important as this. I also have to say that this is the sort of legislation I would have sought out long ago the views of the Opposition, if I had anything to do with it. This is a matter of the greatest national importance



and interest. It goes to the heart of the financial services industry. I know I need not repeat how important the financial services industry is to this economy, particularly in the wake of the hurricane. We need on matters as important as this, in particular, a Government that is prepared to adopt a more consultative approach to these matters; a Government that is also prepared to reach across the Floor of this Honourable House and say to the other side, *'all of whom are duly elected members, this is where we are with this what are your comments, what are your views? It is a matter which we would like consensus'*.

Unfortunately, that is not the style of this Government and as I said, at this point, I would not expect them to change their views about these matters. However, what happens when it does not occur is that you wind up in a situation where the Opposition, though entirely supportive of the need to have Tax Information Exchange Agreements signed, while completely in agreement about the need for a statutory vehicle to give it force, finds itself unable to vote in favour of the Bill in its current terms.

If we are going to move this country forward the way it needs to be moved forward we have to get past the partisanship and the black box mentality in relation to information on matters as important as this. The industry ought to know the Government's policy; the Opposition ought to know the Government's policy. How can you give us a document like this when there are fundamental concerns in the industry and when we ourselves have fundamental concerns about issues like due process; like confidentiality; like the absence of non-discriminatory provisions; on the insistence of non-discriminatory provisions in other countries, and expect us to simply agree with it?

I am deeply saddened that this approach has been adopted in relation to this matter and it is therefore with regret that I have to signal that the Members of Her Majesty's loyal Opposition will be unable to vote in favour of this Bill in its current terms. I do not see it being able to be rectified in a manner that will make us more comfortable because the concerns are so fundamental it will require, not just a redrafting of this Bill, but a completely different approach to how we deal with the United States Agreement as opposed to the others which are yet to be signed.

We do not know what has been negotiated; we do not know how close they are to being agreed; and we hope that they are not going to be rushed through on the eve of the Elections for the next Government, whoever they may be, to be stuck with those provisions whether or not they might regard them as sound. I hope not, Mr. Speaker.

I do not think that there is much more that I can usefully add at this stage. I am grateful for this opportunity to put forward the views of the Opposition, and I thank you, Sir.

**The Deputy Speaker:** Does any other Member wish to speak? The Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you Mr. Speaker. I rise to lend my support to the passage of this Bill, a very important Bill as both sides have recognised, and to deal in a more general way with some of the quite passionate and understandable concerns raised by the Second Elected Member for George Town.

I wish to point out that in terms of our interest to safeguard the lifeblood of this jurisdiction we are ad idem in that regard. So, it is to be understood that every care would have been taken, and will continue to be taken to ensure that this jurisdiction remains competitive, investor friendly, viable and sustainable. Equally there is recognition that we are part of a global sphere and whatever we do, that will have to be borne in mind.

If I may, I would like to speak quickly to the issue of consultation. I happened to see a copy of the 17<sup>th</sup> June letter that the Member read, and most of the concerns raised in that letter were in fact regurgitated in the letter of the 4<sup>th</sup> April from the Law Society. To put things in perspective, the Bill setting up the mechanism to give effect to the Agreement was gazetted at least twice, and I said twice because there was a Bill initially gazetted. However, after further extensive consultation that Bill was withdrawn and a subsequent Bill was gazetted incorporating changes made as a result of these ongoing consultations.

Mr. Speaker, it goes further than that. As a result of the letter of the 5<sup>th</sup> April, 2004, Ms. Drummond, the then Assistant Financial Secretary who is now Deputy Financial Secretary, Ms. Myrtle Brand from the Legislative Drafting Department and myself had a series of meetings with members of the private sector. We met on the 15<sup>th</sup> June, 2004 at 3:30 pm in the Cabinet office with Messrs. Anton Duckworth, Neil Timms and Mr. Alistair Roberts. When I say series, they were intense meetings; we had long hours in the Cabinet room and went through step by step, every single point articulated in the letter of the 5<sup>th</sup> April, 2004, every single point.

It goes a bit further than that. The meeting could not be concluded on the 15<sup>th</sup> June, 2004 so we met again on the following day the 16<sup>th</sup>, June, 2004 when the meeting continued again with long, extensive, sometime heated discussions. We also met again on the 23<sup>rd</sup> June, 2004 with the same parties and the meeting continued and anyone who knows Mr. Anton Duckworth and Mr. Neil Timms know that they are very savvy lawyers who are very passionate people about what they do. So, there were a number of discussions that we had and there was some extremely helpful suggestions that came from them which we were able to take on board and incorporate into the Bill. There were others quite understandably which could not have been taken on board and we agreed to that at the meeting. We agreed to disagree then and there, so the discussions were as insightful, frank and I dare say robust as you could have expected on these matters.

There were consultations. I cannot stand here and tell you that there was agreement on every single issue; that was not the case, but there were consultations. Things were taken on board—the whole issue of non-discrimination, confidentiality, due process; all of those things were ventilated in those series of meetings we had.

On the issue of non-discrimination, we are in the process of negotiating a couple of TIEA's and our starting point has always been that before we can even sit down to have meaningful negotiation you have to assure us that the Cayman Islands is removed from any domestic or international blacklist that you might have. That is our starting point. We make it a pre-condition to sitting down with any of these countries to negotiate a TIEA and understandably discussions and negotiations are far reaching and takes time, but there is give and take. It would not be very smart of us to negotiate with countries that either have us on their domestic or international blacklist.

We are negotiating, as we speak, a comprehensive tax Agreement with the United Kingdom and those negotiations are moving extremely slowly because both sides recognise that we have to protect our revenue base. The UK's position is no different; the Cayman Islands position is no different, and whilst in the spirit of negotiation you cannot properly say what is ongoing so as not to prejudice any discussion. The fact of the matter is that markers have been laid down and we are trying to see whether we can arrive at some sort of a sensible solution to the myriad of difficulties we are facing that will protect in every way, shape and form the lifeblood of these Islands. We are not prepared to give on that issue.

The Member spoke in his usual eloquent way of a number of matters that ought to be addressed. If one looks at the Bill itself in terms of safeguards, you will see that the legislation itself provides that whatever Agreements are entered into will be scheduled to the Law. As a precondition to that being done it is subject to an affirmative resolution in this House. In my view, and I dare say it is difficult to defer from or take issue with that. The best way for matters for that nature to be articulated and ventilated is on the Floor of this House where the collective will or the collective views of both sides can be taken into account. The Agreement itself would not become part of the Law until it is subject to affirmative resolution in this House. That in our view provides sufficient safeguards to any Agreement that is undesirable forming our domestic legislation.

Let me just say, that when we met before with Messrs. Duckworth, Timms and Roberts we made it quite clear that it is unprecedented for Government's policy to be articulated in such a piece of legislation. The real discussions take place when the Agreements are being formulated; that is when you have discussions as to format, to substance, to non-discrimination and all of that. Those are issues that are reserved for negotiations during discussion Agreements. Notwith-

standing all of that, we at least attempt to ensure that the language in the Bill itself is as tight as we can without in any way rendering nugatory the spirit of the Agreement itself. It is one thing to have an Agreement and another thing to put legislation in place that will somewhat wipe out the spirit and intendment of the Agreement; that could be regarded as bad faith.

We take the view that it would be clearly untidy and unnecessary to have several pieces of legislation dealing with several different Agreements. The one piece of legislation that we have is supposed to capture the general framework as to how the Agreement itself will be given effect to. The setting up of the Authority; the notice and referral to the Court where necessary and every subsequent Agreement will be scheduled to that piece of legislation.

Let me just touch quickly on the issue of due process. It ought to be borne in mind, in respect of the American Agreement, that what we are after are persons who are subject to United States tax laws. They do not concern Cayman legal entities or Cayman legal persons. We are in the business of providing information to the United States; that is what the Agreement contemplates. Those persons who are going to be either prosecuted or dealt with civil in the United States, will be dealt with pursuant to any information provided by us and will still retain the constitutional and other safeguards in the United States of America. If there is any place that they will be entitled to safeguards is in the United States. They have all the amendments from 1 to you know how many in their constitution that provides that.

Whilst we have not abandoned the need for safeguards in the Cayman Islands, we can only do so much and no more by virtue of our domestic legislation. However, the targets of these requests or the persons who are the subject of the requests are not without further redress in the requesting country, therefore that needs to be borne in mind too.

So, whilst I am on that, let me just mention for the benefit of this Honourable House that when we were fashioning our legislation we looked at the British Virgin Islands model. We are not supposed to be criticizing the legislation of other jurisdictions, but suffice it to say, our legislation provides a lot of safeguards that are absent in others. It provides for notice; it provides for referral to court; it provides for a number of other things and in my view that is in order to give safeguards where necessary. I am saying this to say that we have looked around in trying to fashion our legislation and ensure that ours are as good, as fair and transparent as can be when compared to others.

The issue of the Government's policy and tax information exchange and all of these things, I am probably not the best person to speak to this and I will not. Suffice it to say that the Government has consistently, as far as I know, made public statements about not doing anything that will jeopardise or in any way compromise the financial industry of this country. They have consistently said so and it is probably correct to

say that we do not have one document entitled or captioned "Government Tax Information Exchange Negotiation Policy". I concede that we do not have that but I do not think that anyone can fairly and properly say that they have not heard, time and again, repeatedly, the Governments general position as it relates to any negotiations to do with the provision of information for this jurisdiction. It is documented; it is well known and it is something that is said repeatedly. The bottom line is that in all of this Government will ensure the viability, the sustainability and the protection of our sector.

We reiterate that entering into any bilateral Agreements at all the whole issue of non-discrimination, confidentially and all of that will have to be taken into account. As a matter of fact if we look at the United States Agreement itself, it speaks expressly to the issue of confidentially, both in terms of the Agreement and the legislation. Article 8 of the Agreement itself states:

**"1. All information provided and received by the competent authorities of the parties shall be kept confidential.**

**"2. Information provided to the competent authority of the requesting party may not be used for any purpose other than for the purposes stated in Article 1, without the prior consent of the requested party."**

In this case the requested party would be the Cayman Islands. So, that is as good a safeguard as you can put into an Agreement which has itself been reflected in the legislation. We take enough care in ensuring that. In the Bill, section 8 (16) reads: **"8(16) A person required to testify or to produce information under subsection (7) shall have the right to be represented by an attorney-at-law when he does so."**

These are safeguards that we put in place to ensure that people's rights are not in any way whittled away. Section 10 of the Bill deals with the issue of notification to whom the information concerns. If the whereabouts person is made known to us, the person has a right to make written representation as to why the information should not be provided including flagging of whether or not the issue might give rise to legal privilege. In my view these are good enough safeguards as you can get in this respect.

If one looks at the enforcement provision of the Bill, section 17(3) it reads: **"17(3) Where pursuant to a request, the Authority considers it necessary to enter and search any premises, the Authority shall apply to the Grand Court for the issue of a search warrant for specified premises to search for and seize specified information or information of a specified description."**

These are the inherent built in provisions to make sure that there is no abuse by any single individual who might be tempted God forbid, to abuse their powers, there has to be resort to the Grand Court. You will see here that the court means—I think it is described as the Chief Justice or a Judge designated by him in writing. We have taken care to provide

adequate safeguards where possible and necessary in fashioning the legislation.

**The Deputy Speaker:** Honourable Member would now be a convenient time to take the luncheon break?

**Hon. Samuel W Bulgin:** Thank you, Sir.

**Proceedings suspended at 12:52 pm**

**Proceedings resumed at 2:54 pm**

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

The Second Official Member continuing.

**Hon. Samuel W Bulgin:** Thank you, Mr. Speaker. Unlike the Second Elected Member for West Bay, when I said that I shall not be long, I *shan't* be long.

[Laughter]

**Hon. Samuel W Bulgin:** I wish to deal with one final issue in my debate on this Bill and it has to do with the concerns expressed by the Second Elected Member for George Town and basically echoing for want of a better word, the concerns that were previously raised by the Law Society in their letter of 5<sup>th</sup> May, 2004. Just to make sure that I properly articulate the concerns, the letter has been laid on the Table of this Honourable House. In paragraph 6 it says: **"6. Another feature proposed in the June letter was that fishing expeditions should not be permitted. Unfortunately because of the broadly-stated scope of the US TIEA, it does appear to authorize fishing expeditions, and the language of the Bill seems to indicate that future TIEAs may be similar in this respect. We hope that this is not what is intended."**

Just to put it in perspective I would invite Honourable Members to look at the scope itself of the Agreement which is to be found in Article 1, page 16 of the Bill. It says:

**"Article 1—Scope of the Agreement**

**The competent authorities of the parties shall provide assistance through exchange of information relating to the administration and enforcement of the domestic laws of the parties concerning the taxes and the tax matters covered by this Agreement, including information that may be relevant to the determination, assessment, verification, enforcement or collection of tax claims with respect to persons subject to such taxes, or to the investigation or prosecution of criminal tax evasion in relation to such persons. The territorial scope of this Agreement, in respect of the United Kingdom, is the territory of the Cayman Islands."**

In order to appreciate the nature of that particular Article and the safeguards that have been put in place to mitigate if not to prevent fishing expeditions, Honourable Members might look at Article 5(5), page 18 of the Bill which lays down certain markers in terms of what is required when a request is made, and it says:

**“Article 5—Exchange of Information Upon Request**

**The competent authority of the requesting party (in this case the United States) shall provide the following information to the competent authority of the requested party (in this case the Cayman Islands) when making a request for information under this Agreement in order to demonstrate the relevance of the information sought to the request:**

- (a) the identity of the taxpayer under examination or investigation;**
- (b) the nature of the information requested**
- (c) the tax purpose for which the information is sought**
- (d) reasonable grounds for believing that the information requested is present in the territory [in this case the Cayman Islands] of the requested party or is in the possession or control of a person subject to the jurisdiction of the requested party;**
- (e) to the extent known, the name and address of any person believed to be in possession or control of the information requested;**
- (f) a declaration that the request conforms to the law and administrative practice of the requesting party and would be obtainable by the requesting party under its laws in similar circumstances, both for its own tax purposes and in response to a valid request from the requested party under this Agreement.”**

In my view it is an extremely onerous threshold that needs to be satisfied before the request can be said to be in compliance with our laws. In this respect, the requested party, the Cayman Islands is not without recourse. Article 7 of the Agreement provides for the Cayman Islands to decline the request in certain circumstances. With your permission, Article 7 where relevant says:

**“Article 7—Possibility of Declining a Request**

**1. The competent authority of the requested party may decline to assist**

- (a) where the request is not made in conformity with this Agreement;**
- (b) where the requesting party has not pursued all means available in its own territory, except where recourse to such**

**means would give rise to disproportionate difficulty; or**

**2. This Agreement shall not impose upon a party any obligation to provide items subject to legal privilege, nor any trade, business, industrial, commercial or professional secret or trade process. Information described in Article 5(4) shall not by reason of that fact alone constitute such a secret or process.”**

Therefore I take the opportunity to read these Articles to demonstrate that in our opinion, whilst not exhaustive, the Bill, to the extent that it incorporates the Agreement in itself provides adequate safeguards against any fishing expedition in this regard. Of course, we are not without recourse should a worse case scenario becomes unworkable. I think Article 13 of the Agreement itself provides for termination of the Agreement.

Whilst the concerns are quite valid and understandable, we can only seek to give assurance that we have attempted in the fashioning of the Bill to put in place adequate safeguards which would provide, protect or mitigate as it is against any such abuse in all the circumstances. I think I have basically covered most of the points I would like to speak on and I appreciate the attention of Honourable Members of this House, in this regard. Thank you.

**The Deputy Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

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

Mr. Speaker, I have listened very carefully to the presentations by the Honourable Third Official Member, the Honourable Second Official Member and I have also listened to my colleague who has articulated the position of the Opposition on the Tax Information Authority Bill. I chose to speak to the Bill for just a short time because I think it is necessary for us to reiterate the point we were making since the Honourable Second Official Member chose to speak to the Bill. I am also aware that the Honourable Third Official Member will wind up in the Bill's presentation. Both sides of the argument are well contained within one cup to a large degree and the contents of the Bill itself are not what the Opposition is arguing about.

The safeguards that have been spoken to, and I will repeat them because it was only a few minutes ago that they were being spoken about, are not safeguards we are suggesting that should not be there. There is absolutely no argument with the attempt. Where we have a problem is that we speak to one Agreement that is already made and this piece of legislation creates an authority, which from the administrative point of view is the Honourable Third Official Member.

It speaks to from here on in, given what is contained in the legislation for future negotiations to take place in regards to Agreements with other jurisdictions. If we listen to concerns from the private sec-

tor, and listen to the Honourable Second Official Member, there is understanding that in their discussions and correspondence the Government seemingly tried to address these concerns to the best of its ability, but obviously by his own admission fell short of satisfying the concerns totally.

Where that has left the private sector, the various organisations my colleague, the Second Elected Member for George Town, outlined when he spoke to signatories to the letter, is that they are not sure with the legislation being crafted as it is, as to exactly what will be negotiated in the future. They know from the proposed legislation certain safeguards which are being touted and they are not arguing about that, but you see there are other areas they had concerns about, which are not in the legislation. Therefore, the question in the air is how is that going to be dealt with? That is where the difficulty is.

My colleague spoke and he asked the specific question *'what is the Government's policy regarding these concerns?'* As the Honourable Second Official Member has said, by his own admission, that there is no clear policy which is stated but there are safeguards taken into consideration. Without seeking arguments with regards to the matter, the fact of the matter is that any one of us who have had any experience when it comes to matters such as these, especially the Honourable First Official, the Honourable Second Official Member and in recent times the Honourable Third Official Member, will know that the more airtight your own domestic legislation is, the better off you are when you sit at the negotiating table with any one of these parties, any one of these jurisdictions.

If someone came and said that Mother has told us we cannot have that in the legislation then I can understand, but they will not say that. So, as long as they will not say that, our argument holds as much water as they can drink for the day. We cannot operate on the premise that Mother has said that. So, there lies the argument that we built; why as it is worded now we are saying we cannot support it?

If we move with this legislation, not *'if'* because obviously the Government has the numbers and they will pass it, but if the legislation remains how it is regardless of how much good faith we speak to the individuals involved right here now, none of us knows the good faith elsewhere. Our arguments are not based on our own people, absolutely not. There is no intent to cast dispersions or anything like that in that direction. However, if it is the case that they are at a disadvantage and have to deal with the situation in that manner, then I have to say that it saddens me for them, but I am absolutely ecstatic that I am not in that position and I will hold my argument until they explain to me why I have to do different. That is really what it boils down to.

Mr. Speaker, not only with these TIEAs but in other agreement prior to this there has been mention of OECD. My colleague spoke to the level playing field and especially the Honourable First Official Member

and the former Honourable Third Official Member, knows full well that it does not matter what colour he or she is, or what country he or she comes from, when the big boys want to rattle the stick you are supposed to shake and quake! There has forever been an argument about the level playing field and we always understood. It reminds me of a book I did when I was doing my GCE O'level English Literature called *Animal Farm*. All men are created equal but some are more equal than others.

I am not going to prolong my arguments because I have not used specific illustrations from the proposed legislation. However, I have reiterated the point which my colleague has made and noted that while the Honourable Second Official Member was very studious in his delivery trying to be as concise as he physically could be with regards to pertinence, in his arguments, he again studiously avoided speaking what we want to hear. I do not know how many other chances we are going to have but I do know that the final one will be with the Honourable Third Official Member. My colleague has stated our position and I am going to state it a little more clearly now. If our point is not addressed by the time it is over then the answer is 'no'.

Thank you.

**The Deputy Speaker:** Does any other Member wish to speak? The Honourable First Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I rise to offer some comments on the Second Reading of the Tax Information Authority Bill 2005.

I respect the views of my Honourable colleagues in thinking that I have been drawn out of my shell on this matter. My comments will be very brief. I think the points in respect of the issues raised in the two letters referenced by the Honourable Second Elected Member for George Town can be regarded as having been addressed by the Honourable Third Official Member who introduced this piece of Legislation, and the Honourable Second Official Member's explanation.,

The Honourable Second Official Member pointed out that he, in his capacity as the Attorney General of the Cayman Islands, together with the then Assistant Financial Secretary, Ms Drummond, met with representatives of the private sector on the dates of 15, 16 and 23 of June in order to address the points raised.

It was pointed out by the Honourable Second Official Member that the Government accepted some of the recommendations that were made but others could not be accepted, and in other given situation that is quite normal. If the Government has put together a piece of legislation and considered the points raised on the various sections very carefully, while having regard to how this would be viewed by the private sector, I know the Honourable Second Official Member, as Attorney General is a very astute and capable gentle-

man. I also happen to know that the now Deputy Financial Secretary, Ms Drummond, is also a very capable officer having a background in Law also. This matter was regarded as so significant that both of these senior officers, the most senior being the Honourable Attorney General, decided to chair this Committee recognising the calibre and expertise of the persons from the private sector who had sought the Government as to their views on this piece of legislation.

I think the primary focus comes down to this point: The Honourable First Elected Member for George Town emphasised the level playing field concept and if we are to regard the level playing field and what it means, it means that what is good for one should be good for all. One should not have an advantage to the disadvantage of another.

What the private sector was asking for essentially and they must recognise that this would have been fought with some difficulty. Instead of having a primary piece of legislation and having the various agreements attached to that or appended as schedules, they wanted each TIEA to be embodied as a specific piece of legislation and as such to be brought to this Honourable House. As one can appreciate, if that is the case, irrespective of how we try to narrow the differences the difficulty that would come about is, that it is quite likely the same authority appointed under this piece of legislation would be one and the same person. If that is the case, every piece of legislation would have to be looked at separately to be read for specific requirements. I am pointing out in terms of one of the issues raised by the private sector on this. That in itself, I think the private sector would recognise; would have posed a problem and would carry with it the risk that in trying to introduce that safeguard and put it in place would be creating the potential for misinterpretation or requirements to be misconstrued.

Regardless of how one may style his or herself to be a genius, if there is a single piece of legislation setting out very clearly what the requirements of that piece of legislation are, it makes it much easier to assimilate and respond to requests coming in from the various parties to the countries seeking to obtain assistance from the Cayman Islands.

In terms of the Policy the Honourable Attorney General did not say that there was no policy; that is not how I read his comments. The Honourable Attorney General said, while there may not be something that has been written down on paper and specifically documented, it does not necessarily mean that there is not a policy. What is important is that actions speak louder than words. In any given situation the process of consultation between the Government and the financial industry, and also recognising that we have Members in this Honourable House who are very astute who will pick up on certain loop holes and weaknesses; this in itself would suggest—and this has worked very well—the Government is not going to engage in any action that would undermine the strength of our financial industry. The sharing of information is a

very important aspect in that the rights of clients who are doing business in the Cayman Islands must be protected.

We recognise that as an international financial centre we have an obligation to make sure that criminal activities do not take place within the Cayman Islands. However, at the same time whatever pieces of legislation this Government or any government has crafted, up to this point in time, nothing at all has allowed for fishing expeditions. Going forward, that is a very important observation.

Mr. Speaker, it is quite clear, and I do not think that the private sector can sit today and be discontented with the fact that they would not have had, for example, written replies coming from the then Financial Secretary and the Honourable Leader of Government Business. One or two letters could have been sent out, but the fact that two very senior officers from the Government, the Second Official Member who is our Attorney General and the leading Law expert in the Cayman Islands chaired a committee to take on board the concerns of the private sector, this in itself shows the level of importance that the Government ascribes to observations made by the private sector.

Thank you, Mr. Speaker.

**The Deputy Speaker:** Does any other Member wish to speak?

The Second Elected Member from the district of West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, thank you for permitting me the opportunity to offer a few brief observations on this most important piece of legislation. However, it is important to echo one of the very important points raised by the Honourable First Official Member, and that is the whole concept given these types of complex matters when we are seeking to engage in relationships with foreign governments in regards to the exchange of information; the assistance in requests for information; and indeed the vetting of requests for information. Before we reach that process and have to come up with a framework in which you are going to engage with those foreign governments, certainly it is crucial to have dialogue with and representation from the private sector. No man or no single entity has all the answers or indeed all of the right answers and suggestions when it comes to these matters.

Mr. Speaker, it is indeed of crucial importance that in the administration of the affairs of a country that any government ensures that they have an open line of communication with the private sector in particular, in relation to matters in which legislation or any form of policy is going to be formulated around.

One thing I think all of us have become accustomed to is that when the Second Elected Member from George Town rises, one constant is that the Government has missed the boat on something. I rarely ever hear the Second Elected Member from George

Town speak to where achievements and gains have been made. I think, if he were fair in this matter he would say and agree that the Government has, in this instance, delayed the bringing of this legislation to this Honourable House for a substantial period of time and has listened to and had consultation with the private sector.

I firmly believe that given the fact the private sector or those persons who have to live with the results of Government policy, and with the enacting of legislation in this case, in regards to this crucial matter of exchanging information in regards to tax matters is crucial. As he has correctly pointed out the Government does have the type of dialogue necessary to ensure the voice of the private sector is not just heard but felt within the legislation itself. After all they are the ones who do have to practice the principles and live with the end result of the legislation.

It goes much wider than that because if you get it wrong, not just the financial services community have to live with those results, but all of us in this country have to live with those results. We clearly understand the economic impact that the financial services sector has on the Cayman Islands, not just with the revenues derived by Central Government, but more importantly with the training and employment opportunities provided to Caymanians. So, the whole matter is quite serious and indeed one of our key lifelines within the country.

I was intrigued by one of the points raised earlier and the point had to do with the issue of the Agreement entered into with the United States Government. I believe that many lessons would have been learnt from that particular Agreement, and indeed the Second Elected Member from George Town, my good friend, also acknowledged that many lessons had been learnt from that particular Agreement. If memory serves me correct, the cut and thrust of those negotiations took place more than three years ago.

I would have to put forward the notion that perhaps the call for a clearly outlined policy in regards to the exchange to tax information is being made now. However, when we embarked upon those negotiations more than three years ago to come up with that particular Agreement, perhaps at that time, would have been a more opportune time to have made that call so fervently. Having listened to the detailed presentation of the Honourable Second Official Member, there has been much dialogue with the financial services community and there has been an open door in regards to communications. So, given that particular state, the private sector would be well aware of the way the Government feels about the exchange of tax information. So, if there is an open door and if there has been a listening ear to the private sector it would then lead me to the undeniable conclusion that the private sector would know what the Government policy is.

If you have the opportunity, which is taken, to sit with the Chief Legal Advisor to the Government, the Honourable Second Official Member, to discuss in de-

tail this particular piece of legislation and all your concerns, how can you then be in the dark as to the way the Government feels? In fact I would make the bold leap to suggest that the 'little birds' the Second Elected Member from George Town spoke about, that seem to sit on his door step must have missed the boat. If those birds whisper the sweet nothings into his hear and those whispers have been as a result of intense discussions with senior members of Government, in fact, with the Chief Legal Advisor to the Government; the man who has given the detailed legal advice to the Government in regards to this particular piece of legislation, and indeed to the development of exchange information agreements, then they must know what the Government is thinking and how the exchange of tax information is perceived.

When we speak to clear articulation of policy I believe it is one thing but what you are going to do is the key. So, if the Government itself has been made available to debate with the private sector their concerns, I believe that is of much more substance than any clear articulation. We can all get up and say a whole lot of nothing but what is most important is what we are actually doing. How is it that we are behaving, what is it that we are actually putting into legislation? I believe we would all agree that when Government is seeking to put in place an infrastructure like this which is complex and technical in nature, that it is of vital importance that you listen to as many people as possible, to get as many views, to have a welcoming ear. However, at the end of the day Government still has to ultimately do something. Government has to act.

I do not get the impression that having this piece of legislation come forth at this time is acting anything but responsibly. I believe that the Government has listened carefully and has debated with the private sector on points. I cannot think of anything that could be interpreted to suggest that the Government has not behaved responsibly or discharged its duty of care. I am not suggesting that any Member has said this, but one thing which cannot be taken from all of this, is that if the private sector takes a particular view that it necessarily, in and of itself, means that if the Government has another view the Government's view has to be inferior or incorrect.

Mr. Speaker, everyone is human and everyone formulates their view based on experience but most importantly based on opinion. So, if on specific points the Government has a particular opinion and does not feel that the arguments put forward is strong enough for them to change their opinion, then the Government is duty bound to do what it feels is in the best interest of the Cayman Islands.

I can remember in late 2001 or early 2002, a particular position was taken in this country in regard to the financial services community namely the Monetary Authority's requirement to have regulated mutual funds ultimately audited by an auditor of record who was here in the Cayman Islands. I can remember many people in the private sector saying that was the

death nail of the mutual funds business and this was going to cause us to be uncompetitive and that if we allowed the Monetary Authority to keep that policy in place, the Cayman Islands were going to be the worst off for it. Since that time, numerous reputable accounting firms have entered this jurisdiction. Firms like Rothstein Kass and BDO. Those firms being here have provided greater opportunity for Caymanians which has been realised. At that time the Government listened and had to take a position. As it turns out mutual funds registrations are up substantially and it was proven that the position taken by the Government was right.

I just draw that as a reference, because a lot of times I know that once people hear that the private sector has taken a particular view and Government has taken another view the assumption is that Government must be wrong and acting irresponsibly. That is not always the case. I would beg to say that as we continue to operate and have a vibrant financial services community that there will be times where the private sector was more correct than the Government on particular cases. However, there will be times when the Government's view will be proven to be correct as well. I believe that having listened to the arguments put forward by the opposition; I do not believe that there is a substantial case to stand on or certainly not a case substantial enough to not support this important piece of legislation.

As the Honourable Third Official Member pointed out in his presentation, this piece of legislation is not going to diminish the role of this Honourable Legislative Assembly so drastically that Members will not have the opportunity to come and debate publicly their views on future tax information exchange agreements. Indeed I believe, when that time comes it will be incumbent upon all Members of this House to debate and put forward their views if they have views separate or divergent from the Government view.

What I believe most of us, in this Legislative Assembly, are chomping at the bit for is the day when we hear concretely the position of the Opposition on particular views versus just saying they do not believe the Government view is correct, but putting forward substantively what their alternative would be. To say that you do not agree with the position, or that you do not believe the position will achieve a specific goal, as was pointed out, numerous points were raised, like fishing expeditions et cetera, and it was then said that this piece of legislation does not go far enough to ensure that they do not take place, or if they do take place to adequately deal with them.

I am much more interested in finding out precisely what the language should have been, since there are so many well informed birds in this country that does whisper in the ear of the Second Elected Member from George Town. All of us have the opportunity to make committee stage amendments and proposals. So, if the birdies are whispering that what the Government is doing is incorrect, or irresponsible, or

reckless then I am sure that those same birdies or individuals must have some sort of solution. I would hope that they would have said to the Second Elected Member from George Town, here is the alternative to this particular provision in the legislation and therefore we would all be better off for it and the Second Elected Member from George Town could easily get up and give what a more informed position would be. He would walk off with all the kudos because the press is here, the listening public would hear it and he would be the knight in shining armour who could ride in and save the Government from itself, by coming forth with these startling and impressive amendments and proposals.

Mr. Speaker, I believe that we may have a case where Members of the House may have gotten specific bits and pieces of information. However, I am not sure, maybe they did not get the opportunity to then get the most important end right, which is ultimately what is the best position for the Cayman Islands.

I took the opportunity to look at the record and the numbers of statements from the Leader of Government Business in regards to various international initiatives, some of which are not directly relevant to this particular piece of legislation. However, it goes to show a very impressive trend of ensuring that at every opportunity the country and the Members of the Opposition and members of the private sector in the Cayman Islands, the opportunity to ensure that he publicly put out the position of the Government in regards to matters that impact the financial services community.

Since 2002 through June 2004 there were nine important statements in the Legislative Assembly. Some were update and specific policy statements by the Leader of Government Business in regards to matters that affect the financial services community and business. I can remember back in 2002 when there was a lot of anxiousness surrounding the Jewel Criminality Rule and Foreign Tax Evasion, the Leader came forward and made this country know where the Government stood.

Mr. Speaker, I do not believe, as has been suggested, that the Government has closed its ears and doors in regards to this crucial matter. Perhaps things were not done to the liking of some Members of the House and it is their democratic right to say that on the Floor and allow other Members to know that is how they feel. However, I think it is very unfortunate if Members know that the Government has engaged the private sector and has given the private sector every opportunity to have an impact upon this piece of legislation. It is very important for all Members to acknowledge this and to ensure that they say that publicly. If it is not said publicly and that is what is revealed to be the case, then all of the Members in this Legislative Assembly and indeed the wider public would then have to look at the other information provided as being suspect at best, because it would then lead me to believe that we have a bit of politics being played. I be-



lieve that this piece of legislation should be supported by Members of this Honourable House.

I wholeheartedly agree with the Second Elected Member from George Town when he spoke to the fact that this is not the standard piece of legislation from the standpoint that it does transcend sides of the House. This is about what is best for our financial services industry and indeed what is best for our wider Cayman Islands economy.

With those brief remarks, I would commend to Members of the Legislative Assembly supporting the Government in trying to pass this Bill, to ensure that we are able to move forward and continue to build on the successes as a result of the hard work of many people in the past. I do not believe that this legislation compromises the future viability of the financial services sector.

I can say to the Honourable Third Official Member that he certainly has our support in that regard and we want him to continue to engage the private sector and continue to move the country forward in a positive manner, because at the end of the day that is what all Members of this House are interested in. Thank you, Mr. Speaker.

**The Deputy 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 Honourable Third Official Member wish to exercise his right of reply?

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker.

On a rather light note to a serious matter as I was listening to the Second Elected Member for West Bay come to a conclusion I was thinking that the folks in West Bay are developing a reputation for being long winded because he too is from West Bay, just as you and I are Sir, so I shall try to be not long winded but comprehensive at the same time.

When the debate started I took as best notes as I could from what was said from the First Elected Member for George Town, the Honourable Leader of the Opposition and the Second Elected Member for George Town. In essence I believe the Opposition's position is this, they would like to know matters pertaining to policy and the future shape of negotiations, what those negotiations will take the form of.

Let me say quickly in reply to the comment by the Honourable Leader of the Opposition as regards to the 'Mother'. I can safely and honestly say that to the best of our knowledge on the Government Official side there has been no direct or indirect attempt by the United Kingdom to influence the contents of the Bill that is now before the House.

In terms of the future shape of negotiations and involvement of the private sector, the Government has a long standing undertaking which it has issued to the private sector and actually put into operation and practice and that is that the Government will consult the private sector in the formations of agreements

such as the one with America and also the Bill which came a few years after the Agreement itself was signed.

The Secretariat in the Portfolio of Finance and Economics has constantly sought feedback, and I am pleased to say it has been granted and given by the private sector as to which countries the Cayman Islands should be considering negotiating tax information exchange agreements, and that feedback has been received. So, that is evidence and proof that the Government does engage in a consultation process with the private sector.

I would also say it is as a result of the consideration of that feedback that perhaps the Bill did not come before the House as quickly as it could have. There were changes to the Bill to reflect the feedback and concerns of the private sector. All of their concerns may not have been addressed but they were addressed in certain aspects and important areas.

I would like to thank the First and Second Elected Members of George Town for their remarks on the Bill and, in particular, thank the Second Elected Member of George Town for supporting the concept of the Cayman Islands entering into Tax Information Agreements. I also thank him for confirming that the Bill does not articulate negotiating parameters or accepting directly a policy framework for Tax Information Agreements, since this is not what the Bill is intended to do, as it is intended to set up the mechanism by which future TIEAs are to be given effect after they have been concluded.

There was also a comment made as to, yes, the Opposition did understand that an affirmative resolution was required for future agreements but that would be a mere rubberstamping exercise. That is certainly not the case and the mere fact that the debate is taking place and has taken place goes to indicate that there is a very active Opposition and there would not be rubberstamping of any future agreements.

The First and Second Elected Members for George Town, in their thoughtful contributions, stated several times their perception that a policy framework for tax information agreements had not been provided. The Honourable Second Official Member has quite rightly noted that while there are no single document entitled Cayman Islands Government Policy on Tax Information Agreements, it is equally correct that over the course of the past four years, including my comments on the presentation of the Bill today, such a policy framework has in fact been put forward. In an effort to clarify the perception about the Policy Framework I am happy to restate the elements of such policy framework that I have previously spoken to.

First, in an industry speech I gave in November to the Bankers Association, I referred to the Cayman Islands Government's policy of taking the opportunity to remove barriers to our financial services sector via the process of negotiating bilateral tax information agreements. I went on to note that a number of such negotiations have been initiated utilising country

specific tax and legal advice with OECD states including Spain, the Netherlands and Ireland. I am also aware that my predecessor, the now Honourable Chief Secretary, as well as the Honourable Leader of Government Business, have on repeated occasions, confirmed publicly that the potential pool of countries with whom the Cayman Islands would be entering with respect to requests to negotiate TIEAs was the OECD member states.

Secondly, on policy from my remarks today, I referred to various elements of the framework. Firstly, the mechanism that the Cayman Islands are agreeing to in regards to tax information is a request based mechanism. The information has to first be requested by a party, the request scrutinised and only after the satisfaction on our end that the request accords with the agreement will the information actually be handed over. So, it is a request based mechanism and that is a decision that we have chosen to follow, Sir.

It is the Cayman Islands stated intention to conclude arrangements related to tax matters with countries that we decide based upon the economic interests of the Cayman Islands. Such interest involves not only commercial considerations but a manifest respect for rule of law, due process, the right to privacy and non discrimination.

The Government requires that all such agreements include safeguards in the form of provisions, for example, concerning specificity of requests, confidentiality and permitted use of any information provided and not allowing an agreement to be used to circumvent applicable law and administrative practice in the country of the requesting party. The objective of any agreement is to permit effective, lawful provision of information and equally, if not more importantly, to prevent fishing expeditions, bar retrospectivity and provide due process. That information requested must have a sufficient nexus or connection with a person subject to taxes in the state of the requesting party. In this context I repeat that is not the policy or practice of the Cayman Islands to promote fishing expeditions, nor for that matter, to promote the disregard of duly constituted Cayman Islands entities, such as companies, partnerships and trusts. I do not see that this is a complete framework but it certainly represent most, if not all, of the key elements.

I believe that those address some of the key points made by the Opposition and their points are taken well, certainly on my side, Sir. Another comment made by the Honourable Members of the Opposition was that whilst the private sector did not get all of the changes it wanted or little of the changes, I just wanted to give an example of one such change. The Government gave careful consideration to a position by certain quarters in the private sector that all requests for the Cayman Islands to divulge information pertaining to individuals pass through the Grand Court. The Government considered that position and took a practical and pragmatic view and came to the conclusion which resulted in this two tier mechanism or two track ap-

proach that matters pertaining to criminal tax evasion and investigations related thereto would be scrutinised, first of all by the Authority, but secondly they would ultimately be scrutinised by the Honourable Chief Justice, acting in his capacity as an administrative role.

That represented a change which was reflective of the consultation process that did take place with the private sector. As I said before, the mere fact that the Government did consider many of the points put forward by the private sector was one of the reasons why the Bill changed on a few occasions to reflect the requests of the private sector. We value those feedbacks provided, Sir.

Mr. Speaker, I have finished looking through the papers in my hand. I certainly would come to a conclusion and say thank you to all Honourable Members of the House for their comments and feedback.

**The Deputy Speaker:** The question is that a Bill shortly entitled the Tax Information Authority Bill 2005 be given a Second Reading. All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

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

**Mr Alden M McLaughlin, Jr:** May we have a division, Sir.

**The Deputy Speaker:** Certainly, Madam Clerk, a division please.

**The Clerk:**

**Division No. 11/2004-05**

**Ayes: 9**

Hon. Gilbert A. McLean  
Hon. Roy Bodden  
Hon. J. O'Connor-Connolly  
Hon. George A. McCarthy  
Hon. Samuel Bulgin  
Hon. G. Kenneth Jefferson  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Lyndon L. Martin

**Noes: 4**

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

**Absent: 3**

Hon. W. McKeever Bush  
Dr. the Hon. Frank S. McField  
Mr. Anthony S. Eden

**The Clerk:** Result of the Division 9 Ayes, 4 Noes and 3 Absent.

**Agreed by Majority: The Tax Information Authority Bill 2005 given a Second Reading.**

**The Maritime Authority of the Cayman Islands Bill 2005**

**The Deputy Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to move the Second Reading of a Bill entitled the Maritime Authority of the Cayman Islands Bill 2005.

**The Deputy Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. G. Kenneth Jefferson:** Yes, Mr. Speaker.

The Maritime Authority of the Cayman Islands Bill 2005 seeks to establish a statutory authority to supersede and assume the responsibility for operations currently carried out or conducted by the Cayman Islands Shipping Registry. This move to a statutory authority status accords with proposals announced in the 2002 Throne Speech. The purpose of establishing an authority as opposed to remaining as a Government Department is intended to: respond effectively to evolving shipping standards; consolidate the Cayman Islands as a global leader in the Maritime industry and mitigate liability from operational risks.

Mr. Speaker, this Bill supports Cayman's commitment to developing comprehensive and reasonable global standards in shipping registration, and the business of ship management.

It is relevant to note that the direction of those countries, with the largest ship registries in the world has created authorities or agencies to regulate their respective shipping sectors. This includes Panama, the largest one; Bahamas, Malta, Cyprus and the United Kingdom itself. This is due to the importance of the sector and the significant global span of regulatory responsibility attached to operating a mature shipping registry.

Given that the Cayman Islands registry has a similar regulatory obligation and is a potential growth area, it is sensible to accord it the status and tools it needs to ensure that Cayman is effectively positioned for the long term, to benefit from potential growth and to discharge its regulatory role in international shipping arena. In addition, experience to date has indicated that a statutory authority would have much more credibility than a department of government, in dealing with clients and international, regional shipping regulatory bodies, such as the International Maritime Organization; the United States Coast Guard and other port state controlled inspection bodies in Europe; South and Central America; the Pacific as well as the UK itself. This would give the Cayman Islands ship and yacht registries and its ships more immediate international recognition in the global environment, within which the industry has to operate.

The Bill has been informed by input from the Ship-owners Advisory Council; the Shipping Sector Consultative Committee; and by extensive consultation with the private sector Financial Services Association. In addition the precedents of the international governing body in international maritime matters, the

International Maritime Organization; were extensively referenced in the development of the Bill.

Part I of the Bill, consisting of clauses 1 and 2, contains introductory matters and definitions. It should be noted that clause 1(2) provides that law comes into force on 1 July 2005. This is to be in accordance with the Government's fiscal year and allow the Authority time to finalise the necessary operational changes.

Part II of the Bill containing clauses 3 to 8 and Schedule 1, establishes the Authority and a board of seven directors and defines the scope of operations of the Authority. As stated in clause 6(1), "The function of the Authority is to administer and enforce all matters under the laws in force in the Cayman Islands, relating to merchant shipping and seamen and to promote the proper development of ship registration, survey and related services."

Part III of the Bill, pertaining to clauses 9 to twelve, deals with the functions and responsibilities of the Chief Executive Officer (CEO) of the Authority and other personnel related matters. The CEO is appointed by the board of directors of the Authority and the CEO is accountable to the Authority for the performance of its specified functions and responsibilities.

Part IV of the Bill, relating to clauses 13 to 18, establishes the financial provisions governing the Authority which accord with the Public Management and Finance Law.

The final part of the Bill, Part V contains clauses 19 to 23 and schedule 2. This final part deals with general matters relating to immunity, indemnity, confidentiality and transitional provisions.

Mr. Speaker, this Bill represents the timely maturation of the shipping regime and will be of significant commercial and regulatory benefit to the Cayman Islands. The creation of the Maritime Authority of the Cayman Islands will enhance our ability to deliver the required environment to retain and attract quality shipping investment business.

I therefore commend the Maritime Authority of the Cayman Islands Bill, 2005 to this Honourable House.

Thank You, Sir.

**The Deputy Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you. Mr. Speaker, unlike the previous Bill, the Opposition can quite readily support the Maritime Authority of the Cayman Islands Bill, 2005.

As been mentioned by the Honourable Third Official Member, this Bill seeks to establish the entity to be known as the Maritime Authority of the Cayman Islands to supersede and assume the responsibility for the operations which are presently being conducted by the Shipping Registry.

There are just a few areas we wish to make observations. Some sections are perhaps not quite absolutely clear and in offering these observations, we

would simply ask that note be taking if there needs to be any tidying up.

In going through the Memorandum of Objects of Reasons, there are a few areas, and perhaps it is best for the purposes of debate to go straight to the specific sections rather than to deal generally with the clauses.

First in subsection 5(2), this is speaking to the appointment of the secretary to the Board and if we look further down the Bill it speaks to its chief operating officer attending all meetings, but sub-section 5(2) gives the latitude of the secretary of the Board, not necessarily being limited to the CEO of the Authority. This point is not made to say there is something wrong with the legislation. I made the point because it is customary that, for instance the Central Planning Authority has as its secretary, the Director of Planning; the Civil Aviation Authority (I believe) has its CEO as the secretary. I make the observation to wonder whether that was not the intent; if that was not the intent that is fine, or whether it was an oversight. So, that is just a matter of hearing from the Honourable Third Official Member, the reasoning and no question as to what it should be.

Mr. Speaker, I will read section 6(1) which speaks to the functions and powers of the Authority. **“It shall be the function of the Authority to administer and enforce all matters for which the Minister is responsible, under the laws in force in the Islands relating to merchant shipping and seamen and to promote the proper development of ship registration survey and related services.”**

I only raise that point because it says that it is responsible to administer and enforce all matters relating to seamen and I am wondering if there is not any legislation that we might have in place which has certain relationship to do with seamen; which might speak to . . . for instance ex gratia payments or otherwise. I only want to ensure that the way it is worded is not all encompassing and questions could be raised. I am not suggesting the way it is worded now is incorrect. However, I only raise the point again that perhaps, those persons drafting will make sure there is no question regarding that position.

Again, section 6, subsection 2(d) states: **“For the purposes of carrying out its functions, the Authority may – (d) borrow money and otherwise raise capital in accordance with this law.”** I do not stand here to suggest for one minute, that the Authority (when this law comes into effect and the Authority is created sometime in the middle of the year), will not be in a situation where it will not find itself in the need to borrow money. However, what I would like the Honourable Third Official Member to do in his conclusion is to expand on that section of the proposed legislation, if he is able to, so that we can have an idea as to what is envisaged with regards to any borrowings that may be necessary, or whether it is a simple provision. We do not know what the future may bring so we would like to understand that.

Mr. Speaker, section 6, subsection 3(b) where it says **“provide maritime regulatory services, including – (ix) maritime search and rescue in coordination with other relevant Government departments and bodies;”** I just want to flag that because I think it is very good for it to be included. As far as I am aware, there is currently no clear legislation or policy regarding search and rescue, in the Cayman Islands. There is always the question of whether there is a fee, the distance out, whether the police vessel can accommodate, or if people can be found who are willing to go out, depending on the weather. We do from time to time have need of search and rescue. So, in flagging this I wish to point out that the way the legislation is drafted, where it speaks to, in particular and without prejudice to the generality of the sub-section where only the authority shall provide maritime regulatory services including: **“6(3)-**

**(b)(ix) maritime search and rescue in coordination with other relevant Government departments and bodies;”** In speaking to any type of regulation, which might be needed in the future, we are saying this for it to be borne in mind of the situation that obtains now; for there to be clarity of purpose with regards to who is responsible for what at any point in time when it comes to search and rescue operations. As at present there is no clear cut policy about that responsibility.

Moving on . . .

**The Deputy Speaker:** Honourable Member, we have reached an hour of interruption and would like to have a motion for the continuation past 4.30pm?

#### Moment of Interruption

#### Suspension of Standing Order 10(2)

**Hon. Juliana Y. O’Connor-Connolly:** I wish to move for this Honourable House to continue proceedings until 8 pm today.

**The Deputy Speaker:** All those in favour please say aye. Those against, No.

**Ayes.**

**The Deputy Speaker:** The ayes have it. The House will continue proceedings until 8 pm.

Honourable Leader of the Opposition, you may continue.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

If we move on to section 7(1) which reads: **“(1) The Minister may, after consultation with the Board, give in written form general and lawful directions on matters of policy and the Board shall give effect to such directions.”**

**“(2) Any such direction given by the Minister which affects members of the public shall be published in the Gazette.”**

There is some where either not too far before or after this, perhaps the Third Official Member will pick this up or those persons who have drafted the legislation. It speaks to the Minister giving directions then subsequently I think, refers to requests. In other words, the wording is with him giving directions in one instance and in another requesting for the Board to take some action. Perhaps, as we move further down we will see exactly where that is but I wanted to make note of that because I believe it is worth noting in order to have consistency in the legislation.

As we move on we see section 10(3) dealing with pensions and other conditions of service matters. **“The Authority may arrange with the Chief Officer of the Ministry or Portfolio concerned for the secondment of a public officer to work at the Authority and any person so seconded, shall, in relation to salary, pensions, gratuity or conditions of service, be treated as if he were not seconded.** The next subsection, **“Notwithstanding sub-section (3), [which I just read] the cost of employing a public officer seconded to the Authority shall be met by the Authority during the period of the secondment.”**

What is not absolutely clear here, is whether between subsections (3) and (4), where it is saying that if a public officer is seconded from somewhere else, the terms and conditions of somewhere else will simply apply during his secondment to the Maritime Authority and whether they should simply pick up the tab for what those employment costs are during that period; or, whether they make another private arrangement with the individual. It reads **“be treated as if he were not seconded”** and I just want to make sure that when they say *“be treated as if he were not seconded”*, that it means to start new or just be a continuation of his employment in whatever other section of the public service he was in prior to that secondment.

Mr. Speaker, section 11(2)(b) speaks to the Authority subscribing to the Public Service Pension Fund which reads: **“with respect to an employee employed by the Authority after the commencement of 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 National Pensions Law (2000 Revision); and”** Perhaps the financial considerations here are the background reasons for the section being termed in that way. Perhaps this is the wording in legislation created for other Authorities.

One of the observations I wish to make with this is, if we are going to consider people employed by statutory authorities in the same vein as public servants, we are then creating separate standards.

As I recall, the Public service Pension Law, in its latest revision gives a time line of where on the date

of the enactment of the new provision. I believe that was in 1998 or 1999. The way that is worded is what we term as the PPE, Permanent Pensionable Establishment, and up until a certain time was being employed and after the amendment all of those individuals employed subsequent to that date, instead of dealing with the defined benefit scheme that the PPE were party to, they would then be under a defined contribution scheme. This allows for both types of public servants, either those employed prior to the legislation or those employed subsequent to the legislation coming into force, making the exact same contribution and government matching it the same way; that is, six plus six. The contributions are exact, but the benefits are determined differently. The reasoning behind this is that it would not be practical to be able to sustain the benefits of that nature with the Public Service Pensions Fund as it was, because of the fund itself being under-funded to the level it was at that time.

If my memory serves me right, the fund is still building and all pension payments for public servants are being paid out of general revenue. The contributions being made by all of the civil servants to the public service pension fund are still going in at the rate with the attempt that within a defined period it will reach the point that it will be self sufficient. I think that is what obtains right now. However, what this says is that it gives an option that is separate from what obtains in the two present categories of civil servants.

I have not looked at the legislation for the other authorities, either those who have been long established or those fairly new in their establishment, as to whether it is the same as this or not. I cannot remember right off hand with those pieces of legislation, but I will make the point and say that there should be some consistency if you are treating all of these individuals in like manner. Perhaps the Third Official Member could give the Government's view in that area.

It is funny that the same section 11 after subsection 2(b); subsection (3) reads: **“The Authority shall be considered to be an employer for purposes of the Public Service Pensions Law, (2004 Revision) and an employee referred to in subsection 2(a), shall not be considered to have retired from the service for the purposes of that law.”**

Therefore, this means that in 2(a) which reads; **“where an employee, transferred in accordance with Schedule 2, 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.”** I understand this section because you would not have an employee with Contracted Officers Supplement (COS). If that is the case with anyone now, and later transfer from their employment into the Authority itself losing that, then I hear what it is saying. We again question some inconsistencies because we wonder who is getting these COS. We thought that these were out the window. We

do not know and again not knowing exactly what obtains. Perhaps the Third Official Member could give some explanation to that.

Section 15(2) and (3) comes to the ability to borrow. **“(2) Subject to subsection (3) the Authority may borrow such sums required by it for meeting its obligations and discharging its functions.**

**(3) The power of the Authority to borrow an amount in excess of a cumulative outstanding balance of one hundred thousand dollars shall be exercisable only with the approval of the Governor—that is the Governor in Cabinet—as to the amount, sources of borrowing and terms on which the borrowing may be affected; and approval given in any respect for the purpose of this subsection may be either general or limited to a particular borrowing or otherwise and may be either conditional or subject to conditions.”** The real question I have is: at what stage of the Authority’s existence will it be allowed to borrow funds with specified terms and conditions, if it is at the point where it is not able to service the debt; without in effect being subsidised? We all understand and accept the value of the shipping registry and the reasoning behind the creation of the Authority is again one of the positions we quite understand and agree with the principles being applied. However, the legislation just leaves some questions to mind, when it comes to the situation with the borrowing. That is just to give a little wider explanation of the question so that perhaps the Honourable Third Official Member, in his conclusion, might be able to just give us an explanation with regard to what is envisaged in that area.

Mr. Speaker, section 17 (2) and in the interest of clarity for the public begin with section (1). This section speaks to the applicability of the Public Management and Finance Law (2003 Revision) and it reads: **“17(1) The Authority is a statutory authority as defined in Section 3 of the Public Management and Finance Law (2003 Revision) and accordingly that Law applies,** [that is the Public Management and Finance Law (2003 Revision)] **among other things, to-**

- (a) the Authority’s expenditure budget for each financial year; and**
- (b) the preparation, maintenance, auditing and publication of the Authority’s accounts.**

**“(17)(2) Where the exercise of a power conferred by or under this Law would be inconsistent with the exercise of a power conferred by or under the Public Management and Finance Law (2003 Revision) that Law shall, to the extent of the inconsistency, prevail over this Law.”**

It sounds a little bit convoluted but we understand what it is saying. My question is if the Public Management and Finance Law (2003 Revision) is going to prevail over this Law in any instance, then why would this Law be crafted in such a way that there is an inconsistency between the two. Perhaps if an example is shown we might be able to better understand

why we have to speak to which law will prevail over the other one.

Section 18 is the usual section that we have debated and argued forever. Section 18(1), the whole section refers to the payment of dividends by the Authority, reads: **“18(1) The Governor may, by written notice to the board”** . . . Ah! This is where we get the direct business coming from now, now I am getting it. . . **“direct the Authority** [that is the Governor, meaning the Governor in Cabinet] **to:**

- (a) pay a dividend for an amount, and at a time, specified in the notice; and**
- (b) provide, at a time and in a manner specified in the notice, such information as is specified in the notice,**

**and the Authority shall comply with the directions.**

**“18(2) The dividend referred to in subsection (1) shall be calculated by a formula determined by the Financial Secretary after consulting the Governor and the Authority; and such method of calculation shall be so determined before a request for a dividend from the Authority is made by the Governor.”**

The question here is whether subsection (2) is referring to sitting down and working out a formula for the very first time before any requests are made. After that formula is worked out then it is all over and perhaps it would go into a regulation or something like that. However, if this is a formula that will be calculated, for instance, every year, the Financial Secretary would discuss the matter and see what the position of the Authority is. He would then speak to Cabinet, make a recommendation based on some formula, speak to it and perhaps at that point in time Cabinet; that is the Governor in Cabinet, would give the written notice to the Board or to the Authority directing for the payment to be made.

I am not so sure which one of the two is the case because of how it is worded, therefore, we would wish to be sure as to what that situation is. Perhaps the Honourable Third Official Member could speak to both possibilities and advise us which one is the best way to go and ensure that the legislation crafted is very clear in that manner.

In section 21 it speaks about the Governor in Cabinet making regulations prescribing anything which may be or is required to be prescribed under this Law, and I would suspect or hope that it is the intent . . .

Mr. Speaker we are having some crackling so perhaps it is time for a short break, Sir.

**The Deputy Speaker:** We will now suspend for the afternoon break, we will resume at 5:15 pm.

**Proceedings suspended at 4.53 pm**

**Proceedings resumed at 5.25 pm**

**The Deputy Speaker:** Please be seated. Proceedings are resumed. The Honourable Leader of the Opposition continuing.

**Hon. D. Kurt Tibbetts:** Thank you. Mr. Speaker, I was thinking during the short break about when I was making the points regarding pension and just to quickly go over one point. Section 11(2)(b) **“(b) with respect to an employee employed by the Authority after the commencement of 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 National Pensions Law (2000 Revision)”**

I am wondering whether the legislation is crafted in this manner. For instance if a Caymanian who is intended initially for long term service with the Authority, it should be able to lead that individual in the direction of the defined contribution scheme. If it is a professional on contract over the six month period and, not wanting to mix that type of employee with the public service pension fund, whether it be defined contribution or defined benefit scheme, then perhaps to the Authority should have the option of dealing with such individuals via some other type of pension fund.

I just raised that point because it came to mind, I am not sure if that is the intention but I am certain the Honourable Third Official Member will expound in his windup. When we took the break I was referring to section 21 which states: **“21. The Governor may make regulations prescribing anything which may be or is required to be prescribed under this Law.”**

I would suggest that the section which refers to the payment of dividends and the formula that such formula, whatever it may be, should perhaps be dealt with via the regulations. It does not specify in the Bill itself unless it is planned to do a separate formula each time, and if that is the case perhaps the Honourable Third Official Member would explain that and why it is expected to be that way.

Before we move into the Schedules and I will not have anything to discuss regards the Schedules, section 22(2) reads: **“22(2) Without prejudice to the generality of subsection (1), the guidelines and procedures may make provision for-**

- (a) rules of procedure to be followed in the conduct of the meetings of the Board;** [which is fine] **and**
- (b) the vetting of contracts, leases and other agreements which the Board may contemplate entering into.”**

Now **“. . . contracts, leases or other agreements which the Board may contemplate entering into.”** We have had this discussion on many occasions before and specifically referring to the Public Management and Finance Law (2003 Revision) and with reference to the various Authorities, this one will simply be another authority which will be created by Government. There has always been the question of

whether central Government and the Authorities should rule under the same umbrella when it comes to the issuing of contracts, whether the Central Tenders Committee should come into play in the activities of all of the entities. As far as I remember in our last debate it was the Governments intention to not only unify but to standardise such procedures.

The way section 22(2)(b) is worded leaves a question in my mind as to how this Authority would be dealing with regards to any contracts, leases or other agreements. I would wish for the Honourable Third Official Member to be able to explain how it is envisaged that this Authority will operate so that we can have a clear understanding. An understanding, as to whether it is still the intent to standardise such procedures; whether there is a change of heart and whether an Authority such as the Maritime Authority, would be autonomous to its own with regards to how it might be dealing with financial considerations involving contracts or leases.

All in all, the Opposition certainly finds itself with the ability to support the Bill and the points I raised are just matters for purposes of clarity or if the Government sees fit, to tidy up any ambiguity that might exist in what has been presented in the Bill. I look forward to hearing from the mover of the Bill on those points in order that we may be able to find ourselves giving this Bill full support. Thank you.

## ADJOURNMENT

**The Deputy Speaker:** It has been brought to my attention that it is the wish of the House to adjourn at this time. I would call on the Honourable Deputy Leader of Government Business for a motion for the adjournment.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the adjournment of this Honourable House until 10 am tomorrow, 11<sup>th</sup> February, 2005.

**The Deputy Speaker:** The question is that this House do now adjourn until 10 am, 11 February, 2005. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**At 5.33 pm the House stood adjourned until 10 am Friday 11 February 2005.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**11 FEBRUARY 2005**  
**10.52 AM**  
*Second Sitting*

[Hon. Cline A. Glidden, Jr., Deputy Speaker, in the Chair]

**The Deputy Speaker:** I will ask the Honourable Minister responsible for the Ministry of Planning and Communications to grace us with Prayers.

**The Deputy Speaker:** I have received apologies for absence of the Honourable Speaker, the Honourable Leader of Government Business, the Third Elected Member for Bodden Town, and the Minister for Community Affairs; also apologies for late arrival from the Honourable Minister of Education.

**PRAYERS**

**Hon. Juliana Y. O'Connor-Connolly:** 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 Cabinet 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 Deputy Speaker:** Please be seated. Proceedings are resumed.

**Proceedings resumed at 10:54 am**

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

**Apologies**

**STATEMENTS BY HONOURABLE  
MINISTERS AND MEMBERS  
OF THE CABINET**

**The Deputy Speaker:** I have received no notice of statements.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READING**

**The Maritime Authority of the Cayman Islands Bill,  
2005**

*(Continuation of debate thereon)*

**The Deputy Speaker:** Does any other Member wish to speak? The Second Elected Member for the district of Cayman Brac and Little Cayman.

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

Mr. Speaker, I am happy to rise to give my support to the Maritime Authority of the Cayman Islands Bill, 2005. I have only a few brief remarks to make on this very important Bill. However, firstly, I would like to outline a little background as to why this particular Bill is important to me.

As most in this country will know, I was previously employed under the now Chief Secretary (then Financial Secretary) during the period of time in which the shipping legislation was modernised and in which a marketing consultant (who I think is still with the Shipping Registry, Mr. Pete Pylant) was commissioned to repackage our offering and to launch a new image for the Shipping Registry. I then spent a short period of time working at the Shipping Registry under Captain Rial, who is present here with us today and still with the Shipping Registry.

From those days some decade ago, the recognition was made that the Shipping Registry would be better managed as an independent Authority. Mr. Speaker, many governments since then have also



recognised the importance of having this Authority created. The records of the Legislative Assembly will show that it has been discussed.

When the Honourable Leader of the Opposition rose on this issue, the one fact that was not highlighted was to give praise and recognition to the Government for bringing about what has only been talked about in the past, what has been recognised by many as very needed. It is absolutely important that we understand that this is a major accomplishment. I recall the Second Elected Member for George Town, the 'secretary general' of the Opposition, People's Progressive Movement, who is soon to become deputy (so a little bird whispered in my ear), as well as the Opposition, recognised the importance of this industry to this country.

The Shipping Authority is much more than just an Authority. It augments our entire offering as a financial services provider and is wide in its contribution as a whole. I think it is also important (I do not think that it was mentioned by the Opposition), that not only did this Government create the Authority, but we recognise the importance of the industry and the importance of having key personnel manage this important sector of our financial industry. Mr. Speaker, I am proud to say that we appointed a Caymanian as the Chief Executive Officer of the Authority. I also mention that he is a Cayman Bracker.

I think it bears mentioning that this Government has created a trend in this country of giving recognition, credit and instilling confidence in our people. Mr. Speaker, this goes a long way and I would like to see a continuation of this trend, which I feel will happen because I am sure we will see the continuation of this Government committed to "Caymanianising". Mr. Speaker, we look at what has been done at the Monetary Authority and the Water Authority. Caymanians are in these positions and that says a lot.

Mr. Speaker, one of the great ills that we face in this country is that we are now into the second level of our economic development and that means we must ensure that Caymanians are trained, put in these key positions and allowed to develop into this economy in order to bear benefit from our development. When I see that this Government has created an inward investment bureau and a Caymanian is the chief executive officer, I think it says a lot about the Government.

I can perfectly understand the Member claiming relevance and he would probably stand upon an array of other Standing Orders because he does not want it to be said. However, it needs to be said and it needs to be heard because so much rhetoric gets said by the Opposition and they do not give recognition and credit when it is due.

I spent one year on that side, and trust me, the Honourable Leader of the Opposition, who was the Leader of Government, gave me plenty practice in opposing because he gave me many reasons to oppose. However, it is important that we say what is

good when it is good. This Government has created the Authority, and I am sure that this Bill creates the foundation of that Authority and will meet with safe passage here today.

Mr. Speaker, I would like to give a little warning to this honourable House. It is important that we understand that many of the benefits that come from the shipping sector do not directly translate into revenue that will come to this Authority. It is important to know that those who benefit from our Trust services like to feel that their yacht has a Cayman red ensign flag flying on its bow.

It is important to understand that just the registration of a vessel is not the end of the process. There is a need in many instances for the incorporation of companies thereby generating revenue going to the Registry of Companies.

There are issues with personal banking that benefit from shipping registration in the shipping sector. Therefore, when we as legislators look at the Authority (as I am sure we will all do), we will ascertain its viability when we look at its expenditure versus its revenue. I would like to urge this Legislative Assembly to pay cognisance to the fact that the benefits of this Authority go far beyond the revenue that we will collect from shipping registration.

The Shipping Registry of the Cayman Islands is no longer just for luxury yachts. There are some huge-tonnage ships that now bear the Cayman Islands Red Ensign flag. We go to the yacht shows and we can see the number of luxury vessels that carry the Red Ensign flag, as the Second Elected Member spoke about recently in his contribution—that proved to be a little bit uninformed.

Mr. Speaker, marketing of the industry is very important, and the shipping industry, the shipping registration and the red ensign flag, are great marketing tools. It is an issue of pride, Mr. Speaker. We are people of a maritime tradition, and it gives me great pride when I see a vessel, a cargo ship, a bulk carrier or a luxury yacht waving the red ensign flag registered in the Cayman Islands, a registration of choice.

I make those few comments, Mr. Speaker, to say that I am proud and pleased to be affiliated in this capacity to see what was only something talked about by previous administrations and something only worked towards by the civil service that I was a part of back in 1995.

Mr. Speaker, I would like to just throw out another issue on the table that is not covered in this legislation as I have seen it. It is important that we look toward some way of encouraging and permitting the registration of local crafts and boats by private citizens, as it represents a significant asset base in this country, but one that cannot currently be used as collateral at the bank.

Mr. Speaker, I can use my car as collateral because it is registered. To transfer that registration I would need to go to the registering agent to have it transferred so it is possible for a lien to be placed on

that vehicle. That luxury is not afforded to the boat owner who is not registered because he can change ownership of the boat without any transfer of registration. Mr. Speaker, I think it is important that we look towards that avenue, be it on some form of a lower-fee tariff for the registration of local boats that are not sailing into international seas.

Mr. Speaker, with those few comments I would only like to reiterate that I, like the Members of this honourable House, am proud that the Authority will be formed. I am proud that we were able to find a truly competent, capable and determined Caymanian to fill the post.

Mr. Speaker, with those few comments said I resume my seat.

**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.

Mr. Speaker, I too rise to offer my support for the Maritime Authority of the Cayman Islands Bill, 2005. To reiterate some of the critical points raised by the previous speaker, the Second Elected Member for the district of Cayman Brac and Little Cayman, when we look at the issue of the Maritime Authority and—

**Mr. Lyndon L. Martin:** Mr. Speaker.

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

#### Lack of Quorum

**Mr. Lyndon L. Martin:** Mr. Speaker, I hate to disturb my colleague, but before he starts I bring to your attention that we do not have a quorum. There is no Member of the Opposition who has so far stated his full support of this Bill, but they are not present here to offer their support or to hear the contribution from the Second Elected Member for West Bay.

**The Deputy Speaker:** You are correct in stating that we are not quorate. At this time we will take a short suspension while we ask the Serjeant-at-Arms to try to get the Members into the Chamber, please.

The Member for East End . . .

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

Mr. Speaker, I would also point out to you that there are only four of the elected members of the Opposition and the Financial Secretary in the Chamber. Even though I am here now, as a Member of the Opposition, we are still not quorate.

**The Deputy Speaker:** Gentlemen, we have taken a suspension. Could someone speak to the Serjeant to ensure that we get the Members into the Chamber please?

#### Proceedings suspended at 11.10 am

#### Proceedings resumed at 11.14 am

**The Deputy Speaker:** Proceedings are resumed. The Second Elected Member for West Bay continuing.

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

Indeed it is a bit of a distraction. I now have to just re-gather my thoughts. Needless to say, Mr. Speaker, it is, as the Second Elected Member for Cayman Brac and Little Cayman has pointed out, most unfortunate sometimes if we do not have the benefit of Members hearing all the contributions so that they may make an informed judgment when they are going to cast the all-important vote. However, Mr. Speaker, I think it is fair to say that there are probably a number of our colleagues who are in the precincts and we do have speakers throughout. So, hopefully they will get the benefit of the contributions that we all make.

A critical point brought up by the Honourable Second Elected Member for Cayman Brac and Little Cayman which needs re-emphasising is this whole issue of revenue and ancillary revenue that flows to the country by the activities of the Shipping Registry. As Members, it is important for us to understand the knock-on benefits that this important activity and this important Authority will bring to the country. We need to clearly understand that when it comes to budget time and we simply look at the financials of this specific Authority, that there will be other revenue streams that may not show up directly as part of the Maritime Authority.

As previously mentioned, inevitably there will be company fees because, typically, a company will be formed to hold the vessel as an asset. There will also be certain other revenues that will flow in and certain stamp duties. However, I am not going into any sort of detail on that particular point, but just want to re-emphasise it as one of those crucial issues that needs attention.

Mr. Speaker, the creation of this Authority now provides the Cayman Islands with the opportunity to continue in its evolution as a first-class registry for vessels. I think it is very important that we give the Authority our support and encouragement to continue to work to ensure that new business opportunities are sought and new areas are explored. They will need funding to carry out those activities, because sometimes you have to invest something to reap the rewards in the future. So I would implore all Honourable Members to bear that in mind when we do look at the financial position of this start-up Authority.

Mr. Speaker, I will go to the Bill itself and offer some observations. Firstly, I would like to turn my attention to page 11 of the Bill, section 5: Advisors and Secretary to the Board. Subsection (2) of section 5 reads: "**5(2) The Board shall appoint for such period and on such terms and conditions of em-**

**ployment as the Board considers fit, a person not being a director, to be the secretary of the Authority, and the appointee shall be present at all meetings and shall take minutes of the business transacted, which minutes shall record all decisions, resolutions, orders policies and rules made by the Board."**

If we look at other Authorities such as the Water Authority and the Port Authority, we will see for example, in the Water Authority and under that Law section 4(3) that the director is the secretary of the board. He has to be present at all meetings and is responsible for the minutes and the business transacted. The same applies to the Port Authority. For Members' reference that would be section 3(8) where it reads, "**The director shall be the secretary to the Authority,**" and that is the Port Authority Law that I am reading from, Mr. Speaker, "**and is responsible to be at all meetings and to take minutes.**"

I think that this change that is contained in the Maritime Authority is the way to go in the future, because often when the person who is ultimately charged with running the organisation also has to sit as secretary to the Board and be responsible for minute-taking and development of minutes. A lot of their valuable time is spent on this administrative function whereas that time would be better spent on running the business. Therefore, I believe that this is a good provision and it bodes well. I think, Mr. Speaker, that the other Authorities should have this sort of language within those pieces of legislation so that they can have the type of structure needed to ensure that persons who are ultimately responsible use their time in the most valuable way.

In relation to this point, if we look at Schedule 1 which deals with the setting up of the board of the Maritime Authority we do see in paragraph 2 of that Schedule: "**2(2) The Chief Executive Officer shall be present at each meeting of the Board unless-**" and there are three reasons given as to when the absence of the Chief Executive Officer would be allowed, and that too is of critical importance.

This legislation does not call for the Chief Executive Officer to not be the secretary to the Board and then to choose when he or she would attend board meetings. It also binds him to be there because it is very important for the head of the organisation, obviously, to be at all the board meetings so that he may provide expert advice to the Board, answer critical issues members of the Board may have and be there to ensure that any direction that the Board wishes the Authority to move in is clearly understood and that the CEO has the opportunity to inform those decisions.

I believe that this particular structure bodes well, and I think that it should be incorporated into the other Authorities because it will offer much better value for money. I believe the country will get a whole lot more out of the heads of Authorities spending all or the majority of their time focusing on the big picture of

running the organisation versus having to prepare minutes and to prepare for the board meetings.

If we turn our attention to section 7(1) of the Bill, it reads:- "**7(1) The Minister may, after consultation with the Board, give in written form general and lawful directions on matters of policy and the Board shall give effect to such directions.**"

Now, Mr. Speaker, I would presume that this language is not necessarily new and may perhaps be in other pieces of legislation, but I was curious as to why it would read that the directions would form general and lawful directions. Certainly the Minister is not going to give unlawful directions to the Board, so I am just curious. Perhaps there is a very logical explanation, and I am no lawyer. Perhaps there is a very simple explanation to that particular language and I think it would be useful, when winding up, if the Honourable Third Official Member could give some indication as to why this particular subsection is worded the way it is.

*[Pause]*

**Mr. Rolston M. Anglin:** Mr. Speaker, I am reminded that there would necessarily be someone who would have to ensure the lawfulness of such directions, and it would be interesting to note who that would be. Perhaps it would be the Honourable Second Official Member who serves as the principal legal advisor to the Cabinet.

Moving on to personnel, part 3 of the Bill deals with personnel of the Authority. Section 9 reads: "**9 (1) The Board shall appoint for such period and on such terms and conditions of employment as it thinks fit, a Chief Executive Officer of the Authority.**"

In looking at some of the more well-established (and by "well-established" I mean by the amount of time that they have been in existence) . . . if, for example, we look at the Water Authority Law, section 4(1) "**The Governor shall appoint a Director to be the Chief Executive Officer of the Authority, and shall, in the exercise of his own deliberate judgment and subject to such conditions as he may impose, approve of the secondment of such public officers for service with the Authority as appear necessary for the proper exercise of its functions.**"

Now, the latter part of that subsection is not directly relevant. What is relevant is the very first part of the sentence, Mr. Speaker, that basically gives the Governor (which in this instance means Governor in Cabinet) the authority to appoint the director. Mr. Speaker, if we look at the Port Authority Law, we again see that the director is appointed by the Governor.

Mr. Speaker, perhaps this too is the wave of the future, where we vest within the Board the power to appoint the CEO (chief executive officer). However I think if we go back to section 7 we will see that the member of Cabinet who has responsibility for this Au-

thority has the ability to give, in written form, directions to the Authority.

Mr. Speaker, I am a bit torn as to which approach is more applicable at this particular juncture. Do we say that we change the way in which the heads of Statutory Authorities are appointed and we vest that authority with the Board? If so, we then have to look very carefully at how the Board itself is appointed and, as I said, we have to continually look back to section 7, which gives the member of Cabinet with responsibility for the Authority the ultimate power to give written directions to the Authority.

I cannot, and I do not think that any other Member can, say that there is a right or a wrong approach. I do not think that that is the issue, I think it is timeliness. We have to consider carefully how far we shift what I consider the "normal paradigm" of Statutory Authorities with this new Authority, because, as far as I am concerned, we have well-established, well-run Authorities. Certainly, we cannot create a new authority that gives new methodologies to fundamental points of consideration like the appointment of the person who is ultimately the head of the authority that is dramatically different than that which holds true in the current Statutory Authorities.

Certainly, if I were the director of either the Port Authority or the Water Authority, I would be very interested in this particular piece of legislation and I would lobby whichever Ministry has responsibility for my authority to ensure that my authority has an equal footing—or, let us not say equal, Mr. Speaker, has a similar framework as this Authority that this Legislative Assembly is now being asked to create by passage of this Bill.

The last thing I will say on that point is that if this is the way forward, if this is the wave of the future, then I think in short order we should change laws that give effect to all of the statutory authorities and ensure that they are structured in a similar fashion.

Mr. Speaker, If we look at Part III, section 10(2) of the Bill: "**10 (2) In the Chief Executive Officer's absence or inability to fulfil his functions, the Board may appoint a senior employee of the Authority to discharge the functions of the Chief Executive Officer during the period of his absence or inability.**" That is, 'inability' to fulfil his functions.

Mr. Speaker, I am one who likes things to be clear and in black and white. I believe that it is important that we have someone, who does not necessarily have to have the title of Deputy Chief Executive Officer but someone in the organisational structure which makes it clear who will act in the absence of the Chief Executive Officer. I do not believe the Board should simply have vested in it the option to simply choose. I think this could give rise to potential issues and problems down the line, once this Authority is functioning, because, inevitably, the Chief Executive Officer will have periods of absence from the country. That post is heavy on the marketing side. He or she is going to have to ensure that this Authority meets its outputs to

Cabinet, and one of the ways that he or she is going to have to ensure that is going around the world, singing the praises and marketing and selling the Cayman Islands and the Maritime Authority of the Cayman Islands.

I believe that it should be very clear who that person is. We do not have the organisational chart of the Authority, or the proposed organisational chart, so I do not know, when we look at that organisational chart, who falls below the CEO. However, I would presume from the way this is worded that there is then a number of line managers who have responsibility for various sections of the Authority.

Within the same part, section 11(2) deals with pensions: "**11 (1) The Authority shall subscribe to the Public Service Pensions Fund in accordance with the Public Service Pensions Law (2004 Revision) for the payment of pensions to all employees of the Authority.**

**(2) Notwithstanding subsection(1)–**

**(a) where an employee transferred in accordance with Schedule 2, 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;"**

Mr. Speaker, as you and all Honourable Members will be well aware, this whole issue of contracted officer's supplement (COS) has been one that has caused much debate in this Legislative Assembly. In fact, it has caused motions in Finance Committee. In fact, Mr. Speaker, as you will be well aware, the two of us tried to bring a Private Member's Motion at one point in this regard because there is a general feeling that contracted officer's supplement is antiquated and should not exist within the civil service of the Cayman Islands. I am reminded that the Motion in Finance Committee to that effect was passed. I am quite surprised to see this issue rear its ugly head again.

Now, Mr. Speaker, this is just not an issue of equity, this issue has more than equity at stake. This issue also drives to the core of future liability to this Country, because you could have persons who are paid contracted officer's supplement who, at some point in the future, become resident of the Cayman Islands and perhaps even acquire Caymanian Status. There is a real question then as to who is responsible for the upkeep of that person if he should fall in any financial crisis. Mr. Speaker, I think we all know how the world works and, if that was to happen to the person, we know that the Government would then be the party that would have to contribute to the financial upkeep of that person.

So, Mr. Speaker, we have to ensure that when it comes to this whole issue of pensions we do not create financial burden down the road for government. Pensions are in existence and a Public Service Pensions Law and a National Pensions Law are in existence for good reason: to ensure that we force people to save for their retirement so that at the end of

the day they can retire with a high level of dignity and not have to come to central government. That is the stated objective and policy of the Cayman Islands through those two pieces of important legislation.

Perhaps there are persons who are employed outside the Cayman Islands who have to comply with other types of legislation within the country in which they live. I am not sure if this is what this subsection is referring to but, certainly, I would proffer the view that anyone who is spending the majority of their time within the Cayman Islands, any of those persons should be under what is the stated policy of the Cayman Islands—and that is that our citizens should be covered by a pension and should have to contribute to that pension to ensure their upkeep in the long term.

Moving on to 11(3) we see that: **“The Authority shall be considered to be an employer for the purposes of the Public Service Pensions Law (2004 Revision) and an employee referred to in subsection (2)(a) shall not be considered to have retired from the Service for the purposes of that Law.”**

One issue that does rear its head once we start talking about persons who transfer over from Government to an Authority is, with whom does the past service liability of those persons lie. Perhaps it is in here and if it is, I am sure the Honourable Third Official Member in his winding up would point me to that specific section, but in reading the Bill I did not see that particular issue clearly dealt with. So I would suggest, Mr. Speaker, that we need to deal with that issue, because, certainly, in my humble submission, the past service liability resides with the entity who created the past service liability, which would be central government. I do not believe that any past service liability should be expected to be picked up by the Statutory Authority who will only have as their employees these specific persons once this Bill comes into effect.

The whole issue of giving the Authority a choice as to whether or not they subscribe to the Public Service Pensions Law or the National Pensions Law, I believe, is only fair. I think the Authority and its staff should have that option. What will be of interest is whether or not you might have some persons on staff who desire to remain under the Public Service Pensions Law and others who might desire to be under the National Pensions Law.

In reading section 11(2)(a) it is not clear in my mind whether or not that sort of opportunity is available. While it would add initially to the administration of the Authority, I do not think in the long term that it would be in any way burdensome if a number of employees decided that they wanted to remain under the Public Service Pensions Law and others decide they wanted to be under the National Pensions Law. I think, Mr. Speaker, in the private sector the general rule is that employers are not willing to have employees registered with various particular pensions that

comply and that therefore are registered pensions under the National Pensions Law.

It just says that the Authority has the option to subscribe and the definition of “Authority” would seem to say or suggest that employees would not be given that choice. I think, Mr. Speaker, that they should have that choice and ensure that if they see or perceive a benefit of staying under the Public Service Pensions Law that that right not be taken away from them, because, as I said, unless it can be shown that it would be cumbersome or burdensome to the Authority and therefore costly, I think they should have that option.

The whole issue of borrowing, and the authority to borrow, is one that was raised by the Honourable Leader of the Opposition and is a point that would be of interest to all of us. When we look at the section 12(2) of the Water Authority Law and section 4(4) of the Port Authority Law, we see that the power to borrow is very similar to that contained within this particular piece of legislation. The only difference that I have seen is that this piece of legislation allows the Authority the power to borrow up to a cumulative amount of \$100,000, and once above that amount then the Governor (which by definition, of course, is the Governor in Cabinet) has to provide the authority to borrow.

Within the other pieces of legislation, namely the Water Authority Law and the Port Authority Law, they have to get the approval of the Governor in Cabinet to raise loans. I do not believe that \$100,000, in the scheme of things, is a material amount that would cause any alarm or concern. In fact, within the definition of “borrowing” this could very well include simple overdrafts at the bank. I think the normal practice within the other Authorities is that that has been precluded from that standard definition and they are allowed to have overdrafts, or if that is not the case, certainly, they have gotten that approval a long time ago and would be able to do so if circumstances necessitated that.

Now, Mr. Speaker, another point that was raised earlier by the Honourable Leader of the Opposition, which is a point worth going over again, is section 18 which deals with the whole issue of payment of dividends by the Authority to central Government. Mr. Speaker, for a long time we have heard the accusations that have been levied against former governments taking monies out of Statutory Authorities and then forcing the Statutory Authorities to borrow because they do not have cash that available, which made the borrowing position of central government more favourable. However, with the new Public Management and Finance Law (2003 Revision), that whole issue becomes less of a concern because we do now have to report what the borrowing ratio is for the entire public sector which includes all Statutory Authorities and government companies.

So, Mr. Speaker, I believe what is most important is that there is an agreed formula between the

board of directors and Cabinet which would clearly outline the circumstances under which a dividend would be paid and what the dividend amount would be. I believe, inevitably, that formula would change once this Authority starts to grow, first of all, and continues in its maturity, because 10, 15 or 20 years from now we certainly will not know what the financial position will be and so government, as the shareholder, has to have the right to extract dividends if it is prudent to do so at that particular point in time.

The final point that I would like to raise is one that does cause me some grave concern. If we look at section 4 of the Bill, it has two subsections and I will read both of them:- **“4 (1) There shall be a board of directors of the Authority, which, subject to this Law, shall be responsible for the governance and performance of the Authority and the general conduct of its affairs and business, having regard to the Public Management and Finance Law (2003 Revision).**

**“(2) The Board shall consist of seven directors appointed by the Governor in accordance with Schedule 1 which Schedule shall have effect with respect to the Board.”**

If we turn to Schedule 1 which is found on page 18 of the Bill . . . Mr. Speaker, I crave your and Honourable Members' indulgence, but I will have to read the majority of Schedule 1 so that the point that I want to be made is clear.

#### **“SCHEDULE 1—APPOINTMENT AND CONSTITUTION OF THE BOARD**

##### **1. (1) The Governor shall appoint –**

**(a) two directors who, in his opinion, are persons qualified for appointment as having had experience and shown capacity in financial management or law or who, in his opinion, are persons qualified for appointment as having had experience and shown capacity in matter relating to the Authority's functions;”** all fine, **“and**

**(b) five directors who, in his opinion, are persons qualified for appointment as having had experience and shown capacity respectively in national security, international shipping, corporate services or maritime affairs.”**

Again, it all sounds good. We want to have a well-balanced board, we want a board that is going to be able to offer this newly created Authority the type of guidance that it needs. Then in part (2) it says:-

**“(2). Prior to appointing a person to be a director, the Governor shall satisfy himself that the person will have no financial or other interest likely to prejudicially affect the exercise of his functions as a director and the Governor may require a person whom he proposes to appoint to give him such information as he considers necessary for that purpose.”**

Again, nothing wrong, nothing out of order there. You want to ensure conflicts of interest do not

exist. Part (3): **“(3) The Governor shall appoint one of the two directors appointed under subparagraph (1)(a) as chairman and the other such director as deputy chairman.”**

Again, we want to know who the chairman is, who the deputy chairman is. That is nothing out of order. Section (4) of that first paragraph, Mr. Speaker, is where I have a real issue: **“(4). A member of the Legislative Assembly or an official member of Cabinet shall not be eligible for appointment as a director.”**

Mr. Speaker, there are people in this country who, unfortunately, are of the view that once a person gets elected to this Legislative Assembly they then go through a metamorphosis that turns them from a person who the public decided that they could trust with the most sacred office within our Constitution, that is to sit in this Legislative Assembly and to be their representative. As I said, there are those who believe that we go through this metamorphosis that, all of a sudden, we go from being good, honest citizens to being this corrupt bunch of rascals that cannot be trusted. Mr. Speaker, I will have no part of any piece of legislation that I believe in my opinion seeks to further that though process, that endorses it, because, I believe that if I vote for any piece of legislation that has that, then I too am agreeing and endorsing that ridiculous mentality that exists among a number of persons.

Mr. Speaker, let us use an example. What if someone who is the CEO of this Authority decided one day to run for politics and gets elected? Does that then mean that if the Governor in Cabinet of the day (whether that person is an Opposition or Government Back Bench Member, or what have you) decides that that person's skills and abilities should be utilised to their fullest, the Law should preclude that person from offering valuable service to the Authority?

Mr. Speaker, my good friend the Elected Member for East End was a seaman (I refresh our memories). When we look at section 1(1)(b) we see that of the five directors, they are saying that one should be someone versed in maritime affairs. I am reminded that my colleague, the Third Elected Member for the district of West Bay, Captain Eugene (and I apologise to him), was also a seaman and is also, Mr. Speaker, well versed in maritime affairs. Are we saying that we should enact legislation that says that the government cannot use the skills of those persons as directors of this Authority? I believe that that would be a ridiculous provision for us as a Legislative Assembly to support.

I say to those who have all of the purity in the world, and butter cannot melt in their mouth, that they need to get real, they need to get with it because, Mr. Speaker, if you look at the principles of corporate governance who has ultimately the authority to choose the directors of a company? Is it not the shareholder? I believe, Mr. Speaker, in this case that the shareholder, which is the Government of the Cayman Islands—and if we go back to the ultimate definition of “government” we are talking about the

people of the Cayman Islands. I believe that if the people of the Cayman Islands are willing to choose 15 people to represent them in the Legislative Assembly, how can we then make the argument that of those 15 members they would not one to sit on a Statutory Authority board of which they are the ultimate shareholders? Mr. Speaker, it does not make any sense. That argument cannot hold any water.

I am of the firm view that when we look at the ultimate definition of "government" and when we understand that, ultimately, we are here to represent the wishes of the people, we are their representatives and we acknowledge that they are ultimately, holistically the government—they are the society, they are the persons who pay the tax dollars just like us—they should have the freedom to ensure that their board of directors is made up of as many people as possible.

Now I know, Mr. Speaker, from my personal interaction with other Members of this House that there are persons in the Opposition who believe that members of Parliament should not sit on the boards of Statutory Authorities and that is their right to believe that. However, I remind them that, ultimately, the shareholders are the people that they represent and the people they represent may very well be best served if an Honourable Member of this Legislative Assembly sits on the Board of any particular Statutory Authority. Ultimately, we are accountable to the people for the delivery of goods and services of these Statutory Authorities, so it would only make sense, Mr. Speaker, that the Government sees fit that Members of this Legislative Assembly would have the opportunity to sit on the board of this or indeed any Statutory Authority.

Now, Mr. Speaker there are those too who make the argument that if a Member of the Legislative Assembly sits on a Statutory Authority then the Authority will somehow be more prone to influence by the Government. Yet, Mr. Speaker, if that is the argument then why is it that the Governor in Cabinet appoints the directors anyway? So if the Governor in Cabinet appoints the board of directors, are we going to say that they are not going to appoint people who they feel are like-minded and are going to have a similar philosophy in the Authority carrying out its functions?

Mr. Speaker, this whole debate on Statutory Authorities is one that will continue forever, but I think it is one that is opportune for us to remind ourselves and all the citizens in this country that, ultimately, you elect a government. You go to the polls and you freely elect a government. That government is responsible for some of the largest entities in this country.

Mr. Speaker, I sit on the Water Authority Board. The Water Authority Board has net assets in excess of \$30 million! That is a significant entity when we speak to the Cayman Islands. Mr. Speaker, I believe that you can speak to any other director and any person in management and they will tell you that that Board has been free of political interference. That

Board, Mr. Speaker, and that Authority are well run. In fact, the director for this Authority (and this is a little irrelevant so I will say that upfront, Mr. Speaker, but I am going to say in anyway) is being honoured with the Queen's Honour for Community Service, showing the dedication she has to her job and to this country.

Mr. Speaker, we have to understand clearly that Government has an important responsibility to the citizens of this country and we cannot handcuff the Government in these sorts of ways. You know, Mr. Speaker, when I see this provision I am reminded of the exclusionary way in which some Members of the Opposition seek to govern by saying, '*You cannot have this*', and, '*You cannot have that!*' No member of the Legislative Assembly should be the Speaker. There seems to be a common undertone with this provision, Mr. Speaker. I know my good friend, the Member for East End, does not feel that way because I can see from the look on his face that he agrees with the points being put forward, so I look for his support in this regard.

Mr. Speaker, I support this Bill. I look forward to the points that have been raised by all Members being considered, and perhaps we would be minded to have some Committee Stage amendments to deal with some of the issues that have been raised.

Mr. Speaker, I end by offering my congratulations to the Honourable Third Official Member for bringing forward this Bill at this point in time, and I also congratulate all who were involved in crafting this legislation, all who preceded him and had anything to do with this Bill getting to us today. I wish the Chief Executive Officer (I think he is the CEO designate) every success and I offer him my personal support in his endeavours to redefine and recreate what Shipping Registry means to the Cayman Islands.

Mr. Speaker, I believe that it would not be out of order for me to also say that the entire Government (because after all Bills have to go through Cabinet to reach us in this Legislative Assembly), including the Leader and Deputy Leader of Government Business, supports the creation of this Authority and looks forward to this Authority maturing. Hopefully years from now when other authorities are being created, we will be looking back at this and saying this was indeed a move that was in the best interest of the Cayman Islands.

Mr. Speaker, I thank you and I thank Honourable Members for listening to my brief contribution to this Bill.

**The Deputy Speaker:** Does any other Member wish to speak? The Elected Member for the district of East End.

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

Mr. Speaker, the fact that I asked the Serjeant for the podium does not mean that I will be long, at least not as long as my good friend the Second Elected Member for West Bay!

Mr. Speaker, before I commence my brief contribution to the Bill before us, The Maritime Authority of the Cayman Islands Bill, 2005 . . . this is my first time speaking publicly since the Second Official Member was appointed Queen's Council, so I would like to extend my heartfelt congratulations and let him know that I believe he is very deserving of such designation. I look forward to a long and rewarding relationship with this country[man] as the Attorney General.

Mr. Speaker, much has been debated on this Bill, therefore I will not go into much of what was said on the actual details. I will not cover those again, but there are a few areas that I would like to touch on. For the purposes of the Second Elected Member for Cayman Brac and Little Cayman, I would like him to know that my approach is going to be from a position of having lived it.

I think the Second Elected Member for West Bay mentioned that I was a seaman. Yes I spent some nine or ten years in that field. That does not make me very old, but I started very young.

Mr. Speaker, I support a Ship Registry in this country, firstly, because of the Maritime heritage that Caymanians have. It has been a tradition. I have always said that one of the worst things that ever happened to this country was that there is no longer provision where young Caymanians can go to sea, because it is very good training ground. You get the opportunity to see the world and get paid to see it, and you have to live amongst such different nationalities that you learn to live with everybody and you learn to have respect for people; one of the things that I wish some of these young people had today. If provisions were there, more could go to sea. Of course, Mr. Speaker, I had to steal away to go to sea, but that was my goal – I wanted to go to sea.

Mr. Speaker, I noticed under the Bill there are some areas that are, in my opinion, are missing, but I certainly hope that the Third Official Member will address those in his reply.

[With regard] to the passionate debate by the Second Elected Member for Cayman Brac and Little Cayman about this Government finishing up the long-talked about Maritime Authority Law and bringing it thus far, Mr. Speaker, that is what governments are all about—continuity. This Shipping Registry was started quite a while ago, and we have had government changes since then. Now, if any government in this country that comes into power does not see the validity in what previous governments have put in place and try to enhance on it, then they should not be a government. However, along each phase of that development they should be congratulated for doing what they have done. I think that, yes, everyone should be congratulated as we reach each different stage of development. New governments will come (hopefully on 11 May) and they must do something too, in the interest of this country. I just wanted to let him know that.

Mr. Speaker, the area that I would like to address is that of Part II – Establishment, Structure and Functions of the Maritime Authority, and in particular section 6 (3), which says: “**(3) In particular and without prejudice to the generality of subsection (1) the Authority shall-**

**(a) provide shipping registration services, and maintain a register of ships;**

**(b) provide maritime regulatory services, including –**

**(i) survey and inspection services for all ships on the register;**

**(ii) documentation and certification services for all ships on the register and all crew serving on those ships;”**

I would like to stop there for a brief moment, Mr. Speaker.

Mr. Speaker, I wonder how that will be done because, for instance, certification . . . I was an engineer during my time at sea, but I was certified and licensed under the Liberian Registry and also under the American Registry but could not practice. That was done on a bet between two of my professors, where one said I could do it and the other said I could not. They gave me the opportunity to do that, but I could not practice because I was not an American.

The provisions for a ship registry in any country carry with it a little more responsibility than that which is outlined in section 3(c). One of the responsibilities of the Authority is to “**promote the development of the Islands as an international shipping centre including, but not limited to -**

**(i) onshore ship operations and activities;**

**(ii) shipping dispute resolution and other maritime services;**

**(iii) international ship finance; and**

**(iv) the growth and utilisation of the Admiralty jurisdiction of the Grand Court,”**

It carries a little more than that when we are talking about registration and the like. Now, I do not know if the ships that are registered under the Cayman Islands Registry, what types of licensing of offices are required, whether it is under the English system, or, are we moving towards a position where it is under our own certification and we are going to develop that?

Mr. Speaker, when I was going to sea and prior to that, we heard of “registry of convenience”. In those days, registries such as Liberia and Panama were established for the convenience of the American companies who did not want to pay taxes in America. I would certainly not want to think that we would get that reputation in this country. Provisions for the licensing of officers are in place, legitimate and recognised licensing of officers. Over the years the Liberian and Panama registries have become well recognised, but I certainly would like to see us develop to a point where we can claim that we are also a recognised registry in this country.



With that comes much responsibility, Mr. Speaker, because there have to be provisions for licensing, and wherever we may set up offices in the world people who desire to become officers under the Cayman Islands Registry would be able to go and do their examinations and the likes. However, I know that in a number of instances the English registry is extended, and in years gone by it was extended to Jamaica where you could do the English examination in Jamaica and become a licensed captain or engineer without having to go to England. Many of our captains were registered or certified through that system. Of course, in those days, Mr. Speaker, the English registry was considered "the registry" to be licensed under. Now, I do not know if we have reached the point where we are requiring all officers to be licensed under the English registry. The Third Official Member, I trust will address that for us in his reply.

Mr. Speaker, other areas that I know needs some attention are sections 6(3)(b)(vi); "**investigations into maritime casualties;**" and (ix), "**maritime search and rescue in co-ordination with other relevant Government departments and bodies;**" As I understand it, and having been involved, from a seaman's perspective in search and rescue there are rules and regulations on the sea. For instance, if someone is in distress you cannot leave them for a certain amount of time. Certainly, when we talk about an Authority from land base coordinating with other relevant government departments and bodies to do search and rescue, I would assume we are talking about in the territorial waters of the Cayman Islands.

Herein lays my concern. If that extends to territorial waters, what will we use? We all recognise we cannot use the *Cayman Protector*, nor can we use the little dingy that we have for the Police. So when I say it comes with more responsibilities than promoting and putting a name brand on the Cayman Islands, these are expenditures.

Maybe I should just pick up on the point by the Second Elected Member for West Bay about borrowing up to \$100,000 with the permission of the Governor, which provisions are made for further in the law. That is peanuts in the scheme of setting up a registry in any country. Mr. Speaker, I am not criticising, I am trying to get more provisions for this Authority. There have to be provisions made for the Authority so that it can operate. I will also come to another issue concerning expenditures.

We have to be careful we are not simply setting up an Authority to just say we have a ship registry authority. For instance, I had some discussions some years ago with Mr. Joel Walton when he was still in the Finance Ministry, about young Caymanians being trained to become inspectors. We have a number of Caymanians that have been trained as Captains, engineers, mates and I sailed with many of them who were products of the Marine School set up in the late '70s. These are all brilliant people we can bring in to the Authority to train as marine inspectors for ship in-

spectations and the like. However, Mr. Speaker, these are all expenditures that the Authority will have to go through to ensure that it is not just an Authority looking for registration of ships.

[The Authority will have to ensure] that it can function properly; that at the drop of a hat an inspector can be in Italy because one of our ships have just gone in there and the [Italian] authorities have a problem with the ship. I have lived that. Or, you may have a ship in Japan that pumped water or oil over the side, and at the drop of a hat our inspectors must be there, within hours. There can be no questioning from the Chief Executive Officer as to whether or not he has a few dollars here or there to get a plane ticket to travel from the office in England over to Japan. There can be no question.

So, we must remember we are at a point where we are trying to develop the ship registry. We have given a board of directors and a CEO some authority, but we cannot handcuff them if we are going to seriously think of developing this thing. Yes, it will provide a diversification of our economy, but it is not only that.

Many people are only thinking about the luxury yachts, as mentioned by the Second Elected Member for Cayman Brac and Little Cayman. Those are all well and nice when they come here with their guests, come ashore, and because they are registered here, they rent hotel rooms and cars. However, when we think of large tonnage and cargo vessels, for example, oil and so on, people will come to register ships here if we develop a name brand. That Authority must have provisions and the ability to manage those ships. They are not in Grand Cayman, Cayman Brac or Little Cayman. These are ocean-going ships, ships, no luxury yachts here and no sailboats.

When that happens (and I suspect the ship registry has a few of those now), we are then playing ball with the "big boys". When we start playing ball with the "big boys" we have to—because our objective, Mr. Speaker, is to steal the registries from other people and if we are going to attract them from other people, to bring them to the Cayman Islands, we have to provide the services. If we do not provide the services, they will leave. The diverse nationalities that go on these ships need to be certified because our registry will be for naught if we are found guilty of not providing the proper services.

Mr. Speaker, we are not talking about a little 14-foot skiff; we are talking about ships that are valued at hundreds of millions of dollars that we are trying to attract to our registry. If the Authority's handicapped by restrictions placed on them for finances and such, we are not going to pay ourselves justice in trying to promote this registry. We need to ensure that it is there.

I relate a little story about my first shipping experience when I was young, green and inexperienced. A blower went out of that ship when we were off the coast of South Africa and the company flew in

Mr. Jackson, who owns the Tall Tree restaurant. He was the port engineer for the company I worked for, which was National Bulk. They flew him in by helicopter to repair that blower before we got to Saudi Arabia. By the time we reached Saudi Arabia, the Liberian registry representative was there to inspect the repairs to that blower. We lost one of the cargo pumps and it was flown in and repaired on the way there, but they had to come aboard to certify it by the time we reached Saudi Arabia on the next trip.

These are the things that will need to happen and the Authority cannot be restricted by the lack of finances to do what it has to do. I cannot support anything that is going to restrict them \$50,000 here and the Government at its whim and fancy, may decide whether any government is going to give them the authority to go and borrow money to manage the services needed to be provided. This is a serious matter we are steeping into and I wholeheartedly support it, but we need to ensure that we are capable of carrying it out.

Mr. Speaker, investigations into marine casualties . . . again, if one of our ships with oil run aground (God forbid) in Canada that will be our responsibility. We know the Exxon Valdez and what happened to that. Are we prepared? Will the Authority be so restricted that it cannot conduct the inspection with other maritime inspectors and authorities from all over the world? Will it be that we will only be able to send our inspectors to investigate for three weeks and then we have to pull them? NO, that is not how it works. It does not work like that.

Mr. Speaker, I do not want to take anything away from this because I do support a ship registry in this country. However, I want to see it done right, without interference from government or politicians, and I want to see it conducted properly. I hope that one of these days it will extend itself to promoting young Caymanians riding on our registries. That is what I would like to see most of all.

Mr. Speaker, I notice that my good friend is saying that there is almost \$1 million in the Budget for funding, just to set it up. However, it may take more, I do not know, because they strategically have to place offices all over the world. That is what we are talking about. It may seem like great expenditure to set a shipping registry, but the rewards can be extremely satisfying in time to come. If the director and the board of directors say, *'I need an office or two in Asia strategically placed,'* we cannot have Cabinet or the government saying, *'No you only put one,'* then one is placed there and it costs more to run one that it would to run two because of airline tickets to travel throughout Asia and so on. So, Mr. Speaker, \$1 million in the scheme of registry is really no money. I really want to see this work.

Let me pause here and publicly congratulate (who I suspect will be the director, but this law has not been passed yet) Mr. Joel Walton and all his staff. Mr. Walton has been involved with the ship registry from

its inception and he has gained a lot of experience. He did not go and use any wheel wrench like I did or brave the decks in the cold, but he is quite capable, I believe, Mr. Speaker, to take us and I know he has some very capable staff onboard. Certainly, at this stage I believe that it may be—and I think they are utilising the hiring of independent inspectors around the world. Yes that may be in our best interests at this time, but I would like to see the day when we have our own inspectors placed strategically around the world and our registry is one of the biggest in the world.

Mr. Speaker, I believe that other Members have covered the rest of the Bill. While I agree with the Second Elected Member for West Bay that members of Parliament should not be excluded in the manner in which it was placed in the Bill, I understand what the crafters of this Bill were attempting – [preventing] some kind of conflict. It may at times appear as a conflict in the future because of other experiences with these registries in places like Liberia and Panama. They have had their political troubles, but have now moved it from the political arena and it has worked well for them. I believe that was probably the intent when this was crafted.

Mr. Speaker, I support the creation of a Maritime Authority and look forward to it developing into something as big in the world as our financial industry. If we can get up around the fifth in the world we will be doing well. I would just ask the Third Official Member to respond to some of my comments and questions and request that they promote young Caymanians going back to sea. I know in the '80s when I stopped going to sea there were plenty in this country and there are more now. That is why we have seen a move away by young Caymanians from going to sea, because they can fulfil their financial desires, wants and needs here. However, there is much to be gained from going to sea, contrary to some who may believe that I did not gain anything.

Mr. Speaker, I would ask the director and his staff to work towards developing a greater and bigger ship registry for the country.

I thank you, Mr. Speaker.

**The Deputy Speaker:** We will now take the luncheon suspension and resume at 2.15 pm.

**Proceedings suspended at 12.47 pm**

**Proceedings resumed at 2.47 pm**

**The Deputy Speaker:** Please be seated. Proceedings are resumed. Does any other Member wish to speak? [Pause] Does any other Member wish to speak? [Pause] 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. G. Kenneth Jefferson:** Thank you Mr. Speaker.

Mr. Speaker, I would like to start by thanking all Honourable Members for their support of the Bill and the comments that they have made on the Bill. I would like to address some of the points made by the Elected Member for East End, because he spoke last and those are freshest in my mind.

That Honourable Member asked how, under clause 6(3)(b)(ii), would the Maritime Authority perform documentation and certification services for all ships on the Register and on all crew serving those ships. Mr. Speaker, the present Shipping Registry and the Maritime Authority, assuming that this Bill is passed, operate under the standards of Training Certification and Watch Keeping Convention.

The present Registry and the Authority issue endorsements of certificates issued by other countries as to the capabilities of their crew, but this endorsement is done only after the Registry itself undertakes specific checks on the administration issuing those certificates to ensure that the crew are deemed to be competent.

Mr. Speaker, the countries involved in this process are not just restricted to the United Kingdom. For example, recently after performing the required checks, certificates had been endorsed from issuing countries such as Estonia and Georgia, formerly of the USSR.

Mr. Speaker, as far as the inspection and certification of ships are concerned, the present Registry utilises appropriate and competent classification societies around the world to perform inspections of ships. The UK approval is necessary for the use of the classification societies that are used by the Registry. This procedure would be continued by the Authority, so there is not a great need to have an extensive network of offices worldwide to carry out the inspection of ships, Sir.

Mr. Speaker, the Registry also, obviously has its own surveyors. Predominantly, the Registry's surveyors are involved with inspecting new vessels that wish to enter onto the Cayman Islands Shipping Register, whereas the situation that the Elected Member for East End spoke about was one where he was alluding to inspection of ships that were already on the Register.

Mr. Speaker, the Elected Member for East End also spoke on clause 6(3)(b)(ix) which pertains to "**maritime search and rescue in co-ordination with other relevant Government departments and bodies**"; Mr. Speaker, the response to that particular comment, Sir, is that search and rescue operations in the Cayman Islands are not undertaken at any operational level by the present Shipping Registry nor would the Maritime Authority undertake such operations. The reason for that, Mr. Speaker, is because the necessary hardware and operational personnel—the rescue vessels and the rescue personnel—are not available within the Shipping Registry, nor likely to be within the Authority.

In the vast majority of other maritime administrations around the world, the functions relating to search and rescue are carried out by a separate body or agency. The Authority would be the most appropriate body to develop the necessary legislation, and the legislation would probably be enacted in regulations. However this would need to be in conjunction with collaboration of the appropriate agencies acting in this field at the operational level. Mr. Speaker, this is an area that the Government will have to actively consider in due course, Sir.

Mr. Speaker, the Elected Member for East End also spoke of the \$100,000 borrowing limit specified in clause 15 as being too low. Strictly speaking, there is not actually a limit of \$100,000 on borrowing. Clause 15(3) indicates that, should the Authority wish to borrow an amount over \$100,000, then the approval of the Governor in Cabinet is required. So the Authority can actually borrow beyond \$100,000, and it is only reasonable and fair, sir, that central Government would wish to have knowledge of the activities of its Statutory Authorities.

Mr. Speaker, the Honourable Leader of the Opposition also had an enquiry in clause 15. He enquired to the effect that if the Authority were to borrow money and then found itself in a situation where it could not service the debt, would the Government meet this obligation? Mr. Speaker, in the unlikely event of a borrowing default, if Government guaranteed the obligation then it would have a legal commitment to honour what it has guaranteed. In the event of a non-guaranteed default by any particular Statutory Authority, the Government would find itself having a moral persuasion to honour the obligations of its Statutory Authorities.

Mr. Speaker, it is hoped that this situation would never arise, and so far our Statutory Authorities have had a good track record of meeting their obligations. I am not aware of Government having to support its statutory authorities in this manner. Mr. Speaker, that is why it is crucial to this and any other authority that there be strong management and an able board of directors to conduct their affairs in a proper and efficient manner. Mr. Speaker, the Maritime Authority will, of course, act responsibly to prevent any default occurring.

Mr. Speaker, it is also important to note on a separate issue, Sir, that the Cayman Islands Shipping Registry is a category one register under the red ensign group of the UK. The UK is subject to a number of international conventions on shipping and requires the Cayman Islands Shipping Registry to comply with those obligations. I am saying that, Mr. Speaker, to say that the Shipping Register is a high quality and much sought-after register.

Mr. Speaker, the Second Elected Member for West Bay also made a number of points on the Bill. He stated that there was an issue with paragraph 1(4) of Schedule 1 that pertains to Members of the Legislative Assembly or Official Members of Cabinet being

ineligible for appointment as directors to what would be the Maritime Authority. Mr. Speaker, I would just like to make the observation that while the Honourable Member was making this point on the floor of the House, almost at the same time, with your permission Sir, a Committee Stage amendment was being circulated that addressed this point.

Mr. Speaker, the Second Elected Member also spoke on clause 11(3) and raised the issue of past service liability. Mr. Speaker, earlier last month in January, I, along with the Public Service Pensions Board staff, had a very long discussion with the boards' actuaries about an upcoming evaluation of pensions. We took, in those discussions, the guiding principle of fairness in addressing past service liability and came to the conclusion that no Statutory Authority should be burdened with the past service liability of an employee coming from Government when that past service liability was, in fact, created and arose while they were with central Government. So the specific answer to the valid concern raised by the Second Elected Member for West Bay would be that the Maritime Authority will not inherit the past service liability of any individuals while that past service liability was created as a result of that individual being with a former employer.

Mr. Speaker, the Second Elected Member for West Bay also raised the issue of contracted officer's supplement. Contracted officer's supplement is often referred to as "COS" and that is what I will continue to call it hereafter.

Mr. Speaker, we will recall that the purpose of COS was that it was to be a substitute for non-Caymanians, a substitute for pensions that were actually paid to the Pension Board in respect of Caymanians. A close review of clause 11(2)(a) indicates that the effect of the clause is to prevent a person receiving both COS and pension contribution being paid on their behalf. A non-Caymanian employee joining, say, the civil service, now will no longer receive COS as part of their contract. Instead, they have pension contributions paid on their behalf and such contributions are now transportable when that non-Caymanian chooses to leave the service.

Mr. Speaker, the mention of contracted officer's supplement is simply a precautionary measure within the Bill. It is a "just-in-case" provision—just in case there are persons whose contracts have not yet expired and those contracts still entitle those individuals to COS. If such contracts exist, when they expire and any renewal offered in respect of those contracts, that renewal contract will not be subject to COS and COS will not be granted. So, Mr. Speaker, clause 11(2)(a) is a precautionary measure, and after a period of time it will effectively not address a current and live situation.

In conclusion, Mr. Speaker, on this particular clause, I do not think that there is a need to vary or amend the clause in any way. It will just sit there for a

while, and perhaps after the passage of time it may actually need to be deleted.

The Second Elected Member for West Bay again discussed clause 11(2)(b) and stated that account should be taken of employees' preferences when the Authority was choosing to establish subscription to a particular pension fund. I am confident, Mr. Speaker, that the employees will make their wishes known and the management of the Authority will take that preference into consideration.

Mr. Speaker, the Second Elected Member for West Bay also spoke about clause 7(1), of which he questioned the need for the use of the word "lawful", Sir. Clause 7(1) reads:- **"7. (1) The Minister may, after consultation with the Board, give in written form general and lawful directions on matters of policy and the Board shall give effect to such directions."**

The Honourable Member simply wondered why the word "lawful" was inserted there because he felt that no Minister would give any direction which was unlawful. Mr. Speaker, I am advised that this is simply a drafting style that is preferred and that there is no insinuation, Sir, that any Minister would give this or any other Authority a direction to follow which was unlawful. It is just a drafting style, Sir.

The Second Elected Member for West Bay, also like the Honourable Leader of the Opposition, spoke on clause 18 which pertains to the possible payment of dividends by the Authority to Government and the establishment of a formula to determine how that dividend is calculated. Mr. Speaker, I can say that there is no such formula at present. It has not been defined. It will be defined, Sir, and it will take, obviously, account of the activities of the Authority such as its revenues, its expenditures and so forth.

Once the formula is developed and devised it is not envisaged that it would change from year to year, at least certainly not in the initial years. What would obviously change, Sir, are the parameters or the variables within the formula. As years go by, revenues and expenditures and so forth will actually change, so the result of the formula will change but it is not envisaged that once it is established and developed that it would change significantly from year to year, and certainly not in the initial stages, Sir.

Mr. Speaker, those as I can recall, Sir, are some of the key points that were raised by the Honourable Elected Member for East End and the Second Elected Member for West Bay.

Mr. Speaker, the Honourable Leader of the Opposition made the initial opening remarks for the Opposition, and I would just like to comment on some of the points that he raised in his comments. Some of them do not need to be addressed because the Second Elected Member for West Bay also raised some of the same points.

One of the first points that the Honourable Leader of the Opposition raised was clause 5(2), Sir, which pertains to the establishment of a secretary for

the Authority. In general terms, the nature of his query was: what would that secretary actually do and would the secretary be necessarily the same person as the Chief Executive Officer. Mr. Speaker, it is not intended that the Chief Executive Officer would actually be this particular secretary in clause 5(2). If we read the clause it speaks to the secretary being present at all meetings and, "... **shall take minutes of the business transacted, which minutes shall record all decisions, resolutions, orders, policies and rules made by the Board.**" Mr. Speaker, it is intended that the Authority will hire and employ someone other than the CEO to actually carry out these functions, and so the secretary mentioned here will be, if I can call it, a "recording secretary" as opposed to an executive secretary.

Mr. Speaker, the Leader of the Opposition also spoke to clause 6(1) which pertains to certain functions of the Authority. From the notes that I have, Sir, the Honourable Leader of the Opposition was asking, I believe, whether, essentially, there was any conflict with any existing provision that may pertain to seamen. Mr. Speaker, it is certainly not the intention of the Authority, should it be created, to remove or interfere with any existing provision which may benefit seamen. However, because the Authority is fully taking over the functions of the present Shipping Registry, then of course the Authority would also administer any such existing provisions.

There is specific mention in the Merchant Shipping Law to the Minister making payments in respect of training, and this payment may be made to a person, for example, a seaman, or to a body. Such payments may be in the form of a grant or a loan to be repaid. These provisions, Sir, are not in any way affected by the provisions of the Bill, other than the Maritime Authority will administer such matters.

Mr. Speaker, the Honourable Leader of the Opposition also spoke to the limits in relation to borrowing the \$100,000, beyond which the Authority would need to seek the approval of Cabinet. I have already addressed that particular point, Sir. He also spoke to the functions of search-and-rescue operations and how that would be carried out and I would just address that also.

The Honourable Leader of the Opposition also spoke in respect of clause 7(1), and he then linked that later on to clause 18 in which there was mention of the dividends and the calculation of such dividends.

The Honourable Leader of the Opposition also spoke to clause 10(3), and with your permission we have circulated a proposed Committee Stage amendment which would hopefully clear up the point raised by the Honourable Leader of the Opposition on 10(3).

Mr. Speaker, mention was also made of clause 11(2)(b) and the Authority's ability to have an option in the subscription in respect of pensions. Mr. Speaker, clause 11(1) contains the general presumption that the Authority will actually subscribe to the

Public Service Pensions Fund. Clause 11(2) then speaks to situations in which there is possibly some deviation from the general presumption in clause (1) that the choice will be the Public Service Pensions Fund, clause 11(2)(a) speaks to the situation where there is a contracted officer's supplement in existence and so forth, and clause 2(b) is where the choice will actually be possible.

Mr. Speaker, the position of the Authority is that a two-stream approach will not be in existence. The Authority will actually make a distinct choice as to which particular route to go, whether it would be the Public Service Pensions Fund or some other fund. Once that decision is made all of its employees would go to that particular chosen fund and we would not get a situation where there are two or more funds in existence at the same time. He also raised again borrowing powers which I have addressed.

Mr. Speaker, I think I have addressed, as best as I can, the vast majority of the points raised by the Members of the House that spoke on the Bill. I would simply conclude, Sir, by thanking all Members of the House for supporting the Bill. There was no single Member, at all, who said that they would not support the Bill so the Bill has been supported by all those who spoke. There are proposed Committee Stage amendments to take account of some of those considerations raised, and I would simply conclude by once again thanking Members for their support of the Bill.

Thank you, Sir.

**The Deputy Speaker:** The question is that a Bill shortly entitled The Maritime Authority of the Cayman Islands Bill, 2005 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 Maritime Authority of the Cayman Islands Bill, 2005 given a Second Reading.**

**The Development and Planning (Amendment) Bill, 2005**

**The Deputy Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the second reading of a Bill entitled The Development and Planning (Amendment) Bill, 2005.

**The Deputy Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, thank you, Mr. Speaker.

Mr. Speaker, as indicated in the Bill's title, the purpose of this legislation is twofold: firstly, it is to vary the composition of the Planning Appeals Tribunal; and, secondly, to amend the definition of the term "development".

First of all, Mr. Speaker, with regards to the Planning Appeals Tribunal, when I assumed responsibility for Planning, it quickly became very apparent that measures needed to be taken to clear the excessive backlog of pending planning appeals on Grand Cayman, which number over 20 at present. This present legislation would allow for the chairman, and indeed, the deputy chairman and seven other members. The Planning Appeals Tribunal, like many other boards, is comprised of members who, for all intents and purposes, volunteer their time to assist our community and in this case hear planning appeals.

Over the last number of years the Tribunal chairs and deputy chairs have been local attorneys, a practice which I believe, Mr. Speaker, has helped to ensure the integrity of the planning appeals process. However to do so requires a great deal of time to ensure that appeals are not only heard, but the necessary time and care is taken to write the respective judgments.

Preparing a single judgment takes a considerable amount of time, often several weeks involving much legal research, drafting, as well as finalising the ultimate judgment. However, Mr. Speaker, having to rely on a single chairman and deputy to preside over these said appeals and to take the necessary time to render the judgments has placed unreasonably high expectations on these attorneys who simply do not now have the time to deal with all the pending appeals in a timely fashion as development in the industry would like.

Therefore, Mr. Speaker, in order to ease the Tribunal's burden and to assist in clearing the backlog of appeals and maintaining reasonable timeframes this Bill proposes instead of appointing only one deputy chairman, that number be increased to not more than seven deputy chairmen. In short, the proposed amendment will allow more appeals to be heard in what is hoped will take a shorter period of time. Effectively, the work will be spread around and therefore the ability to rely on the chairman and several deputy chairmen to hear the various appeals will ensure that the said appeals are dealt with in a more timely fashion.

Accordingly, Mr. Speaker, I would expect that the current backlog would be reduced fairly quickly, therefore enabling future appeals to be dealt with more efficiently. Mr. Speaker, I am confident that the development community will welcome these amendments.

The second purpose of the Bill is to extend the term "development". Section 16(3)(d) of the existing Planning Law specifies that the following activity

does not include development and therefore does not require planning permission. With your permission I quote: "**16(3)(d) the use of any buildings or other land within the curtilage of a dwelling-house for any purpose incidental to the enjoyment of the dwelling-house as such;**"

The proposed Bill would repeal this section of the Law. Mr. Speaker, this matter arose out of a Planning Appeals judgment. In short, the Central Planning Authority (CPA) made a decision to refuse planning permission for a pool because it was much too close to the sea. It was overturned by the Tribunal because the pool was in association with a dwelling-house and under the existing law was exempt from planning permission. So, Mr. Speaker, I am therefore quite grateful to the Tribunal for determining this shortcoming in the Law, and I am further grateful to the Central Planning Authority and Planning Department for bringing this to my attention.

The proposed Bill will help ensure that development which would be ancillary to a dwelling-house, for example, a shed, or pool or tennis court will now require the necessary permission from the Central Planning Authority. In this way, Mr. Speaker, neighbouring properties would be protected from any infringement on their property, as well as protecting our environment in general.

In closing, Mr. Speaker, I would like to take this opportunity to publicly thank the Central Planning Authority, the Development Control Board, the Planning Appeals Tribunal, the Planning Department and the Minister's staff, as well as the community and the development industry for their contribution and for their resilient spirit as they have come to the forefront, particularly since the advent of Hurricane Ivan.

It is also my intention to bring a Committee Stage amendment, which I believe should have been circulated at this stage. The purpose of this amendment, Mr. Speaker, would be to increase the number of members in the Cayman Brac and Little Cayman Planning Appeals Tribunal. The existing Law now requires a chairman, who shall be a magistrate, and three other members. The Law also requires that the Tribunal maintain a quorum of three members, including the chairman. Mr. Speaker, this requirement is often difficult to meet in Cayman Brac and Little Cayman which is, as you know, a small jurisdiction, with a greater likelihood of potential conflicts of interest, as well as possible delays in hearings if we cannot assemble the requisite number of members. So to ensure that the Planning Appeal Tribunal on Cayman Brac and Little Cayman is able to maintain the required quorum of three members, the amending Bill will seek to increase the membership by two members. I will go into more detail about that at the Committee stage.

We also thought that it was necessary to make this particular amendment, Sir, because in recent time we have had a particularly difficult time in getting a quorum with a matter which has been out-

standing for some time on the Brac, because of potential conflicts of interest with the existing membership. I should also wish to indicate, Mr. Speaker, the department, and indeed the Ministry staff, is diligently looking at the Planning Law, as well as the Strata Titles Registration Law as it relates again to Cayman Brac and Little Cayman, to see how we can best facilitate the registration of strata titles of properties on these two Islands. It is therefore my intention, Mr. Speaker, to bring appropriate amending legislation this sitting of the Parliament to deal with the requirement of a Certificate of Occupancy for a strata title to be registered on Cayman Brac and Little Cayman, and I hope that we will be in a position to do so in short order.

Finally, Mr. Speaker, I would ask therefore for the support of Honourable Members of this House for this Bill which seeks to amend the Development and Planning Law (2003 Revision) to vary the composition of the Appeals Tribunal, to amend the definition of "development" for the purpose of legislation and to make provision for incidental and connected matters.

Thank you, Mr. Speaker.

**The Deputy Speaker:** Does any other Member wish to speak? *[Pause]* Does any other Member wish to speak? *[Pause]* Does any other Member wish to speak? If no other Member wishes to speak, I will ask the Honourable Minister if she wishes to exercise her right of reply.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker, only to thank all Honourable Members for their tacit support, and I look forward for the successful passage in this Honourable House of this proposed Bill.

**The Deputy Speaker:** The question is that a Bill shortly entitled The Development and Planning (Amendment) Bill, 2005 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 Development and Planning (Amendment) Bill, 2005 given a Second Reading.**

#### **The Development and Planning (Amendment) (No.2) Bill, 2005**

**The Deputy Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I wish to move the second reading of a Bill entitled The Development and Planning (Amendment) (No.2) Bill, 2005

**The Deputy Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, thank you Mr. Speaker.

Mr. Speaker, as you will well know, Hurricane Ivan wrecked havoc on these Islands, and for the purpose of this particular legislation we would seek to ensure that the recovery efforts are not made more onerous by the planning requirements.

At the outset let me state for the record, Mr. Speaker, that I am extremely grateful, once again, to the Planning Department, the Central Authority, and, to a lesser extent, the Development Control Board for the role that they have played subsequent to Ivan. Not only was the Planning Department and staff here in Grand Cayman within two days of Ivan's passing and assisting with the restoration of electricity, but they were also meeting with the Central Planning Authority to develop policy advice for Cabinet on which to base recovery-oriented legislation. The proposed Bill is therefore the result of such efforts which met with Cabinet's approval without hesitation.

As a result of Hurricane Ivan, Mr. Speaker, it has become quite apparent that recovery and rebuilding efforts require that certain planning requirements be relaxed for the following reasons:

Firstly, the usual notification requirements can considerably slow down the ability of the various land owners to construct temporary accommodations, be it commercial, industrial and/or residential, without which recovery efforts will be significantly delayed which has a direct influence on our country's economy and general well-being.

Secondly, the usual infrastructure fees will pose a hardship for those homeowners whose pre-Ivan homes were destroyed and uninsured.

Thirdly, we believe that the usual infrastructure fees now seem somewhat excessive for applicants wishing to construct temporary only buildings to assist with their recovery effort.

Fourthly, the usual one-year approval timeframe for applicants holding valid permits prior to Hurricane Ivan are unrealistic, and enforcing the commencement of construction within that period, I believe, will cause a greater strain on the limited supply of construction, labour and materials required for recovery efforts. Accordingly, Mr. Speaker, The Development and Planning (Amendment) (No. 2) Bill makes provision for the following:

First, the term "national disaster" is defined to include hurricane, fire, flood, earthquake and any other calamity such as those provisions can be invoked if, (God forbid), the Cayman Islands would be subjected to another disaster.

Secondly, the term "recovery period" is also defined to indicate the length of time that His Excellency the Governor would order that these provisions would apply. In the case of Hurricane Ivan, I can advise to the Honourable House that the Governor in

Cabinet has advised the recovery period to be extended through 30 June 2005.

Thirdly, this Bill, Mr. Speaker, amends section 15 of the principal Law to enable the Central Planning Authority to extend planning permission beyond the period of one year and up to six months in any case where the CPA is of the opinion that the extension is necessary due to the occurrence of a national disaster.

Fourthly, the Bill also makes provision for a temporary development related to recovery efforts such that adjacent land owners do not need to be notified of the application for planning permission.

Fifthly, the Bill amends section 38 of the principal Law to grant a 50 per cent reduction in infrastructure fees in any case where the CPA is of the opinion that the development is necessary for the purpose of restoration following a national disaster.

I would therefore ask, with these brief remarks, that once again Honourable Members of this House would see fit to render their support for this necessary and timely amendment and Bill.

**The Deputy Speaker:** Does any other Member wish to speak? *[Pause]* The Elected Member for the district of East End.

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

Mr. Speaker, I rise to make a short contribution to the amendment that is before us. One of the areas that I would like to address is section 4 of the amending Bill which amends section 38 of the existing Bill.

Mr. Speaker, while I understand what the Government's objective is, I nevertheless find it quite amazing that we would be reducing some of the fees and the rest of the fees would still not allow certain people in the communities to be able to rebuild. Mr. Speaker, I know following Ivan that a number of homes were totally and absolutely destroyed and will have to be rebuilt.

Now, Mr. Speaker, under the current Law, when one applies for planning permission to build a home there are two fees that are required: one is the application fee for planning permission. Under the regulations of the first Schedule, in the case of construction or extension to a single family residence, duplex, or apartment the fee is calculated at a rate of 15 cents in respect on each square foot. Under the second Schedule there is no infrastructure fee applied for homes less than 1,200 square feet. Mr. Speaker, my concern will surround those homes less than 1,200 square feet.

While I understand that there is no infrastructure fee required for people building less than 1,200 square feet, there is nevertheless a planning application fee of 15 cents per square foot applied. As I understand the proposal, it is to cut that fee by 50 per cent, down to 7½ per cent.

Now, I know, Mr. Speaker, in my community (the district of East End), we have 10 to 12 homes to totally rebuild. I suspect that we can extrapolate from that, and based on demographics, there is much, much more to do in the rest of the country also. Now, I believe that under the temporary provisions being proposed here, it would be in the people's interest if we waive those application fees altogether instead of cutting it by 50 per cent. While I know it is not a lot of money, it is going to cost Government more than that to go out and carry out the process of necessary inspections and reviewing the plans to see that they confirm with the current building codes.

Mr. Speaker, I understand that in most instances the infrastructure fee will apply to those homes that are over 4,000 square feet. Apartments that are between 600 square feet and 800 square feet attract 50 cents per square foot, therefore it will be reduced to 25 cents. However, Mr. Speaker, again we find that the person who has purchased an apartment between 600 square feet and 800 square feet are in the middle- and lower-income bracket, so I just wonder if the Government would be more mindful to bringing the total exemption up to include the people who are not of substantial means in order to get their homes rebuilt.

Now, Mr. Speaker, I recognise that we are going to probably get some developers who will try to circumvent and take advantage of total exemptions, but certainly, the Planning Department has records of all developments and uses of such properties in this country, and I am sure that in scrutinising these projects they will find those people who would try to abuse it.

Mr. Speaker, the other area where I believe it can be proven that it would be beneficial to people whose homes were destroyed, at the current footprint it would be cost prohibitive for these people to do it because they have built on and built on over the years and that is what is registered with the Government. Therefore, they are not going to rebuild a new same-sized home, they are going to build a much smaller home.

I know in the case of many of those in East End that what we are going to be rebuilding, the footprint is much smaller. For instance, I can think of one lady who raised her children in her house, the house was destroyed and now it is only the lady and her helper. There is no need for that same-sized house so it will be reduced. Therefore, Government's income from this will not be realised at the 50 per cent if we are thinking that they are going to rebuild the same-sized home.

Now, I can appreciate that the Planning Department and the Authority require that permission be granted, or that they be notified of the types for the registration purposes of these homes. Yet to charge someone who, in most instances, is uninsured and the likelihood of them getting a home in a very short time is slim unless they are assisted, it is going to create



another burden on them to try and get their little homes. So I would encourage the Minister (if it is within her means) to reduce that planning fee. As I understand the regulations under the first Schedule (and it may be that I am getting something wrong here), the application fee for a planning permission is 15 cents per square foot for the little single family home.

Mr. Speaker, the other thing that I would like to inquire of the Minister is that . . . we have had the unfortunate event of a category 5 hurricane, we have seen and know exactly where the destruction was caused – it is in the low-lying areas. Now, Mr. Speaker, there have been much talk and rumours flying about Government, or the Authority, whichever, now require that homes be built in a different manner – that is, maybe on stilts if we are going to build in these particular areas and the likes, or higher off the ground. Now, I know in reclaiming of land such as swamp, the Planning Authority requires that the elevation be reclaimed to not less than four feet above sea level.

I do not know if Government is contemplating requiring that all homes now be built in a similar—on all lands . . . Pardon me Mr. Speaker.

*[Pause]*

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

Mr. Speaker, I just received a note that the amendment to the regulations that were laid yesterday will rectify my concerns, and maybe when I look at those then my concerns will be forgotten concerning the fee schedules and removing it altogether for under a 1200-square feet single family home.

As I was saying on the area of rebuilding, we are finding that people are not ready to move from their previous homes and their exact location. The thing is I do not think that anyone, in most instances, would want to move from what has been a family property for many years. Therefore I am wondering if Government has any plans to require that those areas be built up, or when anyone is building a home in that area that it be raised above the current level that it is at.

Mr. Speaker, another area that I would ask the Minister to inform us on, while I know it is not directly related to the Bill it certainly is connected with the Bill and the development in the country, the area of lands and demarcation. We have lost all of our demarcation, particularly those on the water's edge, such as North Side, East End, and Bodden Town, along the south side of the country.

Now, herein lies another difficulty we are going to have in the redevelopment and restoration of these homes that were totally lost, because in most instances developers and builders are going to have to judge distances now and the setbacks may in some instances be encroached upon, particularly where we have high-density development and small lots. While I

am sure that everyone will endeavour to ensure that they do not encroach on the setbacks, I am wondering how Government proposes to re-establish all these boundary marks. Will it be done by Lands and Survey as that is Government's avenue of doing it? Of course, private individuals can employ private surveyors to have their property resurveyed. However we know how expensive that is. I recall in this Honourable House within the last four years we reduced the cost (I think it was in Finance Committee at one time) to allow Lands and Survey to perform some surveys for people who could not afford to go out and employ private surveyors, particularly people who had one piece of land and wanted to split it for family and other purposes.

Now, Mr. Speaker, it is going to be a lot of work to get this done. I know that in East End at least four of the twelve homes that we have to rebuild are in that situation, right on the beach, and all the boundary marks are gone. Of course, some of us remember where they basically were and we know the exact piece of property so it will be quite easy to find the piece of property, but the exact setbacks may not be achieved as they were all close to that setback. I trust that, from a different perspective, the Planning Department is going to be a little lenient on ensuring these setbacks are not enforced in the strictest sense, say, if someone is within a one-foot or two-foot encroachment.

The other thing I wonder if the Minister can tell us is whether there will be any new building requirements in terms of types of material used. Is there contemplation on the types of material that can or cannot be used in these areas? The majority of houses that we lost were built of wood which is, in itself, an inherent weakness but if built properly it can withstand the same thing that a blockhouse can. Will we have a different requirement in those areas? Or, will there be stricter enforcement of the building codes to see that we comply with the Building Code requirements.

Mr. Speaker, going back to the Bill . . . Mr. Speaker I just received another regulation that was laid yesterday which I also wanted to speak briefly on. Under section 4 of the new amendment regulation which is Part IV – Application for Planning Permission—and with your permission I would read from this, Mr. Speaker: “**Part IV – Application for Planning Permission for Development following a National Disaster**” Mr. Speaker, 4.2. reads, “**No application fee is payable—**” *[Pause]*

Mr. Speaker, maybe it is better that I wait until such time as the motion is brought by the Minister and then I can deal with this one at a different time. Then maybe she can reply to what I have said thus far and indicate whether it will be addressed under the regulations.

So, Mr. Speaker, while I understand what the Government is trying to do, I would ask that the Minister respectively try to address some of the areas that I have pointed out. Being involved in the rebuilding of

East End, I can see some of these little things coming up within the next three months, because we really only have until 1 June 2005 to get this project done before another hurricane season is upon us. Therefore, I believe we should set our goals to have the country rebuilt by June. If we do not shoot for the stars we will never drop on the moon. We need to have something to look forward to, and the faster we get it done the quicker we can prepare for the next hurricane season. Time is of the essence to protect our people from such devastation again.

I know that there will be these little nuances that will come up within the next few months which will sidetrack everything else and the hands of the Department and Authority will be tied. The Law does not allow them to let someone carry out these little adjustments. They are the technocrats and their job is to ensure that the letter of the Law is carried out, so we cannot blame them for that. However, by the same token, if we see these things coming we can try to make some provisions for them.

Mr. Speaker, I know that in many instances the director of the Department gives planning permission for things that are not controversial and that they do not have to go to the board which came into force sometime ago. I trust that this will continue to happen (particularly now that we have so many approvals needed) and that the Department works with the individual instead of the long drawn-out process of sending it through the Authority, and in turn the Authority meets on intervals that may not necessarily comply with getting this job done.

So, Mr. Speaker, I trust that not only is the Minister trying to bring more efficiency to this process in the wake of a disaster, but that the Department will also work with us all. I have every confidence that the director will assist us in ensuring that—I am not asking the Department to break any laws, but certainly we need to bend over backwards sometimes. There is some stretching that can be done to anything before it breaks.

I am not advocating the breaking of any law, but certainly there are little things that can be done to push this process on and I am looking forward to that because I am going to be to Planning within the next couple of weeks to get my permission.

Thank you very much Mr. Speaker.

**The Deputy Speaker:** Does any other Member wish to speak? *[Pause]* Does any other Member wish to speak? *[Pause]* Does any other Member wish to speak? If no other Member would like to speak, would the Minister for Planning wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I would wish to commence by first thanking the Honourable Member for the district of East End for his contribution and for his sharing of

concerns and, finally, for his request as it related to the Bill now before this Honourable House.

Firstly, in reply, if I could just quickly touch on his request and concern as related to the Fee Schedule . . . Just for the matter of clarification and confirmation, I believe the regulations which I laid on the Table of the House yesterday and which will be the subject of the Motion which will come before this Honourable House will adequately address the concern that the Honourable Member had as it related to his constituency.

Secondly, the enquiry was also made by the Honourable Member as it related to the requirement for areas to be built up, or for the foundations to be adequately raised. Suffice it to say, this particular area is left to the discretion of the board, and I am reliably informed by my able director of Planning that subsequent to Hurricane Ivan the board has, in fact, been exercising its discretion and has required the levelling as deemed appropriate. In recent weeks I understand that an application was submitted for the vicinity of the Spotts Straight and specific requirements were put there to ensure that it was of an appropriate height, taking into consideration what had happened with the apartments just across the street.

Mr. Speaker, the third concern as I recall related to the re-establishment of boundaries. Fortunately, or unfortunately, I am only authorised to say that as far as Government properties are duly concerned, the Government would obviously seek to be re-establishing those boundaries because it is an asset that the Government would have to ensure that is properly protected on behalf of itself and the general public on the whole.

As far as it relates to the re-establishment of boundaries for private persons, I do not have the authority to give that undertaking in this forum, but certainly I would give an undertaking to convey the request from the Honourable Member for East End to my colleagues in the appropriate forum of the Cabinet and make an attempt to get a policy direction which I would be more than happy to share with that Honourable Member as well as other Honourable Members of the House.

I would caution though, Mr. Speaker, that under the new Financial Management Procedures that we now all have to abide with, even the Government now has to pay for the services rendered by the Lands and Survey Office, and I can tell you we get no discounts because our Minister recently did one and it was to the tune of \$10,000 for an area that I thought was a small area. I am not, in fact, criticising that we have to pay because it brings accountability and transparency, but just to share with the Member that it would not be a “freebie” per se. We would have to then create a segregated line item for money to pay for the inter-agency fees and that would have to be a consideration we would all have to ponder.

Finally, Mr. Speaker, the Honourable Member for East End queried whether or not the Planning De-

partment (and indeed the DCP or the CPA) made specific requirements as to the types of materials that can be utilised in the construction of the various properties. In that regard, the board (and indeed the Planning Department) does not specify the type of material that is used. In fact, they leave that to the discretion of the developer or the individual person wishing to construct a building. In fact, the role they play is one whereby they look at the structural integrity of the building to ensure that that is maintained.

I believe that that is the most appropriate role that they should be playing, because as the Member for East End quickly corrected himself, the fact that it is constructed of wood in itself does not mean that the building is of less of a standard but how it is actually constructed. I believe, Mr. Speaker, we will continue to play that role in the exercise of the right of choice amongst our constituencies and the general public on the whole.

I believe, Mr. Speaker, I have canvassed the concerns as I heard from the Honourable Member, and again I would wish to thank all Members who did not speak for their support. Thus far, I have not heard any responses in the negative.

I believe that these short Bills are not only timely and necessary, but they will indeed go a long way in assisting our various constituents who have been most resilient in a most stressful situation post-Ivan, and any measure that the Government (with the collective will of the Opposition) can do to assist them I believe would be greatly appreciated and I wish to thank all and sundry on their behalf.

Thank you.

**The Deputy Speaker:** The question is that a Bill shortly entitled The Development and Planning (Amendment) (No 2) Bill, 2005 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 Development and Planning (Amendment) (No 2) Bill, 2005 given a Second Reading.**

**The Deputy Speaker:** At this time I propose that we take a 15-minute afternoon break. We will resume at 4.25 pm.

**Proceedings suspended at 4.09 pm**

**Proceedings resumed at 4.37 pm**

**The Deputy Speaker:** Please be seated. Proceedings are resumed. Since we have reached the Hour of Interruption, could I have the motion for the continuation?

### **Suspension of Standing Order 10(2)**

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of the relevant Standing Order so that business may continue past the hour of 4.30pm.

**The Deputy Speaker:** The question is that Standing Order 10(2) be suspended to allow the House to continue past the hour of 4.30pm. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Standing Order 10(2) suspended.**

**House in Committee at 4.40pm**

### **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 shall authorise the Honourable Second Elected 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 Tax Information Authority Bill, 2005**

##### **Clauses 1 through 5**

**The Clerk:**

Clause 1	Short title and commencement.
Clause 2	Interpretation.
Clause 3	Implementation.
Clause 4	Tax Information Authority.
Clause 5	Functions of the Authority.

**The Chairman:** The question is that clauses 1 through 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 1 through 5 passed.**

##### **Clauses 6 through 10**

**The Clerk:**

Clause 6	Procedures for public policy determination.
Clause 7	Procedures for the execution of a request.
Clause 8	Powers of Judge to compel witness or for production of evidence.
Clause 9	Authentication of official documents.
Clause 10	Notification.

**The Chairman:** The question is that clauses 6 through 10 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 through 15

**The Clerk:**

Clause 11	Protection of persons disclosing confidential information.
Clause 12	Restriction on application of Confidential Relationships (Preservation) Law (1995 Revision).
Clause 13	Confidentially with regard to a request.
Clause 14	Restriction on use of information.
Clause 15	Interviews and examinations with consent.

**The Chairman:** The question is that clauses 11 through 15 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 15 passed.**

#### Clauses 16 through 19

**The Clerk:**

Clause 16	Services of notices and documents.
Clause 17	Enforcement.
Clause 18	Regulations.
Clause 19	Immunity.

**The Chairman:** The question is that clauses 16 through 19 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 16 through 19 passed.**

#### Schedule 1

**The Chairman:** The question is that Schedule 1 stands part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Schedule 1 passed.**

**The Clerk:** A Bill For A Law To Provide For Co-operation, Between The Cayman Islands And Other Jurisdictions, In The Provision Of Information Relating To Taxation Matter; 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 Maritime Authority of the Cayman Islands Bill, 2005

##### Clause 1

**The Clerk:** Clause 1 Short title and commencement.

**The Chairman:** The question is that clause 1 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 passed.**

##### Clause 2

**The Clerk:** Clause 2 Definitions.

**Ms. Edna M. Moyle:** Mr. Chairman . . .

**The Chairman:** The Honourable Member for the district of North Side.

**Ms. Edna M. Moyle:** Mr. Chairman, I just need a little clarification on the definition of "Minister" if it is not the intention to put Shipping under a Minister. When I look at the Constitution under 5(b) it says: "**(b) five elected Members, who shall be elected by the elected members of the Assembly from among the elected Members of the Assembly who shall be entitled 'Ministers'.**"

When I look in the definitions in the Constitution, "**'Minister' means an elected member of the Executive Council;**". Therefore, I need clarification as to the definition of "Minister" which is being done under the "Assignment of responsibility" under section 9 of the Constitution, if there is a separate definition for the word "Minister" in the Constitution unless Shipping is going to be now be put under a Minister rather than an official member, where under section 5 of the

Constitution it says: “(a) the Chief Secretary, the Attorney-General and the Financial Secretary, ex officio, who are hereinafter referred to as the official members of the Council;”

**The Chairman:** Honourable Member, the Third Official Member just asked for a few moments.

**Hon. Gilbert A. McLean:** Mr. Chairman, I think that the Member for North Side has indeed cited something that needs clarification. At this time this subject is under the responsibility of the Financial Secretary, and perhaps we might resolve it (of course, the Attorney General will know best) by saying, “the “Member” or “Minister” assigned the responsibility for the subject or at the time”. I am sure the Attorney General will have a better wording than mine.

**The Chairman:** The Honourable Financial Secretary.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Chairman.

Mr. Chairman, at the moment the Shipping Registry falls under the ambit of responsibility of the Financial Secretary with the Portfolio of Finance and Economics. That is where it always has been, Sir. Certainly, the intention here is that it remains within the ambit of the Portfolio of Finance and under the responsibility of the Financial Secretary, Sir.

**The Chairman:** The Second Elected Member for the district of West Bay.

**Mr. Rolston M. Anglin:** Mr. Chairman, I know that we should not attempt to create any law or amendment to a law that runs contrary to the Constitution. This Bill has a definition of what it refers to as “Minister”, but the Constitution has the definition of “Minister”. Now, this creates, as I see it, a situation where the Law is not saying specifically something that is illegal versus the Constitution because it is defining what it means.

I think at a minimum it is confusing to have a law enacted that has a term like “Minister” with a definition that is different than the definition that is in the Constitution. Perhaps it would be, at the least, confusing and, at the highest, it would run contrary to the Constitution. Therefore, I think perhaps the lady Member is providing a point that we should consider altering given our current Constitutional framework.

**The Chairman:** The Honourable Financial Secretary.

**Hon. G. Kenneth Jefferson:** Mr. Chairman, perhaps the safest thing to do would be for me to seek, Sir, with your leave, to move an amendment substituting the word “Member” in the place of “Minister” wherever it appears so that in the definition, for example, we will have ““Member” means the member of Cabinet for the time being charged with responsibility for merchant shipping in accordance with section 9 of the Constitu-

tion;” and the Financial Secretary has been charged with that responsibility. I would move that with your leave, Sir.

**The Chairman:** So granted. The question is that the amendment stand part of clause 2. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. Clause—

**Ms. Edna M. Moyle:** Mr. Chairman, I will use the phrase of some of my friends on the other side: in an abundance of caution, can we have the amendment circulated so we know what we are putting in here? [Can we] have it written out and circulated so we know exactly what is being put in, if you do not mind? I agree with the amendment as stated, but I think we need to have it circulated.

**The Chairman:** Okay. [Pause] If we just give the Clerk a minute, she will have done while we continue on with the other clauses. [Pause] We shall just take a short suspension while the Clerk is preparing that amendment.

### Proceedings suspended

### Proceedings resumed at 5.07 pm

### Withdrawal of Amendment by the Honourable Third Official Member

**The Chairman:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Chairman, after due consideration and consultation, Sir, I wish to withdraw the motion that I previously moved and the effect of that, if accepted, would simply revert to the initial position stated in the Bill which would involve the use of the term “Minister”.

Mr. Chairman, the definition would read, as is now, ““Minister” means the member of Cabinet for the time being charged with the responsibility for merchant shipping...”. That member of Cabinet for the time being charged with responsibility for merchant shipping is actually the Financial Secretary, Sir. So it is my wish to withdraw the initial motion that was stated a short while ago and to revert to the initial position involving the use of “Minister”, as was the initial case stated in the Bill, Sir.

**The Chairman:** The question is that the motion be withdrawn. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Amendment withdrawn.**

**The Chairman:** I have been given notice of another amendment for clause 2.

The Third Official Member . . .

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Chairman.

Mr. Chairman, in accordance with the provisions of Standing Orders 52(1) and 52(2), I, the Honourable Third Official Member, move the following amendment to the Maritime Authority of the Cayman Islands Bill, 2005—

In clause 2 in the definition of “Governor”, by repealing the words “section 10(3) and paragraph 6” and substituting the words “paragraphs 1 and 6”.

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto? *[Pause]* 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.

**Agreed: Clause 2 as amended passed.**

### Clauses 3 through 9

**The Clerk:**

Clause 3	Establishment and incorporation of the Maritime Authority of the Cayman Islands
Clause 4	Board of Directors of the Authority
Clause 5	Advisers and secretary to the Board
Clause 6	Functions and powers of the Authority
Clause 7	Minister may give general directions
Clause 8	Delegation of Board's powers
Clause 9	Board to appoint Chief Executive Officer

**The Chairman:** The question is that clauses 3 through 9 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 9 passed.**

### Clause 10

**The Clerk:** Clause 10 Responsibilities of the Chief Executive Officer

**The Chairman:** I have been given notice of an amendment.

The Third Official Member . . .

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Chairman.

Mr. Chairman, again in accordance with Standing Orders 52(1) and 52(2) I, the Third Official Member, would like to move the following amendment to the Maritime Authority of the Cayman Islands Bill, 2005—

In clause 10(3) by repealing the words “if he were not seconded.” and substituting in the place of those words the words “continuing in the service of the Government.”.

Thank you, Sir.

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto? *[Pause]* 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.

**Agreed. Amendment passed.**

**The Chairman:** The question now is that clause 10, as amended, does stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clause 10 as amended passed.**

### Clauses 11 through 23

**The Clerk:**

Clause 11	Authority to subscribe to Public Service Pensions Fund
Clause 12	Applicability of the Health Insurance Law (2003 Revision)
Clause 13	Funds available to the Authority
Clause 14	Financial year of the Authority
Clause 15	Capital and borrowing powers of the Authority
Clause 16	Reserve fund
Clause 17	Applicability of the Public Management and Finance Law (2003 Revision)
Clause 18	Payment of dividends by the Authority
Clause 19	Immunity and indemnity
Clause 20	Confidentiality
Clause 21	Regulations
Clause 22	Policy guidelines and procedure of the Authority
Clause 23	Transitional provisions

**The Chairman:** The question is that Clauses 11 through 23 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 23 passed.**

#### Schedule 1

**The Chairman:** I call on the Third Official Member, who has given notice of an amendment.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Chairman.

Mr. Chairman, in accordance with the provision of Standing Order 52(1) and (2), I, the Third Official Member, move the following amendment to the Maritime Authority of the Cayman Islands Bill, 2005—

That the Bill be amended by deleting paragraph 1(4) of Schedule 1.

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto? *[Pause]* If no Member wishes to speak, the question is that the amendment stand part of the Schedule. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Schedule 1 as amended passed.**

#### Schedule 2

**The Chairman:** The question is that Schedule 2 does stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Schedule 2 passed.**

**The Clerk:** A Bill For A Law To Establish The Maritime Authority Of The Cayman 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 Development and Planning (Amendment) Bill, 2005

#### Clauses 1 through 4

Clause 1	Short title.
Clause 2	Amendment of section 13 of the Development and Planning Law (2003 Revision) - provisions for development.
Clause 3	Amendment of section 46 of the principal Law - Appeals Tribunal.
Clause 4	Savings and transitional provisions.

**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.**

#### New Clauses

**The Chairman:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Chairman.

In accordance with the provision of Standing Order 52(1) and (2), I, the Honourable Minister of Planning, Communications and District Administration and Information Technology, give notice to move the following amendments to the Development and Planning (Amendment) Bill, 2004 that the Bill be amended as follows: By inserting after clause 3 the following clauses:

- 3(a) The principal Law is amended in section 47(1) by repealing the words "three other members" and substituting the words "five other members"
- 3(b) The principal Law is amended in section 49(1) by inserting the word "Appeals" before the word "Tribunal" wherever it appears.

**The Clerk:** Amendment of section 47 of the principal Law, Cayman Brac and Little Cayman Appeals Tribunal and amendment of section 49 of the principal Law Appeals Against Decision of Board.

**The Chairman:** The clause shall be deemed to have been read a first time, and I will now put the question that these clauses are read a second time. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. New Clauses 3A and 3B read a second time.**

**The Chairman:** The question is that these clauses be added to the Bill as clause 3A and clause 3B 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: New Clauses 3A and 3B passed.**

**The Chairman:** I will now call on the Honourable Minister of Planning who has given notice of an amendment to clause 4.

**Hon Juliana Y. O'Connor-Connolly:** Thank you, Mr. Chairman.

In accordance with the provisions of Standing Orders 51 and 52, I, the Honourable Minister of Planning, Communication, District Administration and Information Technology give notice to move the following amendment to the Development and Planning (Amendment) Bill, 2004 in clause 4 as follows:

In subclauses (1) and (2) by inserting after the words "the Tribunal" the words "or the Appeals Tribunal";

In subclause (3) by deleting the words "that has been commenced under section 48(4)" and substituting the words "or the Appeals Tribunal that has been commenced under or pursuant to section 48(4)";

In subclause (4) by deleting the words "commenced under section 48(7)" and substituting the words "commenced under or pursuant to section 48(7)"; and

In subclause (5) by inserting the following definition in its appropriate alphabetical place "Appeals Tribunal" means the Appeals Tribunal established under section 47 of the former Law."

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto? *[Pause]* 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. Clause 4 as amended passed.**

**The Clerk:** A Bill For A Law To Amend The Development And Planning Law (2003 Revision) To Vary The Composition Of The Appeals Tribunal, To Amend The Definition Of "Development" For The Purposes Of The

Legislation; And To Make Provision For Incidental And Connected 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 Development and Planning (Amendment) (No. 2) Bill, 2005**

### **Clauses 1 through 6**

**The Clerk:**

Clause 1	Short title.
Clause 2	Amendment of section 2 of the Development and Planning Law (2003 Revision) – definitions.
Clause 3	Amendment of section 15 of the principal Law - application for planning permission.
Clause 4	Amendment of section 38 of the principal Law.- Infrastructure fund.
Clause 5	Amendment of section 49 of the principal Law - appeals against decisions of Board.
Clause 6	Savings and transitional provisions.

**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.

**Agreed: Clauses 1 through 6 passed.**

**The Clerk:** A Bill For A Law To Amend The Development And Planning Law (2003 Revision) To Enable The Extension Of Planning Permission Beyond One Year In Cases Following A National Disaster; To Grant A Reduction In Infrastructure Fund Fees For The Purpose Of Assisting Restoration Following A National Disaster; And To Make Provision For Incidental And Connected 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 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 at 5.24 pm**

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

## REPORTS ON BILLS

### The Tax Information Authority Bill, 2005

**The Deputy Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, I am to report that a Bill entitled The Tax Information Authority Bill, 2005 was considered by a Committee of the whole House and passed without amendment.

**The Chairman:** The Bill has been duly reported and has been set down for a Third Reading.

### The Maritime Authority of the Cayman Islands Bill, 2005

**The Deputy Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, I am to report that a Bill entitled The Maritime Authority of the Cayman Islands Bill, 2005 was considered by a Committee of the whole House and passed with amendments. Thank you, Sir.

**The Chairman:** The Bill has been duly reported and has been set down for a Third Reading.

### The Development and Planning (Amendment) Bill, 2005

**The Deputy Speaker:** The Honourable Minister of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker I have to report that a Bill entitled The Development and Planning (Amendment) Bill, 2005 was considered by a Committee of the whole House and passed with amendments

**The Chairman:** The Bill has been duly reported and has been set down for a Third Reading.

### The Development and Planning (Amendment) (No. 2) Bill, 2005

**The Deputy Speaker:** The Honourable Minister of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I have to report that a Bill entitled The Development and Planning (Amendment) (No.2) Bill, 2005 was considered by a Committee of the whole House and passed without amendment.

**The Chairman:** The Bill has been duly reported and has been set down for a Third Reading.

## THIRD READINGS

### The Tax Information Authority Bill, 2005

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that a Bill entitled The Tax Information Authority Bill, 2005 be given a Third Reading and passed.

**The Deputy Speaker:** The question is that a Bill entitled The Tax Information Authority Bill, 2005 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 Tax Information Authority Bill, 2005 given a third reading and passed.**

### Suspension of Standing Order 47

**The Speaker:** I will call on the Deputy Leader of Government Business.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 47 to allow the Bills read by the Clerk to be read a third time.

**The Deputy Speaker:** The question is that Standing Order 47 be hereby suspended to allow the Bills to be read a third time. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Standing Order 47 suspended.**

**The Maritime Authority of the Cayman Islands Bill, 2005**

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

**The Speaker:** The Honourable Third Official Member.

**Ayes.**

**Hon. G. Kenneth Jefferson:** Mr. Speaker, I beg to move that a Bill entitled The Maritime Authority of the Cayman Islands Bill, 2005 be given a third reading and passed.

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

**The Speaker:** The question is that a Bill shortly entitled The Maritime Authority of the Cayman Islands Bill, 2005 be given a third reading and passed. All those in favour, please say Aye. Those against, No.

**Agreed. The Development and Planning (Amendment) (No. 2) Bill, 2005 given a third reading and passed.**

**Ayes.**

## ADJOURNMENT

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

**The Deputy Speaker:** Since we have reached the end of the Order Paper, I will call on the Deputy Leader of Government Business for the motion for the adjournment.

**Agreed. The Maritime Authority of the Cayman Island Bill, 2005 given a third reading and passed.**

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the adjournment of this Honourable House until Monday 14 February 2005 at 10 am.

**The Development and Planning (Amendment) Bill, 2005**

Mr. Speaker, just before you put the question, if you would allow me . . . It is planned that the new revised Budget will be presented on Monday, that is my information, and it has been circulated to Honourable Members so I would invite them to come prepared for Monday at 10 am. It is my understanding that the House will have to be called and then the matter referred to the Finance Committee.

**The Deputy Speaker:** The Honourable Minister of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I beg to move that a Bill entitled The Development and Planning (Amendment) Bill, 2005 be given a third reading and passed.

**The Speaker:** The question is that this House do now adjourn until 10 am on Monday 14 February 2005. All those in favour, please say Aye. Those against, No.

**The Speaker:** The question is that a Bill shortly entitled The Development and Planning (Amendment) Bill, 2005 be given a third reading and passed. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Ayes.**

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

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

**At 5.32 pm the House stood adjourned until 10 am Monday, 14 February 2005.**

**Agreed. The Development and Planning (Amendment) Bill, 2005 given a third reading and passed.**

**The Development and Planning (Amendment) (No. 2) Bill, 2005**

**The Deputy Speaker:** The Honourable Minister of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I beg to move that a Bill entitled The Development and Planning (Amendment) (No. 2) Bill, 2005 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, 2005 be given a third reading and passed.



**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**14 FEBRUARY 2005**  
**10.34 AM**  
*Third Sitting*

**The Speaker:** I will invite the Honourable Leader of the Opposition to lead us in prayer.

**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 Cabinet 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 10.57 am**

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

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**Oath of Allegiance**  
(Administered by the Clerk)  
*Ms. Cheryll Richards*

**The Speaker:** I invite Ms. Cheryll Richards to come forward and take the Oath of Allegiance. Honourable Members, please stand.

**Hon. Cheryll Richards:** I, Cheryll Richards, 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 Temporary Second Official Member and invite her to take her seat.  
Please be seated.

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

**Apologies**

**The Speaker:** I have received apologies from the Honourable Second Official Member responsible for the Portfolio of Legal Administration who is off the Island on official business.

**Reading by the Honourable Speaker**

**The Speaker:** Honourable Members, my personal apologies for being absent from this Honourable House on Thursday and Friday of last week. This was as a result of prior doctor appointments overseas which conflicted with the dates given at short notice for the re-convening of this Honourable House. In this connection, I trust that we will get back to the proper Parliamentary procedure of being able to provide Honourable Members with adequate notice in accordance with the Standing Orders of this House.

In view of the concerns which have been expressed by certain of my colleagues and others relative to my health, I am sure they will all be pleased to learn that I have been given a clean bill of health and, indeed, my doctor went so far as to say that he has never seen me in better shape. Accordingly, I wish to thank you all for your kind interest and good wishes for my health.

Also, I wish to re-affirm my commitment in continuing to provide the very highest level of independence in the performance of my duties as Speaker of this Honourable House. There is therefore no need for concern from any quarters that my hitherto sterling record of equity towards both sides of the House will change as a result of my announcement

that I will contest the upcoming General Elections. I am somewhat amazed that the concern about a lack of impartiality has now arisen when in fact I have, since assuming the position of Speaker in October 2003, brought the very highest level of impartiality and independence to being the Speaker of this House. I give the assurance that I will continue to do this during the remaining weeks leading to the dissolution of this Honourable House.

I am well aware of the sensitivity of the pre-election period we are now in and that this brings with it a heightened level of political rhetoric. However, let us not lose sight of the need for us to retain the common decency and integrity which sets us apart as a special and unique people. As we move towards the end of this political term and into a new election, let us continue to seek God's guidance in carrying out our duties and responsibilities to the people of these Islands with honour and integrity.

Thank you.

## PRESENTATION OF PAPERS AND OF REPORTS

### **The Supplementary Annual Plan and Estimates for the Government of the Cayman Islands for the Financial year ending 30 June 2005**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, I beg to lay on the Table of this Honourable House the Supplementary Annual Plan and Estimates for the Government of the Cayman Islands for the financial year ending 30 June 2005.

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

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I wish to politely decline making any further comment on the document that has just been laid.

My comments on the Supplementary Annual Plan and Estimates are encompassed within the remarks that I propose to make on the Second Reading of the Supplementary Appropriation Bill, which appears a bit further down on the Order Paper, Sir. Thank you.

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READING

### **The Supplementary Appropriation (July 2004 to June 2005) Bill 2005**

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

## SECOND READING

### **The Supplementary Appropriation (July 2004 to June 2005) Bill 2005**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, with your kind permission I have asked that the Serjeant distribute copies of my address to all Honourable Members of the House.

**The Speaker:** So ordered.

**Hon. G. Kenneth Jefferson:** Mr. Speaker, I have just laid before this Honourable House the Supplementary Annual Plan and Estimates for the financial year ending 30 June 2005. I shall refer to Government's financial that ends on 30 June 2005 as 2004/2005.

The House is now at the Second Reading stage of the Supplementary Appropriation Bill for 2004/2005. These two documents, the Supplementary Annual Plan and Estimates and the Supplementary Appropriation Bill, outline changes to expenditure appropriations for the 2004/2005 financial year. Both documents provide details as to how these requested appropriation changes affect the Appropriation Law for 2004/2005 that was passed by the Legislative Assembly on 7 June, 2004.

As in previous years I will deal with the financial aspects of the Supplementary Annual Plan and Estimates and the Honourable Leader of Government Business will deal with the policy initiatives that underpin those estimates.

Hurricane Ivan has had a major effect on the finances of Government. There has been a resulting need to increase expenditure in certain areas as well as a reallocation of existing resources. In order for these proposed expenditure changes to have proper legal effect it is necessary to seek the approval of the Legislative Assembly.

The Government has not had an easy task in balancing the needs of the country at this difficult time and to continue to act in a fiscally responsible manner. The Government has had to take some difficult decisions and has put a great deal of effort into reprioritising resources and programmes to ensure that the focus has been on the recovery and restoration of these Islands.

Section 25 of the Public Management and Finance Law outlines the circumstances under which the Government must present a Supplementary Annual Plan and Estimates. Normally it can be expected that there would be some requested changes to approve the Appropriations in order to reflect changes in government policy and strategy made during the course of a financial year.

Responsible financial management will also result in changes being requested to approve the Appropriations in order to take account of operating conditions experienced during the course of a financial year that are different to those anticipated at the start of a financial year. The Supplementary Annual Plan and Estimates for 2004/2005 differs from a normal supplementary request, primarily because of the magnitude of the appropriation changes being requested. It must be pointed out that most of these appropriation changes are a direct result of Hurricane Ivan and could not have been reasonably planned for in the approved Annual Plan and Estimates for 2005 or in the resulting Appropriation Law for 2004/2005.

The revised financial forecast in the Supplementary Annual Plan and Estimates, show an operating deficit before extraordinary items of \$1.7 Million. This represents a \$2.2 Million worsening in the Government's operating position for 2004/2005 when compared to the approved Budget. This expected out turn, while being a deficit, represents only a slight variation in the Government's financial performance. Given the exceptional circumstances that ministries and portfolios have found themselves operating in during these past few months, I think that this small deficit is a testament to the sound financial management practices exercised in the public sector.

The Government has complied with all limits established under the principles of responsible financial management except that there has been non compliance with the principle that revenues should exceed expenditures.

The deficit before extraordinary items is forecasted to be \$1.7 million. Compared to the size of Government's Expenditure Budget, this forecast deficit is extremely small and indicates that, were it not for the existence of extraordinary items, Government's Budget for 2004/2005 would have been essentially balanced. In an effort to minimise the negative impact that Hurricane Ivan would have on Government finances, ministries and portfolios performed a critical review of their approved 2004/2005 Budgets and were asked to reduce or defer expenditure that was not crucial to the production and delivery of essential outputs.

Overall this exercise proved quite successful and has helped to keep the forecast operating deficit before extraordinary items to a manageable level.

The operating deficit before extraordinary items of \$1.7 million represents the forecast operating result of the Government and is the benchmark by which the 2004/2005 financial results will be compared to future years performances.

Mr. Speaker, Hurricane Ivan has had a profound impact on Government's 2004/2005 Budget. As a result of the Hurricane Government will incur a significant amount of expense for extraordinary items across several appropriation categories during the 2004/2005 financial year. These expenses are included in the Supplementary Annual Plan and Esti-

mates now before this Honourable House for Members' consideration.

Mr. Speaker, international public sector accounting standards define extraordinary items as income or expenses that arise from events or transactions which are clearly distinct from the ordinary activities of the enterprise, and are therefore not expected to recur frequently or regularly.

After account is taken of Hurricane Ivan related extraordinary expenditure of \$29.3 million, the operating deficit grows to \$31 million. This deficit while being significant is attributable to a specific event, Hurricane Ivan. The expenses which have led to this deficit are therefore not a part of the ongoing operating expenditures of government.

Mr. Speaker, I want to stress once again, that these extraordinary expenditures are one off in nature and do not reflect government's ongoing fiscal policy. The structure and content of the Supplementary Annual Plan and Estimates for the 2004/2005 financial year is similar to that of the 2004/2005 Annual Plan and Estimates that were presented to the Legislative Assembly in May 2004.

In line with the requirements of the Public Management and Finance Law, only those items that are additional to, or changed from the already changed approved Appropriation Law for 2004/2005 and the 2004/2005 Annual Plan and Estimates are included in the Supplementary Appropriation Bill now before the House.

The Supplementary Annual Plan and Estimates has three parts: Part A contains details of changes to the Annual Plan and Estimates for 2004/2005; Part B indicates requested Appropriation changes; and Part C contains the revised forecast financial statements.

On 6 September 2004 changes to Appropriations were approved by the Finance Committee of the Legislative Assembly under Section 12A of the Public Management and Finance Law.

Section 12A(3) of that Law, states that Appropriations made in accordance with Section 12A(1) are to be included in a supplementary appropriation bill for that financial year.

The Supplementary Annual Plan and Estimates includes those changes to appropriations that were made under Section 12A. However, as part of the post Hurricane Ivan assessment, ministries, portfolios, statutory authorities and government companies critically reviewed their approved Budget and approved Section 12A Appropriations and made reductions where appropriate.

The section 12A—Appropriation Changes that have not been reduced as a part of the post Hurricane Ivan assessment have been disclosed in the Supplementary Annual Plan and Estimates in the appropriate sections of output groups, transfer payments, other executive expenses, equity investments and executive assets.

The following is an overview of the items contained in the Supplementary Annual Plan and Estimates for 2004/2005. Hurricane Ivan has resulted in forecasted net extraordinary item expenses of \$29.3 million. These extraordinary items consist of:

- ❖ extraordinary outputs totalling \$29.8 million;
- ❖ extraordinary transfer payments of \$3 million;
- ❖ extraordinary operating expenses incurred by statutory authorities and government owned companies of \$6.7 million; and
- ❖ net other extraordinary expenses, such as maintenance and repairs of \$4.4 million.

These extraordinary expenses are offset by net gains associated with the disposal of government assets destroyed during Hurricane Ivan of \$14.6 million. When combined these movements result in \$29.3 million in net extraordinary expenses.

The main extraordinary outputs for which new appropriations are being requested are:

- ❖ Output CBO 4 – Hurricane Debris Removal - \$8.5 million;
- ❖ Output DVB 4 – Provision and Repairs to Essential Restoration to Homes -\$5.5 million;
- ❖ Output NRA 2 – Management and Maintenance of Public Roads - \$4.1 million;
- ❖ Output IEA1 – Policy Advice and Ministerial Servicing - \$2.7 million;
- ❖ Output PCD 13 – Mosquito Control Service - \$2.5 million.

Full details of all extraordinary outputs are shown on page 12 of the Supplementary Annual Plan and Estimates for 2004/2005.

In addition to appropriation changes brought about by extraordinary items, the creation of the Portfolio of the Civil Service in November 2004 has necessitated a number of fiscally neutral appropriation changes, as outputs that were approved to be produced by the Portfolios of Internal and External Affairs and Finance and Economics have been transferred to the new portfolio of the Civil Service.

Several appropriation changes to output groups have been necessary as ministries and portfolios have re-costed their outputs to account for their changes to their operating conditions post Hurricane Ivan.

An increased appropriation of \$0.2 million for financing expenses is necessary as the Government intends to increase borrowings from the \$37 million level in the Approved Annual Plan and Estimates to \$62 million as detailed in the Supplementary Annual Plan and Estimates.

While this increase of \$0.2 million seems relatively small, given the \$25 million increase in borrowings, it must be pointed out that the Government has not yet drawn down any loans and only intend to use loan funds in the latter part of the fourth quarter of the 2004/2005 fiscal year.

Appropriations for other executive expenses are an additional \$0.75 million relating to repairs and

maintenance of executive assets damaged by Hurricane Ivan and \$0.15 million in depreciation expense.

Mr. Speaker, increased appropriations of \$46.1 million are being requested to the category of equity investments including \$7.1 million requested from the section 12A process.

The requested changes to equity investments are for the following reasons:

1. replacement of damaged assets and funding for extraordinary expenses net of insurance settlement -\$16.6 million;
2. to fund the operational losses of \$13 million related mostly to statutory authorities and government owned companies;
3. the purchase of other non Hurricane Ivan related new assets and ministries, portfolios and statutory authorities and government owned companies totalling \$5.6 million;
4. section 12A appropriation change request of \$7.1 million; and
5. funding of opening working capital balances for the Health Services Authority and the National Roads Authority of \$3.8 million.

The requested appropriation change for executive assets is \$4.3 million of which \$1.5 million pertains to appropriation changes requested from the Section 12A process. The remaining portion pertains to:

- ❖ \$1.5 million for purchase of trailer homes;
- ❖ \$800,000 for the Cayman Brac low income housing project; and
- ❖ \$400,000 increase in appropriations for construction of an abattoir on the West Bay Beach Erosion Project.

The appropriation change requested for loans made is \$1.1 million. This relates to an increased to a loan made for farmers and ranchers, Civil Service Personnel and an increase in overseas medical advances.

As mentioned earlier, extraordinary items brought about as a direct result of Hurricane Ivan have had a negative effect on the overall Budget. Where possible, ministries and portfolios have flagged these items and the forecast financial statements given in the Supplementary Annual Plan and Estimates clearly show changes to government's financial positions before and after taking into account extraordinary items. The revised financial forecast for the 2004/2005 fiscal year show a revised forecast operating deficit before extraordinary items of \$1.7 million. This represents a \$2.2 million worsening in the operating position when compared to the approved Budget.

After taking into account the extraordinary items, the forecast operating deficit grows to \$31 million. As the deficit is directly attributable to a one time extraordinary event, it is not expected to recur in future financial years. The revised forecast operating position also takes into account increases in operating revenue of \$13.7 million over the approved

Budget. This increase in operating revenues comes primarily from forecast increases in Customs Import Duty and Stamp Duty, as residents and businesses go about the incredible task of rebuilding their lives and businesses.

The revised financial forecasts for 2004/2005 with the exception of maintaining a positive operating surplus comply with the principles of responsible financial management. The 2004/2005 operating deficit of \$1.7 million could not be avoided. Hurricane Ivan put certain extra demands and pressures on the Government that have resulted in this deficit.

I wish to assure this Honourable House that it is the intention of government to restore its finances to the point that such finances comply with all of the principles of responsible financial management. Currently there is only non-compliance with one of the principles of responsible financial management. There is full compliance with the other five principles.

A more detailed statement on this matter will be issued during this Meeting of the Legislative Assembly.

I wish to thank all officers who have contributed to the production of the Supplementary Annual Plan and Estimates, and the Supplementary Appropriation Bill for the financial year ending 30 June 2005. In particular I wish to thank the staff of the Budget and Management Unit, Treasury Department, all Chief Officers and Chief Financial Officers of the Ministries, Portfolios, Statutory Authorities and Government Owned Companies.

Although not stated in my notes, I would like to acknowledge that in many instances Civil Servant staff has worked through the day and night, into the following day and night, to get the Supplementary Annual Plan and Estimates before the House for Members consideration. Therefore, I wish to express great gratitude on behalf of the Government for all their efforts.

I am sure that all Honourable Members of this House look forward to the day when we are able to look back and say truthfully that we did our very best for the Cayman Islands during 2004/2005, a most difficult year. I commend the Supplementary Appropriation Bill now before the House, to all Honourable Members and ask that they give it their support.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak?

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

Indeed the fiscal year 2004/2005 will go down in history as perhaps a most extraordinary year for the Government of the Cayman Islands and indeed the people of the Cayman Islands.

As the Supplementary Appropriation (July 2004 to June 2005) Bill 2005 has just been presented. . . I have just been made aware, and with your per-

mission I would like to clarify what was said by the Honourable Third Official Member. He said that he will deal with the Appropriation Bill and the Honourable Leader of Government Business will deal with the policy. Are we expected to have two separate debates or one? Perhaps it is best to ask now before getting too far into it.

**The Speaker:** Honourable Leader of Government Business, the question from the Honourable Leader of the Opposition is whether your comments would be taken now or whether there should be a second debate on those comments.

**Hon. W. McKeever Bush:** Mr. Speaker, I took notice that you called for any other person to speak and therefore I left it at that. While this has to do with expenditure it is a Bill before the House much different from an ordinary budget and therefore, to help save time my remarks are going to be consolidated into one.

**The Speaker:** Honourable Leader of Government Business the question would be whether you have a written text of that.

**Hon. W. McKeever Bush:** Mr. Speaker, I have copious notes which I will debate the Bill like anybody else. If you give me a minute I will consult with the Financial Secretary.

**The Speaker:** Honourable Members we will take a minute for consultation. Please do not leave the Chamber.

*[Pause]*

**The Speaker:** Proceedings are resumed.

The Honourable Leader of Government Business continuing.

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker. As I said earlier, the Budget was given in May 2004 and at that time there was a Policy Statement given which outlined government's policy. The Financial Secretary gave the exceptional expenditure today. Last year I moved the Budget debate and therefore I cannot do that today because of this Bill. It is an exceptional expenditure Bill which has to be given by the Financial Secretary. Members have all documents from last week. I cannot explain it any more than that.

**The Speaker:** Perhaps the Honourable Third Official Member could explain whether there has been a revision to the policy initiatives underpinning these Supplementary Estimates; any revision to the policy initiatives.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker.



Just to say briefly that during the course of this current fiscal year 2004/2005, which will end in June, as a result of Hurricane Ivan, the Government had to look again at the areas of expenditures it should be concentrating on and certainly there was a focus on the social aspects of the Cayman Islands.

There was an attempt to alleviate much suffering caused by the affects of Hurricane Ivan. So, we had to look again at certain areas of expenditure which may not have been as prevalent and dominant as they were back in May. That would be my main submission as to a possible change in policy, Sir.

What we have with this Supplementary Bill is obviously a move from an initial Budget that was passed in May to a set of changes which also took place between June and September when there was a section 12A Finance Committee process; there were changes processed between June and September. From 6 September, a week later we had Hurricane Ivan and further changes have taken place. All of section 12A changes plus any additional movements that the Government wanted to capture in respect of dealing with Hurricane Ivan have been encompassed within this Bill before the House.

My submission is as to regards to changes in policy, the main emphasis would be looking at a more social setting and considerations for the Government.

Thank you, Sir.

**The Speaker:** Honourable Members I have heard the comments from the Honourable Leader of Government Business and the Honourable Third Official Member. I am satisfied from what he has said that these revisions to the Policy Initiative were not significant changes. If, during the debate, this is found to not be correct then I will revise the position as to whether we need to again allow debate on that particular change to the Policy Initiative. Since the Policy Initiatives underpin the Supplementary Estimates they would show what decisions were made and how they were made to arrive at the expenditures that have been made under Supplementary Expenditure.

So, it is important that we know whether there were any significant changes in the policy initiatives that came with the original estimates in May last year.

Honourable Leader of the Opposition, please continue.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, having listened to what everyone has said I wish to proffer a suggestion. Perhaps the safest way would be for the Leader of Government Business to speak directly after the Honourable Third Official Member. This would then give us the chance to have knowledge of both the Bill itself and the changes while debating both issues.

**The Speaker:** Thank you, Honourable Leader of the Opposition, I have reviewed that option with the Honourable Leader of Government Business but I think the preferable option at this point, is that we continue

with you speaking and I will assess what the Honourable Leader of Government Business has to say, then make a decision as to whether further comments would be required.

**Hon. W. McKeever Bush:** I would really like to know what undertaking you are giving to the House if you cannot help me in regards to what I have to say. I am going to debate the Bill based on what I have before me and based on what Members say.

**The Speaker:** Thank you. I will give you that undertaking, Honourable Leader of Government Business.

The statement given by the Honourable Third Official Member reads as follows: "**As in previous years, I will deal with the financial aspects of the Supplementary Annual Plan and Estimates for 2004/2005 and the Honourable Leader of Government Business will deal with the policy initiatives that underpin those estimates.**" meaning those Supplementary Estimates. My question to the Honourable Third Official Member was, whether these Policy Initiatives that underpin those Supplementary Estimates have moved significantly from the policy initiatives that came with original estimates. He has answered this and I think, his answer to me was 'no'. Therefore, I am saying that I will await your comments, Honourable Leader of Government Business, and assess for myself whether there has been any significant movement away from those original policy initiatives that were given in May of last year.

Please continue Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

Having heard the discussion which just took place, let me preface the contribution I will make to the debate by making sure it is pointed out, given the Honourable Third Official Member's address on the Supplementary Appropriation Bill 2005, in the fifth paragraph of his address he said: "**The Government has not had an easy task in balancing the needs of the country at this difficult time and to continue to act in a fiscally responsible manner. The Government has had to take some difficult decisions and has put a great deal of effort into reprioritising resources and programmes to ensure that the focus has been on the recovery and restoration of these Islands.**" That is very clear but, it is saying to me that because of the balancing act that has had to take place we will see that there are significant shifts in prioritisation which has to affect the policy. If we look in the actual schedule of the Bill we will see this.

In order to debate the Bill from here on my comments will be simply based on the evidence in front of me with the Bill. It can only deal with questioning the rationale behind it. Whatever justification is given you will then have to decide after the Leader of Government Business explains the policy underpinning these changes, whether anyone else gets to

comment on it. The fact of the matter is, that it seems to me what is going to happen at this point in time is that those of us who do not know the Policy changes will not be able to comment during the course of the debate on those Policy changes.

My question is: should that be the fair position or whether all and sundry should be allowed the opportunity to comment on whatever those policies are?

Mr. Speaker, in looking at the Honourable Third Official Member's address, he speaks to the Bill in front of us differing from a normal supplementary request primarily because of the magnitude of the appropriation changes that are being requested, and there is a fair amount of it.

Before I go into the actual figures I want to make a few comments on his address on the Bill. When the Honourable Third Official Member spoke to the summary financial position he outlined that the revised financial forecast in the Supplementary Annual Plan and Estimates (AP&E) for 2004-2005 showing an operating deficit before extraordinary items of \$1.7 million which represents \$2.2 million worsening in the operation position. It is clear that what is being referred to was that the operating surplus in the original AP&E would have been \$.5 million prior to the new position and because the operation position has worsened by \$2.2 million we end up with \$1.7 million operating deficit. We have to make it absolutely clear that this position is before the extraordinary items.

He goes on in his address to say: **"The revised financial forecasts for 2004-2005 with the exception of maintaining a positive operating surplus comply with the principles of responsible financial management. The 2004-2005 operating deficit of \$1.7 million could not be avoided."** I am with certainty that the Honourable Third Official Member did not have any intention of misleading the House. However, we want to make sure that when the statement is made it is quickly realised that this is not the actual operating deficit; this is before the extraordinary expenses as has been qualified earlier in his statements. We want to make sure that it is clearly understood by one and all that this figure relates to before extraordinary expenses. As he goes on prior to making that statement in his address, he says: **"After taking into account the extraordinary items, the forecast operating deficit grows to \$31 million."** Let it be absolutely clear to us that things are in perspective when we are speaking about the actual forecast operating deficit as compared to the forecast operating deficit before the extraordinary items are taken into consideration.

Mr. Speaker, when we looked at that position understanding quite clearly that one could never expect the Government to not have, at the end of the day, an operating deficit given the circumstances. No one could question that and expect that a miracle could be preformed to avoid that. When we look into the actual estimates and we see in the Supplementary Appropriation there is a long list of shifting of

funds. Some are actual Supplementary Appropriations and we see where some amounts have been moved from what was appropriated before for certain output group names. I am certain that will tally up to the total that we come to. The combination of what we have here is an additional appropriation; that is supplementary appropriation, to some output groups and monies being taken away from other output groups where money was appropriated. We also have the Loan Bill which is coming and is projected to be an additional \$25 million in addition to the \$37 million which have already been approved.

He made a point to ensure it was clear that there was no draw down taking place thus far. So, obviously the entire \$62 million is anticipated to be drawn down in the last quarter of the year sometime between April, May and June of this year.

Mr. Speaker, the thrust of the Honourable Third Official Member's address in a nutshell, simply says that all of this has had to be done as a result of Hurricane Ivan. A lot of things have happened which we had no control over and in the Government's attempt to alleviate as many of the problems for the country, not only from a national perspective, but from an individual perspective, these are the shifts now taking place.

On that note we go into the individual amounts we see. At the very beginning of the Schedule of the Supplementary Appropriation we see where there has been a noticeable shifting in the appropriations for the Police and I believe that we have already debated on this so it is clear as to what is being done here. In previous finance committee meetings we were told that while the totals will not change because the FMI (Financial Management Initiative) was fairly new to a lot of people, they had the amounts in the wrong categories when they were trying to appropriate costing in the various categories. So, we understand the fairly large amounts of \$4 million being taken away from incident response; \$3.2 million being taken away from investigation of reported and detected crime and \$6.7 million being added to police patrols.

As we go on, we see amounts again that we will not understand with great difficulty. We see just under \$2 million for coordination of Government policy and an amount here of \$8.5 million for debris removal; \$1.1 million for the coordination of temporary housing and we go on and on.

The first question which comes to my mind under Mosquito Control Service is an additional appropriation of approximately \$3.3 million. I suspect that the Hurricane, after its passage, might have left some extraordinary activity with the Department of Mosquito Research Control. My question is, are those extraordinary activities to the tune of this, or are we speaking of equipment having to be replaced? Reason for asking this is because we are going to get into a question that has to be asked and these figures will not give us a clear indication of this.

I pose the question, in the long list of these Supplementary Appropriations and I will show more examples as we go, but the question needs to be explained. What portion of these figures pertain to equipment being replaced, new equipment being had or if there were any repairs that had to be effected to specific locations? I know that roads cannot be insured so we do not have any arguments about the road repairs that took place, but are we speaking about repairing buildings and how does insurance factor into that situation? To this point in time we have not heard anything regarding that circumstance. We see the figure of approximately \$4.1 million for management and maintenance of public roads and I suspect that is straightforward. . .

*[Inaudible interjection by the Speaker]*

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

When I referred to the management and maintenance of public roads it would be under Output Group NRA 2. I was simply making the point there, that one would try not to suggest that we expected a long list of the road footage with exactly which roads, and if it was 20, 30, or 40 different roads which we wanted breakdowns for those figures. That is not what I am suggesting because we respect the fact that we have moved from there and we are concentrating more on policy rather than line items. Even so, there is a certain level of explanation which should be forthcoming in order for there to be clarity when documents such as these are being presented.

Under another category - Output Group NGS 2 we see legal aid services. I wish not to make an inappropriate joke, but we see \$600,000 here for legal aid services. Has there been a large increase in divorces since Hurricane Ivan that people have had to seek legal aid? Something like that I would suspect we would want to have clarity on because the majority of figures which one sees here, one can understand the relation of those figures to post Ivan activities, but there are some which are not clear as we go. Under the transfer of payment category name there are several large amounts, all of them being very clear as to a direct relation to the effects of Hurricane Ivan. So, while we do not know exactly the breakdown of these figures, the fact is, we easily understand the relationship. In subsequent discussion perhaps those breakdowns will be forthcoming if necessary.

Before I get into the exact figures of appropriations for equity investments, let me go back to the beginning of the Bill where section 2 says; "**The Governor in Cabinet may incur executive expenses, acquire executive assets, make equity investments or loans and undertake borrowing for the financial year ending 30 June 2005 in the amount and for the respective purposes set forth in the Schedule.**" That is the Schedule I have been referring to when I have spoken to these individual figures. As part of that schedule under the Appropriations for

Equity Investments we see EI-7, EI-20, EI-28, EI-29, and EI-27 having supplementary appropriations in varying amounts; all to the Health Services Authority. When we add those five amounts it is \$9.8 Million.

The question is: are these supplementary appropriations directly related to Hurricane Ivan? Have we had to do major repairs at the Health Services Authority? Have we had to replace a lot of equipment? Where does insurance factor into all of this if that is the case?

EI-31 refers to the Cayman Islands National Insurance Company (CINICO) which is \$3.36 Million of Supplementary Appropriations. There must be a rational explanation for that. Certainly we need to have a clear understanding as we are going to be voting for these amounts, not individually, but together. So, there is a need for certain amount explanations.

EI-12 under the Ministry of Education, Human Resources and Culture; there is an amount of approximately \$10.4 million of Supplementary Appropriations for equity investments. Again, is this to repair schools or purchase equipment? Again, where does insurance relate to all of these? Are we trying to speed the process up by spending government's money with a view to recouping it? Have we collected on Insurance?

EI-1 which is Cayman Airways; there is a Supplementary Appropriation of \$3.45 million. If memory serves me right, in the original Appropriation Bill for 2004/2005 there was a substantial amount for Cayman Airways, substantial meaning more than the regular subsidy. So, having had an extraordinary amount from the beginning what does this \$3.45 million relate to?

EI-16—one might say that the Annual Plan and Estimates (AP&E) explains all of this but I do not think so. Under EI-16 for the Ministry of Planning, Communications, District Administration and Information Technology, which is a Ministry with broad subjects, we accept. We see where there is \$9.4 million of supplementary appropriation for that. Are those amounts directly related to Hurricane Ivan and the havoc it reeked?

Going further down we see other amounts which are specific in their nature, and even though we see some of these figures one could readily assume those are not directly related to Hurricane Ivan., We do understand that in bringing this Bill one would want to encompass these amounts and get them out of the way at the same time. I do not think there is tremendous argument there. We see an amount in here hopefully to complete the abattoir that is nearly finished up there but is just hanging; we also see amounts for the Cayman Brac Low Income Housing Project which although talked about prior to this, seemingly there was no appropriation for it or I do not know whether this is additional appropriation; we also see overseas medical advances of \$500,000 Supplementary Appropriations for loans.

I used some of these examples just to make a point. While we see the complete listing of the figures and we understand that any paradigm shift in policy is supposedly directly related to the Government's response to the devastation of Hurricane Ivan, there is obviously some fairly large amounts in here, which we are not with certainty what they are for or what they relate to. Certainly it would behoove the Government through whichever speaker it is to explain those activities so that not only the Opposition, but the country, might have clarity as to how the money is being spent.

Mr. Speaker, at this point in time there is not much more I could give comment on unless I were to look at the individual amounts and that is not going to be the purpose of this debate; so I will not do that. However, I would wish, by using those examples, for at some point in time, the Government's response to bring clarity to the question marks that are in our minds. We will wait to hear what the discussions are.

Mr. Speaker, the Government will need to outline to the country what shifts there have been in policy and the rationale behind these shifts; what the reprioritisations are with regards to the shifting of funds where it decides that it will spend less in certain areas than original appropriations, and it will spend more in other areas for other categories. At this point in time it is a bit difficult for us to go any further with the debate until we hear what is being said about those various issues. We look forward to hearing exactly what the policy shifts were and the rationale behind them, making sure that we have clear understanding of certain amounts of expenditure that have been included in the Appropriations Bill we are now debating.

Thank you, Sir.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Second Elected Member for West Bay.

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

The Supplementary Appropriations, July 2004 to June 2005 Bill before us does indeed contain the cumulative amount by the output group number, showing the change in focus of sums proposed to be spent in the schedule that comprises the Bill itself. However, the detail which comprises those shifts is found in the actual Supplementary AP&E for the year ending 30 June 2005. Whilst the breakdowns in the Supplementary AP&E may not be in the detail that the Opposition would have like to have seen it, or heard it spelt out by the Honourable Third Official Member, there is a lot of information there that does show, demonstrate and explain the shift in focus of spending that is being proposed.

If we take a step back and look at precisely what is being done today we will quickly see that all of the major strategies which underpinned the Budget from last year, all the broad outcome goals, have re-

mained the same. There is, as a result of Hurricane Ivan, one major shift in focus which is the creation of the Cayman Islands Recovery Operations Committee (CIROC). We will see that the committee has identified and is working to address the broad priorities of coordinating the recovery operations, debris removal and the coordination of temporary housing. In the aftermath of Hurricane Ivan these are the major items of concern to the country and the people.

I believe that the Cayman Islands have fared exceptionally well in its recovery efforts. I believe when we look at the change in focus of government spending we will see a direct correlation between that change and focus, and the resulting speedy recovery from what people who are fair in their assessment, have commented that we have made.

Mr. Speaker, no one could have imagined or believed that by November 1<sup>st</sup>, a very short time after the passage of one of the most powerful storms in the history of recording the strength of storms, that we would have bounced back so strongly and so well that we could open our doors to cruise ship passengers and shortly thereafter to overnight visitors.

The first broad outcome goal is a strong economy that generates employment income and a high standard of living, and that can be found on page 11 of the Supplementary Annual Plan and Estimates. As I said earlier, that has not changed from the original Supplementary Annual Plan and Estimates that was passed last year. When we look at that first broad outcome goal it only makes sense that it is listed first because people can play whatever politics they want to, trying to shift the general public's minds during a time of great trauma and disaster.

All of us know that at the end of the day we need a strong economy to generate employment income and then translate into whatever standard of living we enjoy in the Cayman Islands. We also know that without that strong economy we understand very clearly that the Government cannot acquire the resources it needs to fulfill its social contract to the citizens of this country.

One comment that was made by one of the leading Members of the Opposition, a candidate for the district of Bodden Town, was that we, the Government, should not have focused on getting cruise ship passengers back to the Cayman Islands instead we should have spent all of our energies on getting peoples' roofs back on. That is the type of rhetoric that is so unnecessary and unhelpful at a time like this. I find it difficult to believe that the gentleman does not know that without a strong economy which can generate jobs and income, the Government would not have the resources to fix the roofs in the first place.

It is politics at its highest! We have witnessed two very notable events since last September. In our lifetime we have witnessed the greatest natural disaster and in the wake of it we have witnessed the greatest push to take advantage, politically, in the history

of this country. The Government has to shift resources to meet the needs of the people to fulfill its social contract with the people, however; we must not lose focus on the big picture. We must ensure that the demand for the Cayman Islands dollar remains strong. So, it was very important that the Government focus on allowing the two pillars of our economy to get back on its feet in the wake of Hurricane Ivan, one of those being the clean up process to take centre stage which allowed Tourism to get back on its feet. However, what is of critical importance is that in cleaning up we also achieved one of the key ingredients and demands in the social contract we have with the people of the Cayman Islands, that being the second broadest outcome goal, which is a healthy resident population. We understand, on this side of the isle, how quickly rodents and other populations of disease carrying animals multiply if you do not get your environment clean; if you keep rubble piled for long periods of time.

So, when we see the shift in focus on this Supplementary Plan and Estimates, we see the Government continuing to focus on the broad outcome goals pointed out and were a part that underpinned the Budget which we voted on last year. So, I believe, that as we look at these shifts in focus we see quite clearly that the broad outcome goals are continuing to be met.

The third outcome goal is a socially protected resident population. As the Leader of the Opposition has pointed out, if we look at the Bill itself from IEA-16 through IEA-21 which has to do with policing; IEA-16 is Community Crime Prevention Promotion Activities; IEA-17 is Police Patrols; IEA-18 is Police Incident Response; IEA-19 is Summoning, Processing and Prosecuting Police Prisoners; IEA-20 is Investigate Reported and Detected Crime; IEA-21 is Police Security Services. Whilst we see changes in the amounts for those output groups, we understand that the Police had to not only shift amounts to better conform as you are able to better cost your activities under the new Public Management and Finance Law but they also had to shift its focus. For example, in times when we did not have electricity throughout this Island, Grand Cayman, and there was a curfew in place that their policing strategies had to be very different, but it had to ensure that we met the third broad outcome goal which is a socially protected resident population.

At the end of the day people are always concerned with personal safety. I might add that certainly in the aftermath of Hurricane Ivan and as things have started to return to normal, that is, the curfew was lifted, we see clearly, we feel it; it is obvious that the Police are meeting their mandate.

Crime is an inevitable part of society; there will always be crime. However, given all of the challenges that the Police themselves had, many Police suffered greatly as a result of the Hurricane. In fact at one point there was a significant number of Police who had to be housed temporarily at the Comfort

Suites Hotel and we have heard reports of certain Police Officers who had left the jurisdiction, but given all of those challenges, I think as a Legislative Assembly we should not have any hesitation in supporting the efforts of the Police. Results speak louder than any words any of us can say in here and I believe that they have met their mandate.

When we take IEA-16 through IEA-21 and sum them up it almost breakeven in terms of the shifts around. It is approximately \$200,000 down so it is a completely immaterial amount in the scheme of things. Whilst we see, for example, in IEA-17 and increase of \$6.7 million; on IEA-18 we see a decrease of \$4 million; IEA-20 a decrease of \$7 million; IEA-18 an increase of \$1 million. Mr. Speaker, when we go into Finance Committee there will obviously be a lot more opportunity for detailed examination so I am going to try and continue to not get into a whole lot of specific detail in my contribution. However, I think it is necessary to look at some of the items in detail because there are still certain questions. I believe that the record from this debate would not be as complete as it should be if we did not look at some of the changes to the Supplementary Appropriation being sought in regards to this Bill. So, I crave your indulgence and the indulgence of my Honourable Colleagues of the House.

The Bill's Schedule has contained in it, appropriations for output groups and all the changes. It then goes on to have the appropriations for transfer payments and financing expenses; appropriations for other executive assets; appropriations for equity investments; appropriations for loans and borrowing.

Mr. Speaker, I have a touch of the flu and I might have to pause from time to time to ensure that I can continue. I crave the indulgence of my Honourable Colleagues as well.

If we continue looking at the appropriations for output groups we will also see that some of them have been shifted to other areas within Government, for example, IEA-5—Human Resources Services for Government Agencies -\$246,868. This is a negative indicating a decrease. If we go down a number of items and look at PCS-2 we will see the exact item reappear. That all has to do with the change that the Honourable Third Official Member pointed out to us in his address, that there is now a new portfolio which is the Portfolio of the Civil Service.

I will look at the large material items and on the first page of the schedule and the shifts around the output groups involving policing are the major items.

Supplementary Appropriation that deals with government itself having the possibility to better deliver on its social contract with the citizens of the Cayman Islands is also being sought. When we look at CBO-1—the Coordination of Government Policy, we will see that additional monies is being sought in that area and the increase in cost is mainly due to the

inclusion of CAB which is a new output in this particular output group.

As indicated a bit earlier, in the Supplementary Annual Plan and Estimates there is contained all of the detailed support for the actual Bill before us.

CBO-4 is a new item—Hurricane Debris Removal of some \$8.5 million. I will venture to guess that this item is going to elicit significant debate and questioning when we reach that stage of our proceedings. However, I think it is fair comment to say that this item, the removal of debris generated by Hurricane Ivan, is one that whilst the bulk of the work has commenced and a large amount of debris has been moved, all of us as we drive and observe on the sides of the major roads still see vacant lots with significant amounts of trees that were blown or pushed over during the passage of the hurricane.

One thing that needs to happen in this regard, as a country we need to remind ourselves that we, as best as we can, have to return to the normal standards which allows us to secure the standard of living we enjoy in the Cayman Islands. As you drive around you still see debris being placed on the sides of the road in sizable quantities after certain construction and repair works have taken place. I believe that the majority of estimates people have gotten includes as an item the removal of this debris. So, I am a bit puzzled as to why we continue to see large quantities of construction materials being placed at the sides of the roads. Inevitably I know some of that would be persons who have done work themselves. However, I would venture to say that the majority are situations that involve a contractor going in to do certain repairs. The truth is as we continue to rebuild and the rebuilding process inevitably will take several months, we need to ensure that people operate the way they did before the hurricane.

Before the hurricane when a contractor went to a house to do a job, it was not a situation where they left their waste in front of the residence home. I know people are anxious to move on to their next job because people are calling and wanting them to get to them because everyone wants their repairs done as quickly as possible, and that is understandable.

During this process, I think it is important for all of us to plea with our residence to continue to exercise the type of diligence and patience they have exercised thus far. I know it is difficult when your home has been badly damaged to not just want to get on with it and get it done as quickly as possible; that is a human desire. However, when most of us think back on how long it took us to build our homes we will realise that it was not done overnight, so we need to continue to exercise patience that will, in the end, result in us building a stronger and better Cayman Islands and we will all be better off. It is, however, important for us to try our very best to return to those normal standards because it is easy to lower standards and utilise the passage of Hurricane Ivan as an

excuse for doing things differently and in an inferior way.

Turning my attention more directly to this particular extraordinary item, that is, the removal of hurricane debris, it is very important to set as the platform for this particular item certain facts and parameters.

Firstly the contract, which received so much attention from the Press and the Opposition was a volume contract, therefore the more debris that has to be removed or has indeed been moved, impact the cost of this item. So, decisions like how far off the main road do you go, cut up trees, retrieve debris, because roofs and other building materials have flown everywhere—once they are in close proximity to a building the material has been moved by Mother Nature; therefore how far we went off the road was one important impact on the cost of this particular item. For example, the distance we went into peoples' private yards impacted the cost of this particular item.

We know that many of our residents were not equipped and a significant other portion was not physically able to deal with the debris that existed within their own yards. It is very easy to simply say people should be responsible for their own yard. However, when the trees, that no one dreamt would come down, came down and crashed into their yards, people would have been chopping with a machete from now until kingdom come to remove and get those items into sizable bits that could be removed. So, another considerable consideration that relates back to the broad outcome of a healthy resident population was indeed government's commitment to its citizens and to ensure that people were returned to normal existence as quickly as possible in the passage of Hurricane Ivan. That again impacts cost.

I believe, as you continue to drive around and observe you will see we have done well in this area. I also believe that given some of the proposals put forward in the early days after the hurricane for debris removal, we have gotten good value for money and this House is being asked to vote on what, in my opinion, is good value for money.

I can remember over on the Port as some relief materials were coming in and I was trying to assist in coordinating and trying to get some to the National Hurricane Centre and to the district of West Bay, I met a young man who I believe works within the Civil Service. He related to me that a company by the name of Custer Battles, renown in the area of debris removal, did have certain personnel here, and had gotten enough information to make a proposal. At that time we were still under emergency powers to have made a proposal to the Governor and I think it was via a sub committee of the National Hurricane Committee, entitled the Recovery and Coordinating Committee.

My information is that the initial proposal from that company was in the region of \$80 million, not \$8 million. I also understand that things had advanced to the stages where it was felt that we should have gone

with this particular company, Custer Battles. I am of further understanding that subsequent to that initial offering the price was lowered to some \$40 million which is still a far cry from the \$8.5 million which we are looking at here under this particular output group number. So, given the results that we see as we drive around our country from district to district, I believe we have gotten good value for money. On this point we also have to commend all the private citizens who were able and did their part in cleaning up, whether it is their residence or the residence of a family or friend.

We also need to thank the Chamber of Commerce for the job that was done on Seven Mile Beach Road. As I recall, once it was determined that we were close to accepting visitors back to Grand Cayman, they took it upon themselves to try to ensure that the standards people were used to in the Cayman Islands were as close to that position as possible, enabling our guests to be able to experience those standards. So, they had work crews on Seven Mile Beach Road. I remember for about a week as you drove to George Town each day there were large amounts of people, albeit at times under equipped but still trying to get Cayman back to a position that would allow us to have as good as can be expected, guest experience by tourists.

I had the privilege to have been involved in a meeting organised by the Honourable Leader of Government Business in conjunction with the Florida Caribbean Cruise Association. When they went on their tour of the Island, which was about a week or two before we eventually had the first cruise ship come, they were so amazed at the sterling effort that had been put forward to clean up Cayman that a few of the executives from the cruise liners remarked on whether or not they could divert a couple of their ships which were currently at sea, in route near to Cayman. Cayman was the place they chose to divert because they felt as though we had done enough to allow Cayman to be a safe environment for their guests, but more importantly, to not compromise guest experience that would allow people to come to Cayman and want to come back.

I am proud to be associated in any way with the clean up efforts that have taken place in this country. I can remember nine days after the hurricane the Honourable Leader of Government Business went on the radio and called a public meeting at his residence and mobilised people in our district to get it cleaned up. We have in front of us a Supplementary Appropriation Bill that is well worth supporting.

I do not believe there is anyone here that will not support DVB-4 which is the provision of \$5.5 million by Government for the restoration of peoples' homes. The Government, again, clearly demonstrates a passing grade on delivering to the people the crucial services we need at this time. What is of real significance is the fact that here we are five months after the passage of what many believe to have been from

a physical standpoint, a perfect storm, yet we can talk about the cleanup that has happened, which was coordinated principally by the Government. We can talk about the fact that cruise ship passengers have been coming and people are back to work.

In those early days when the Honourable Leader of Government Business invited people in our district to come to his residence, trying to get them inspired to do something, to do anything to assist and keep their minds off what we had just been through, many of the people who showed up were people who are directly employed in the tourism sector. The majority of those people are back to work. Some still have to fix a boat but I think there are very few that is left in that position. They are so thankful for the sterling effort of the Leader of Government Business in ensuring that this country did not go down the road that many of our Opposition wanted us to go down, which was to simply try to focus on one task at a time without realising that in a time like this you have to multitask. You have to get everything going at the same time.

You cannot just say that the Government is not delivering responsibly on its social contract just because they are not only assisting people with recovering their homes but they are also ensuring that we can get tourist here and we are bringing in the expertise necessary to assist us with the clean up.

We have shown and it has been clearly demonstrated under the leadership of the Honourable McKeever Bush, that this country has been allowed to recover. If we had simply listened to the nay-sayers and not focused on the big picture which is all of the broad outcome goals that we have embarked upon delivering to this country, if we had not done that where would we be today? Where would those North Sound operators be today if we were going to say that until the last shingle is put on the last roof; until the last piece of zinc is put on the last roof; until the last nail is hammered on the last door frame; until the last window is put in, the Government should do nothing but concentrate on that, where would we be today if the Government had taken that view?

Where would we be today if the Government had not moved swiftly to get the Registrar of Companies up and running so that this country could continue to move and we could deliver a broad outcome goal, number one which is a strong economy that generates employment, income, and a high standard of living? I say that those same Members of the Opposition who have put forward that view would be the same ones who would be out there criticizing the Government saying, *'look at that all they are doing is concentrating on roofs, doors and windows while everything else crumbles around them; while they are making the economy shrink! We are losing business.'*

All of us know that the most difficult thing is to get back that which is lost. If we had not moved swiftly to get the infrastructure back up and running, and if asset managers started moving mutual funds to

the BVI, Bermuda and to other jurisdictions; how quickly they would have gotten use to doing that. We would have lost a lot of the important business streams that generate employment, income which allows our people to be able to afford to live, survive and maintain their families. It just goes to show the single biggest difference between those of us who are on this side of this House and our supporters and those who are on the other side.

I was never more alarmed in my life than when I read the letter from Mr. Osborne Bodden, a PPM candidate from the district of Bodden Town where he would dare say that the Government should not concentrate on delivering on its first broad outcome goal which is a strong economy that generates employment and income. I could easily make the inference then that he believes, somehow that people can eat roofs. You have to have a job to keep your family and yourself going. As much as Government has done and continues to do at the end of the day, yes, getting people physically stabilised is important, but what next?

The last time I checked I found that you cannot pay your bills with shingles or zinc. You cannot cook shingles or zinc. We have to understand clearly that if we had went into the type of socialist approach he was putting forward, how quickly the resources of this country would have been used up. We needed the cruise ships coming in so that we could collect the head tax on those passengers. Government need to make money to put the roofs on. Does the Opposition not understand that?

I have not said a lot publicly because I do not believe this country and its citizens are ready for all the politics I continue to see in the newspapers! Especially by the Opposition! I have made a determination that when I got an opportunity to come to this Legislative Assembly I was going to make sure that I took that opportunity and exposed all the insensitive politics that continue to be played in this country. My colleagues from West Bay and myself—our supporters say why are you not putting your pictures in paper to show what you are doing? Christ says, let not your left hand know what your right hand is doing. That is not why we are elected! That is not what we seek. The good people of West Bay know what we are doing and the hard work we have put into this country, in particular, in our district. They know what we have put in regards to clean up; in regards to restoration of people's residences. Survival in those days after the hurricane, provision of food and water, the good people of West Bay know. What the good people of West Bay are asking is what did the Opposition in West Bay do? That is the sixty million dollar question!

Mr. Speaker, roof after roof has been fixed in West Bay through kind donations from good corporate citizens. We have had private corporate citizens throughout this Island, not just the district of West Bay, gone and assisted residence. We have had people get the housing recovery grant; we have had

people receive the grant from the recovery fund while a lot of it has not happened as swiftly as all of us would like. I would like to be able to drive through my district and this entire country and see everybody's home better than it was before, but we know it cannot happen overnight. However, we have continued to do the important thing and that is work hard.

I believe this Supplementary Appropriations Bill deserves the support of all Honourable Members. Whilst the delivery thus far may not have given a lot of the insight and detail that might be desired, I believe that all of us, when we take a big step back and be honest know what this country and civil service has been through. Not making excuses but we know there will be some slippage. So, whilst there is that ease to say, *'let us get all the details;'* that opportunity is still going to come. The process is still going to allow for it because we are going to have a Finance Committee. There will be opportunity and time adequate to question each department and ministry in regards to these shifts in focus because there is no new policy. We have had the ravages of Hurricane Ivan, and had to react and shift focus and monies around to deliver on the services.

I agree that some of the items should be questioned. There are items I have highlighted which I am going to question and I am sure that all Members have, but that is normal. After all, if the Honourable Third Official Member got up in here and described every one of these items in detail, I think we would be here right up to the dissolution of this Honourable House.

We have appropriations for transfer payment, most of which I believe are self-explanatory: Poor relief payments – an increase of \$1.1 million; poor relief vouchers—\$150,000 supplementary appropriations requested; ex-gratia payments to seamen—\$1.2 million additional; recovery fund—\$1 million additional supplementary appropriation; hurricane relief assistance—\$2 million supplementary appropriation. Yes, we will have the opportunity to ask in detail about those items. However, we know what we have been through; therefore we know that in a time like this and in a time of need there needs to be that shift in focus to deliver additional monies in areas, and in increased amounts that perhaps were not envisioned on the original passage of the Budget.

Mr. Speaker, there are some large items in the category of appropriations for equity investments. However, when we look at the document that we were provided with several days ago, the Supplementary Annual Plan and Estimates, and start on page 117 entitled Changes in Ownership Actions Equity Investments, Cabinet intends to make the following changes to Equity Investment. Whilst the details are here for some of the items, they will need further questioning and examination during the Finance Committee Stage. We will see that a number of these items are crystal clear once we look at them.



Let us look at CINICO for example—EI-31—Cayman Islands National Company. Here is the description of that item: Equity investment to subsidise the operating loss relating to premiums for seamen - \$2 million; Pensioners - \$1.35 million; total of \$3.35 million. Obviously that one was not caused by the hurricane but it is very clear what the \$3.35 million is being requested for.

Next is EI-28—Health Services Authority - Equity Investment for Working Capital. There may be those who want to know precisely what that working capital is going to be used for, but that is a clear enough term to understand; they need it for their operations. We knew when we created the Health Services Authority that there would be subsidization required.

Looking at the Ministry of Education—EI12. I am just picking some of them to illustrate the information that has been given to us as Members. The original approved for equity investment is \$5.3 million; the revised request is \$15.7. We see that there was an equity investment request to commence site work on the new Frank Sound High School, I think this entire country knows that it is the intention of Government to build a high school in Frank Sound - \$2.5 million; Savannah Primary School expansion - \$250,000. Boatswain Bay High School, which was recently announced as a strategy by Government that we would have a high school in the district of West Bay - \$2.5 million; West Bay Town Hall conversion to a library, which is an ongoing project - \$37,000; Lighthouse School \$203,000; other projects - \$100,000; replaced damaged assets for schools and other departments under the Ministry - \$1.9 million; repairs to school buildings and other buildings - \$2.89 million.

There will be those who will complain and say that perhaps we should have given even more detail than is given here, and I think if we had done that the complaint would have been that we had given too much information. So, it is a no win situation when you sit on this side of the isle.

Mr. Speaker, I think this is an appropriate time for the luncheon break, Sir.

**The Speaker:** We will take the luncheon suspension at this time and return at 2.30 pm.

**Proceedings suspended at 12.54pm**

**Proceedings resumed at 2.47 pm**

## **OBITUARY AND OTHER CEREMONIAL SPEECHES**

*Mr. Hector O. N. McLean, former Speaker of the House of Representatives for Trinidad*

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

Honourable Members before calling on the Second Elected Member for West Bay to continue, it is with sadness that I inform you that the former Speaker of the House of Representatives for Trinidad Mr. Hector O. N. McLean passed away on Thursday, February 10.

Many of you would have known Hector McLean. He was not a very old man and I would ask you to be of standing to observe one minute of silence.

*[The House observed one minute silence]*

**The Speaker:** The Lord giveth and the Lord taketh away, blessed be the name of the Lord.

Please be seated.

The Second Elected Member for West Bay continuing.

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

Before I wrap up my remarks, my colleague was reading today's issue of the *Caymanian Compass* and brought to my attention an article on the front page that deals with the issue of debris removal. I would like to reiterate part of that editorial which basically is asking as I did a bit earlier in my contribution, to contractors and people, as they now clean up and rebuild to do their endeavour best to remove the materials that were replaced as the work on their homes are being completed.

This editorial also pointed out that many home owners who hired a contractor have it in writing that the contractors are indeed responsible for any of the materials that they remove in carrying out their duties. We continually see where a road or street looks clean today and as a house or number of homes on that particular road or side street gets work completed on it, a week later it looks as though you are back to day one because of the amount of debris sitting on the roadside waiting for collection.

I would like to point out a number of other important items that this Supplementary Appropriation Bill seeks for us to approve.

Continuing on to Equity Investments, it is of utmost importance to note that a number of ministries and departments which are responsible for those ministries have to get repairs and other fitting out work done to either their old homes or new homes. With the Tower Building having to be vacated we will see, for example, that in EI-17—under the Portfolio of Finance and Economics the General Registry has fit out expenses of some \$1.7 million at Citrus Grove. Of particular interest to all of us and indeed, to the wider public is that under EI-16—the Ministry of Planning, Communications, District Administration and Information Technology we see equity investment to fund the construction of MRCU facility and Seismology offices. I think with the earthquake which was felt and the tremors that followed, this will be welcomed news to our residents and indeed, to all of us. We also see the

other numerous assets that were damaged that now have to be replaced.

Moving on to Planned Purchases or Construction of Executive Assets, we will see under EA-28 \$1.5 million going towards the purchase of 75 trailer homes. This again, is an important expenditure, as we rebuild and restore peoples' lives.

EA-25 is for the construction of retaining wall and boardwalk. This one is an item that gives us Members from West Bay much gratification. In this day and age when people oppose, it seems, for opposition sake and refuse to see the value in good ideas and good policies that are put forward by the Government, this one is a classic example. I believe that many lesser men or women would have abandoned this project when the opposition to it mounted. However, the Honourable Leader of Government Business persevered and continued to do what he knew was right. So, despite all the loud nay-sayers who wrote letters, got on talk shows and sent around petitions against this most important project along with all the newspaper coverage on the front page to draw attention and to detract away from this important work, the Honourable Leader of Government Business continued to persevere with the retaining wall and boardwalk project. This project is not only going to be an important landmark for our district but this project provides vital protection to the Boggy Sand and the Mary Molly Hyde Roads.

There are many who guessed at what would have happened at that part of Central West Bay had that work not been continued by the Honourable Leader of Government Business. Everyone can have their opinion but we will all agree that the devastation in that area would have been significantly more had the Leader coward away and not persevered because he knew in his heart what he was doing was right. What I honestly and truly believe is that many of the people who opposed that project, in their heart knew it was right what he was doing.

Opposition can be so ridiculous at times that it offers the rest of us a perspective on life that is indeed startling. One of the persons who opposed this project said to a resident, when approached: *'well was it not good that the Honourable Leader of Government Business continued on with this project?'* That person who lived in that vicinity retorted and said: *'yea, well the retaining wall did not protect my windows.'* That goes to show just how ridiculous people can be once they decide they simply want to oppose for opposing sake. Can you imagine, this retaining wall more than likely saved their home, an old structure, even though a shop that was near it still got significantly damaged and the retaining wall was there. The piece of road that was where the retaining wall ended was eroded badly, washed out, in fact you could not pass the Boggy Sands Road for weeks after the hurricane. However, that person could not have anything more constructive to say than the retaining wall did not save their windows.

How sad it is that we live in this day and age where it seems as though for many people unless they are opposing and unless they are down crying and trying to make someone else look bad, they have nothing constructive or productive to contribute.

Mr. Speaker, in regards to the other items, I think most of them are self explanatory and a little later when we go into Finance Committee to examine these items in detail any remaining questions that we may have would be answered at that point.

I believe that given the challenge we have just encountered and the grave damage physically, emotionally and psychologically we have been through, we have done well. I also believe, even more, than I did before I received this supplementary estimates where so much is encapsulated in one document, a reminder of how much has been done and the crucial role that government has played, in not only doing a whole lot or having specific monies that have been spent or are to be spent, but just how much the Government has facilitated. The private sector and private citizens at the end of the day, in any situation like this is who ultimately does the most work because that is where the majority of the population and the majority of the money resides. So, I believe we have done ourselves proud as a generation. We still have not completely rebuilt because that is going to take some time, but in the short time that we have had, we have done an incredible job.

I know I do not have to remind any of the Members in this Chamber, but there are people in this community that need reminding of where these Islands have come from. I was at a function recently and one of the speakers got up and in his contribution, in making reference to Hurricane Ivan, he commented that he was proud of how everyone had responded and that this was the first major challenge in the history of the Cayman Islands. I am not that old but I understand where we have come from; I understand the challenges that our forefathers had when men could not afford to stay at home because this Island was so poverty stricken. You hear report of cows being killed because mosquitoes had smothered them.

So, I say that whilst this is a major catastrophe and we have built up so much wealth in this country which has been taken away, we cannot forget where we have come from. Whilst these times are challenging and we were without air-condition for four weeks, and for some it was longer, we cannot forget where we came from and the harshness of the realities. I can only go by the stories because I am not old enough. I did not live through those smoke pan days or men having to go sea; I did not live through those times, but I do not think anyone should make the mistake of saying that this is the first challenge that the Cayman Islands have seen. We were born out of challenge; that is one of the reasons we have responded so well! I would say that the real truth lies in

the fact that we have responded well and done so because of our experiences.

I see before us an important piece of legislation, this Supplementary Appropriation July 2004 to June 2005 Bill. I see before us a continuation of the process toward recovery. Whilst we may not have had, thus far, the type of detail that everyone is use to or may have wanted, I believe we have enough detail to know what is being asked of us by the Government. I believe that once Finance Committee starts we will, of course, at that point, which is the normal practice—that is where we get into the nitty-gritty and the details. So, I have enough information provided to me to offer my support to this critical piece of legislation. May God continue to bless all of us and these Cayman Islands. I ask and encourage all Honourable Members to give this Bill their support.

Thank you, Mr. 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, Mr. Speaker.

There is before this Honourable House, a bill for a law to appropriate certain additional expenditures for the financial year ending 30 June 2005; the Draft Supplementary Annual Plan and Estimates for the financial year ending 30 June 2005 and a copy of the Financial Secretary address on the Supplementary Appropriation (July 2004 to June 2005) Bill 2005.

Mr. Speaker, I must say that I have spent the last few hours struggling with what to say because the Honourable Third Official Member, the Financial Secretary, did promise us in his address that the Honourable Leader of Government Business would deal with the policy initiatives that underpin these estimates, which this Honourable House in tandem with Finance Committee will be asked to approve. So we are now in this extraordinary situation where we are forced by that circumstance to debate without knowing truly what government's policy is in relation to these matters.

I had hoped, having seen the Honourable Second Elected Member for West Bay rise, that he may have shed some light on what government policy now is. While at times he waxed even eloquent, I have to say that I derived not one single benefit from anything he said in relation to what it is that the Government is proposing to do, how its policy has changed, why it is that it is doing certain things and what is the rationale for certain expenditures proposed in the Bill.

As a pre-election speech I think the Honourable Second Elected Member from West Bay did a great job, but in terms of enlightening this Honourable House or the wider public I have to say I have to give him a failing grade. He did nothing to provide this

Honourable House with any real information about what it is the Government is thinking and why it is proposing certain of these expenditures.

He referred to the policy initiatives which have been set out for some time in the Annual Plan and Estimates and are repeated in the Supplementary Annual Plan and Estimates. To simply look at the policy initiatives which were developed some years ago and pretend, in your debate, that the devastating event called Hurricane Ivan did not occur and did not impact the Government's thinking, not causing the Government to, in any way, rethink their policy initiatives, is stretching it to the limit that no reasonable person could believe.

What are we here to do? We are here because of the devastation caused by Hurricane Ivan. We are being asked to approve additional expenditure by the Government which, on the face of it, based on what little the Government has said, is primarily the result of the Hurricane.

All of us in this Honourable House have been here throughout Hurricane Ivan and its aftermath. All of us understand how deeply wounded this country and its people have been. All of us, I would venture to say, want to do whatever we can as Members of the Legislative Assembly and Members of the Government, to ease the suffering, to assist with the recovery process. So, there is no question that Members of the Opposition want to do whatever we can and offer our support in whatever way we can to assisting with approving funding for matters related to the hurricane.

Let me head off at the pass those arguments which I anticipate will come, as they always do, about the Opposition crying down everything that Government is proposing. I would have thought that at a time like this when we are talking about truly extraordinary expenditure; when the Government is projecting a deficit; when the Government is proposing to borrow \$25 million to partially fund this expenditure, that someone in the Government would be prepared and get up before Members of the Opposition have to rise, and say to the Opposition, to this Honourable House, to you good Sir, as Speaker, and to the wider public, these are the reasons why we have to ask for additional expenditure; this is why we have to borrow additional money.

The real irony in all of this is over the course of the past three years or so, there has developed in this Honourable House, the practice of not just the Honourable Third Official Member, the Financial Secretary, delivering his Budget Address. The Leader of Government Business also produces a beautiful document called a policy statement, complete with a smaller subtitle talking about protecting, enhancing and promoting the Cayman Islands or maintaining the course with a responsible hand at the till! It is always some theme! This is when it is business as usual or when it has been business as usual.

So, the irony in all of this is that a time as unusual as of this, when we are talking about such a

devastating event and life altering set of circumstances, notwithstanding the fact that Financial Secretary's Address and the Honourable Third Official Member, the Financial Secretary, reading it, states that the Honourable Leader of Government Business will deal with the policy initiatives that underpin these estimates. We have yet to hear one word from the Government or its supporting Back Bench about what really underlies these proposals for additional funding and the need to borrow a further \$25 million.

To my mind, something is missing and I do hope, perish the thought that it could be that nothing will be said by the Government until all Members of the Opposition have spoken and exhausted their time in this debate. Thereafter, the Government will come forth with its wonderful plan setting out for all to see and hear their position and proposals to deal with the issues facing this country, free and safe in the comfort that there will be no one left in the Opposition to offer one word of demurral. Perish the thought. I do hope that is not what underlies this unusual state of affairs this Honourable House finds itself in. I am grateful to you, Mr. Speaker, for having carefully noted that if, indeed the situation appears when the Government does finally say something in this debate, that if there is significant changes of Government policy that you will re visit the situation.

I do believe that it would make a mockery of the system for the Opposition to be forced to debate the technical address of the Financial Secretary with the accompanying AP&A then be forced to sit muted, dumb, unable to say a further word after the Government stands in its usual way, puffs up itself and makes its wonderful policy statement; a policy statement which sounds wonderful but, which at that point, would be impossible for the Opposition to offer any scrutiny or provide any alternative view or let the country know what our thinking is on the matter.

Mr. Speaker, when you are in this unfortunate position, you are forced to operate on the basis of information gleaned elsewhere and you are also forced, in some respects, to ask questions or to speculate. There are some in this Honourable House who have grown fond of saying that you should not report rumour in this Honourable House. It has been asked how I, the Honourable Second Elected Member for George Town, who is a lawyer, can come to this Honourable House and say something which is hearsay, or as some of them like to say, hear so. However, when there is an absence of information there will be rumour and speculation, and I do not believe that we, who sit on this side of this Honourable House, would be discharging our duty if we did not raise questions and discuss issues which have been raised with us by constituents. If the Government chooses to sit in dumb insolence and say nothing then we shall have to ask some questions to see if they elicit any responses even if those responses come in the form of objections, which is the usual way the Opposition's debate

is dealt with by the Government in this Honourable House.

There are a number of items in the Supplementary Appropriation Bill which require, I believe, some explanation from the Government. On page 4 CBO 1: Coordination of Government Policy \$1,988,194. What does that relate to? There are substantial sums here which require a great deal of explanation. There are sums totaling almost \$10 million in relation to the Health Services Authority for which I have not seen any satisfactory explanation. Do they relate to Hurricane Ivan? What did the hurricane do that has caused the Health Services Authority to be in such a fine mess?

On page 117 of the Draft Supplementary Annual Plan and Estimates under the heading Changes to Planned Equity Investments—E130 Ministry of Health Services, Agriculture, Aviation and Works Equity investment to replaced damaged assets \$680,290; I think we would be able to surmise what that is in relation to.

However, E-17 Health Services Authority Equity Investment to subsidise operating loss . . . In the 2004/2005 Budget, and we are still in the 2004/2005 year until the end of June; it was projected that the Health Services Authority would lose \$4.5 million. The revised figure which we are now considering is \$9,324,663; that is more than double the original estimate. What is the cause of this? I have no way of knowing. My point is that the Government cannot come to this Honourable House and Finance Committee, and look at us, the five elected Members of the Opposition expecting us to blindly agree to additional funding if they are not prepared to explain the basis on which that funding is sought!

I hear the Leader of Government Business mumbling; he should have gotten up and spoken when he was invited to do so!

#### Point of Order

**Hon. W. McKeeva Bush:** On a point of order, Mr. Speaker.

**The Speaker:** Honourable Leader of Government Business, please let me have your point of order.

**Hon. W. McKeeva Bush:** Mr. Speaker, I hope you will accept this point of explanation. It was not a mumble, I spoke clearly to the Member to say to him this would be no different from any other time, you will get your explanations in Finance Committee when those questions are asked.

**The Speaker:** Honourable Leader of Government Business that is not a point of order but as you said it is an explanation and I trust that it will satisfy the Second Elected Member of George Town.

Please continue Second Elected Member for George Town.

**Mr. Alden M McLaughlin, Jr.:** Thank you, Mr. Speaker. Perhaps I can save the Leader of Government Business some breath by reminding him that he can rise as many times as he wish but he cannot put me off.

We have a situation where the Health Services Authority requires the Government to subsidise its operating loss by another \$4.5 million over what was estimated. Would someone please tell us why? We have known in this country that the Department of Health Services, now the Health Services Authority has been one of the most difficult areas of Government to manage and to get a handle on expenditure, therefore no one this side expects the Honourable Minister for Health to waive a magic wand in the three years that he has been there and make everything perfect again. What we do expect is that the Government will be forthcoming about these matters.

If we are going to survive in the long term to get out of this black box mentality where everything that happens in government is guarded like a military secret and if Members of this Honourable House are to be expected to give their approval to the Government's policy and accept what the Government says about what is reasonable expenditure, we need to have the accompanying information on which to base those decisions.

The Government itself has set the precedent, I have one in my hand, and it is called a policy statement, accompanying a budget address and an annual plan and estimates. We have a Supplementary Annual Plan and Estimates and a Supplementary Budget Address. This is not speculation, the Government itself has said in the address by the Honourable Third Official Member that the policy initiatives underpinning these estimates would be provided by the Leader of Government Business. It is the Government that has forced us to debate—

#### Point of Order

**Hon. W. McKeeva Bush:** On a point of order, Mr. Speaker!

**The Speaker:** Honourable Leader of Government Business, please state your point of order.

**Hon. W. McKeeva Bush:** Mr. Speaker, besides tedious repetition— for us on this side it is tedious, nevertheless you might allow it. I am under no obligation to rise on this Bill before any of the Opposition. On the presentation of the Annual Estimates, I am obligated and expected to give a policy statement like I did last year. We are presenting a bill here today and the last time I presented it . . . I have to shout at this point because I hear some mumbling over there too. It was said I was giving a budget debate, look in the Hansard and you will see what the Leader of the Opposition said about what I was doing. I took it upon myself this time. . .

**The Speaker:** Honourable Leader of Government Business could you please get to the point of order.

**Hon. W. McKeeva Bush:** I need to explain myself before I get to the point.

The Bill before the House is with estimates which everybody else has and that is normally done under Supplementary Expenditure. The last time we brought supplementary expenditure here I was not required to do a policy statement. We go next into Finance Committee where each Member then goes through each line item and that is then explained. This is not new and the point is that the Member is misleading the House.

**The Speaker:** Thank you, Honourable Leader of Government Business.

Whilst that was not a point of order it was indeed useful information and I feel that it can assist the House. In regards to the question of tedious repetition, I have given a lot of latitude on this debate to both sides of the House, as it is the Supplementary Estimates. So, I believe that you will have a lot of repetition of what has already been said. However, I will take note of what Members are saying and remind them to ensure that they do not get involved with tedious repetition during their debate.

Please continue Second Elected Member for George Town.

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

To make the point clear about the type of address and bill that we are dealing with, on 6 September we dealt with a request to Finance Committee for appropriation changes under Section 12A of the Public Management and Finance Law. You will see that this document, although made up in quite a similar way to the document before this Honourable House today is indeed titled differently, and therefore there was no mini address by the Honourable Third Official Member, the Financial Secretary when that was done. There was no debate on the Bill because of the degree of additional expenditure required.

What we are considering is something of a much greater magnitude, something which the Honourable Third Official Member did recognise in his address, and hence this matter has been treated thus far as essentially a mini budget session would be. The wide ranging debate, which the Second Elected Member for West Bay engaged in, set the tone for the rest of the debate and acknowledged what the Government's view was on the nature of the debate which we are entered upon. So, I hope that will answer any questions still floating around in the mind of the Leader of Government Business and that I will now be left unmolested to continue my debate.

Mr. Speaker, on page 117 there is the same section—Changes to Planned Equity Investments, a proposal for equity investment to fund the cost of es-

tablishing the DNA testing facility \$168,000. Even if the Minister does not say anything more about that it is something that we would not argue about because it is clear to us that this is the money the Government says is necessary to create this facility.

Then we come to Health Services Authority Equity Investment for Working Capital - \$3 Million. I hope the Opposition will be forgiven for asking why the Health Services Authority requires another \$3 Million in working capital, plus an additional \$4.5 Million to subsidise its operating loss. What has happened since the original Budget, which was brought to this Honourable House in late May 2004? What has occurred since late May 2004 and 14 February which requires such additional funding for the Health Services Authority? On the face of it this does not appear to be something that is connected to the fall out from the Hurricane Ivan. It may be, but it begs explanation and I believe that the Government is duty bound to tell this Honourable House and to tell the country what is the basis for this. That explanation, in my respectful view, ought to be proffered before a single Member of the Opposition is forced to rise and debate this address.

Health Services Authority E-127—Equity Investment for Acquisition of New Assets is \$1,306,000. What are the new assets that the Health Services Authority is proposing to purchase which were not even in contemplation in May of last year? In my respectful view, we ought to be told.

Mr. Speaker, I have had representations from a number of constituents about the state of affairs of the Health Services Authority. I am also aware that at least five doctors have left the Health Services Authority since the end of last year. Does this have anything to do with the state of the administration of the Health Services Authority? What is going on? Are health services in this country being compromised or are they not? Someone ought to tell us. Do not simply come here and ask the Members of the Opposition to sign a cheque.

Has Government adopted a new policy in relation to the management of the affairs of the Health Services Authority? Why is it costing twice as much to run it in February of 2005 than it did in May of 2004? What has gone wrong? Has something gone wrong? Someone ought to let us know. Are there problems with the Board? Who is really running the Health Services Authority? Would someone let us know? In fairness and even the most begrudging detractor on that side must agree that when one is asked to approve such extraordinary expenditure you must ask the questions. You would be failing in your duty if you did not. I can tell them all right now, and they can lambaste me; they can pillory me or do whatever they wish from whichever platform they choose, unless satisfactory explanations are brought in relation to these things they will not get my vote. They will still pass them but they will not get my vote.

The same section E-131—The Cayman Islands National Insurance Company; the vehicle which was floated on the basis that this was going to sort out all of the problems that Cayman has in relation to health insurance coverage. There is a revised proposed expenditure of \$3,355,428. The explanation is equity investment to subsidise the operating loss relating to premiums for seamen and veteran \$2 million and pensioners \$1.35 million.

Mr. Speaker, I am entirely in favour of our seamen and veterans receiving good health care coverage, for I know they shall come, even if they do not do it here, and say that I am trying to take away this benefit from the seamen and veterans in this country. However, there are some very smart people in the Civil Service, particularly in the Financial Secretary's Office, and no one is going to try to persuade me that they would not have recognised that there was going to be a sum as much as \$3.355 million in May 2004, which they did not bring to Finance Committee's attention then. All of a sudden out of nowhere this figure has now arisen. If there is a good explanation for it, and there may well be for I do not pretend to be a financial wizard, we need an explanation not a cryptic note in the book saying this is what it is for. Thank you for telling us what it is for, but why is it being incurred now and not contemplated in May 2004?

**The Speaker:** Order.

**Mr. Alden M. McLaughlin, Jr.:** The list goes on. We have been talking about the National Roads Authority for at least two years and its formation was contemplated two Budgets ago. Last year May we approved \$631,500 for the start up of the National Roads Authority. Here is a proposed equity investment to replace assets of a further \$2,196,800. How has that arisen? Is that the result of the hurricane? If it is, please tell us. Even though they accuse me of tedious repetition but sometimes you have to say things four or five times for some of them to really understand what you are really trying to say. These sums may be well justified—

#### **Point of Order**

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

**The Speaker:** The Second Elected Member for West Bay please let me have your point of order.

**Mr. Rolston M. Anglin:** Mr. Speaker, I have sat and endured the Second Elected Member from George Town but I bring to your attention and his attention that under Standing Order 35(3) that it is out of order to use offensive or insulting language about other Members. I think the comment he just made should be withdrawn because the level of debate had some

bate has some semblance of class to it, but since he rose it has taken a downward spiral.

**The Speaker:** Would the Honourable Second Elected Member for West Bay please remind the House of the offensive statement that was made?

**Mr. Rolston M. Anglin:** The Member said that we must forgive him for repeating things four or five times because he has to say it that often for some of those on the other side to get it.

**The Speaker:** I think we are splitting hairs here somehow. Honourable Members I realise that we are at a time where there is going to be a lot of debate, and I know most of us are good friends, but please let us keep our debate at a reasonable level. I know that you have to present your points—and I really heard that remark made but I did not take it as being an insult or as offensive because it seems to me that he was trying to justify his repetition. However, I would ask the Honourable Member to move away from that particular point as we have had one Member rise [from] his seat and express his disappointment with that level of language.

Honourable Second Elected Member for George Town, please continue your debate.

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

As I was saying before I was interrupted, I am not seeking for a moment to say none of these or any one in particular cannot be justified. What I am complaining about is the lack of information.

Under that same section there is a provision for an additional \$10.2 million in relation to other education plans. This relates to commencement of the new Frank Sound High School - \$2.5 million; Savannah Primary School expansion project - \$250,000; the Boatswain Bay High School (I think that is the first we have seen that name) - \$2.5 million; the West Bay Town Hall conversion to Library - \$37,000; Air-conditioning and window replacement on the Lighthouse School - \$203,000; and other projects - \$100,000. There is also an interesting note which speaks about the replacement of damaged assets for schools and other departments under the Ministry of \$1.9 million; repairs to school buildings and other buildings - \$2.89 million. Of that sum we are talking about \$4 million for repairs to the various schools around.

I know that we are all happy to see that this money is to be spent (money I laterally referred to) in relation to the repairs of schools. We on this side have been calling for upgrade of the education plan of this country from the time I entered this Honourable House. Mr. Speaker, lots of questions still remain. Why has it taken so long? Why is it taking so long? I see from some of my surveys that a significant number of temporary modular classrooms have been

imported and are on site at various schools. I took a little tour on Ash Wednesday to look at some of them.

We are now five months removed from September 11 and 12. As far as I am aware none of these classrooms are being occupied as of now. We still have a situation where in the case of George Hicks; children are going to school on shifts, some in the morning and some in the afternoon. In the case of John Gray year ten students are still being housed at Agape.

I believe that it is indefensible for a country with the resources that we have for this situation to still obtain in the country. The fact that we have modular classrooms here now speaks volumes about what ought to have been done months and months ago. We seem somehow to be able to find the resources to do just about everything else including awarding multimillion dollar debris contracts to foreign contractors, but somehow it takes us five months and more to be able to create a situation whereby our children can go to school in decent accommodations and be able to operate at some level of comfort while carrying out their lessons. It speaks volumes about the priority or the lack thereof which has been given to Education by this Government.

I was at the Cayman Islands Business Outlook and I listened to the Leader of Government Business deliver his address and like just about everyone around me I too was surprised to hear that although we have been complaining about the need for another high school for years, out of the blue we are now going to get three. Now, if in fact we need three or four high schools, as long as we can figure out a way to properly fund it, it has my support. What seems to be missing from all of this is any sort of real plan or long-term strategy for the development of education and the education plan in these Islands.

You see this is a Government that has been big on promises but short on delivery and we are now fully into the silly season, as I would call it, so the populous ought to expect all sorts of promises and wonderful rainbows and pots of gold at the other end if they are given another term. However, more fundamentally the question remains, what is the long-term education plan for this country? Leaving that a side for a moment, what is the short-term? Are we going to go to a situation in the short to medium term where our students are going to be housed in modular classrooms? Are we really going to redevelop the John Gray site or not? What is the rationale for another high school in West Bay? Let us hear it! If there is one and it makes sense it has my full support and the rationale is not why not, as the Leader of Government Business says; there must be a basis not just sweet sounding nothings. Where is the funding going to come from to do these things? What is the \$2.5 million going to do in relation to the Frank Sound High School? Is that going to cover the entire cost of it including the cost of the land? Has the land even been purchased? What is the projected date for the

start of this operation? I know we have heard all sorts of things on the radio but dates have come and gone. When is it supposed to be finished? What about the primary schools that have been so badly damaged? Why is it taking so long to put the roof back on Savannah Primary? What is the situation with George Town Primary?

I ask all of these questions again to make my point. You do not come to this Honourable House with a Supplementary Budget and ask the Opposition to get up and debate it effectively without telling us the basis for the Budget. What are the policy changes?

On page 117 regarding Cayman Airways Ltd, there is a proposed expenditure for this year of \$10.442 million which is an increase of \$3 million over what was projected in May 2004. I do not know what this country would have done without Cayman Airways. I know that there are Members on the other side of this Honourable House, on the Government side, who at one point did not support Cayman Airways. I know because they were Members of the Government that I supported for 11 months, 2000 to 2001. They can murmur as much as they want but I have a very careful record and a very good recollection of who said what and when they said it.

However, I believe if they were not converted to the need to support Cayman Airways before Hurricane Ivan, they ought to be converted now. Cayman Airways was really the only lifeline that we had left and it is nothing short of extraordinary what the people at Civil Aviation and Cayman Airways did to enable the runway and some semblance of the facilities to be able to reopen two days after the hurricane. So, if as a result of the shuttles that Cayman Airways had to run, if for whatever reason, additional funding is necessary, it has my support. However, I like the rest of the country would really like to know what the true financial position is with the airline. To my recollection, and if I am wrong I am sure I will be corrected, we have not heard anything about the financial standing of the airline since November, 2001.

When are we going to get financial statements in relation to the affairs of Cayman Airways? It is not a question of not wanting to support Cayman Airways, I have just made that very clear, but we ought to know the true financial position in relation to the airline. We ought to know where we are losing money, are we making money on the Miami and Kingston runs, but losing it on Boston and Chicago? What is the situation? Is there a budget? If so what is it and what are the projections? You simply cannot come to this Honourable House and say to Members, "trust me, just sign here", the Government is duty bound three months before the elections to provide to this country, their stewardship and record of that, and part of that record is the record of Cayman Airways.

**Hon. W. McKeever Bush:** Mr. Speaker.

**The Speaker:** Honourable Leader of Government Business, are you rising on a point of order?

**Hon. W. McKeever Bush:** Yes Sir! and I need to explain something here because the Member is treading a very fine line...

**The Speaker:** Is it a point of explanation?

**Hon. W. McKeever Bush:** Yes Sir. On a point of order Mr. Speaker, the Member is misleading the House. Let me tell you what my point of order is, can I do that Sir?

**The Speaker:** Yes, please continue.

**Hon. W. McKeever Bush:** Mr. Speaker, the Member has just said that the Government is required three months before an election to present to the world our stewardship. That is a requirement which the Financial Secretary is required to do and that time has not yet arrived. He is absolutely correct, by law we are required to do so but that time has not yet arrived. It will be done under the rules, under the regulation, under the law by the Honourable Financial Secretary, and he was misleading the House in saying that.

**The Speaker:** Honourable Leader of Government Business I would invite the Second Elected Member for George Town to respond to that statement.

**Mr. Alden M. McLaughlin Jr.:** Mr. Speaker, this is trying my patience. I never mentioned a word about the Public Management and Finance Law. I made no reference to it, I am saying that when you come to the House with a Supplementary Expenditure Budget...

**Hon. W. McKeever Bush:** Point of order Mr. Speaker. The Member is. . .

**The Speaker:** Honourable Leader of Government Business would you please both sit down for a second. I believe that it is going to create some confusion in here if one Member is not allowed to respond. I was asking the Second Elected Member for George Town to respond to the comments made by you, Honourable Leader, and I need to hear that response before I can take another point of order. I will take your point of order if he has said something in that response thus far that is further misleading, if not I would invite the Second Elected Member for George Town to please continue to respond to the statement that was made, in a very succinct manner and as quickly as you can.

**Mr. Alden M. McLaughlin Jr.:** Mr. Speaker, I made no reference to the section to which the Honourable Leader referred. My comment was made in general in relation to the situation currently before this Honourable House where the Government is coming and



asking for additional expenditure. I am saying that the country is owed and this House is owed an explanation of these items for which money is being sought. In that context, the Cayman Airways accounts featured. The Minister has interpreted what I said wrongly. I was not making any reference to operations of the Public Management and Finance Law. I know precisely what they say, Sir.

**The Speaker:** Honourable Second Elected Member, are you saying that it was not your intention to mislead the House? Could you reply to that?

**Mr. Alden M. McLaughlin Jr.:** Mr. Speaker, I did not mislead the House. I said what I said and the Minister misinterpreted it. That is fallibility on his part, not mine, Sir.

**The Speaker:** The Honourable Leader of Government Business, present your point of order.

**Hon. W. McKeeva Bush:** Thank you Mr. Speaker. I think the Member is refusing to say now what he said earlier. He said that the Government owes the country to present the stewardship three months before the election.

*[Interjection]*

**Hon. W. McKeeva Bush:** Yes!

*[Interjection]*

**Hon. W. McKeeva Bush:** Well maybe we can get the Hansard. If he is changing it then Mr. Speaker, so be it. What I gathered from what he was saying is that we need to give this thing three months and all I am saying is that that is not yet. However, the way he was making it sound was that we need to do it now and we have not done it, it is duty bound he said.

**The Speaker:** Honourable Members...

**Hon. W. McKeeva Bush:** The Public Management and Finance Law points this out. Section 26 tells us what it is; maybe I should read that out for the House.

**The Speaker:** Please continue.

**Hon. W. McKeeva Bush:** It says: “**26. (1) Subject to subsection (4), not more than forty-two days, nor less than twenty-eight days before the day specified in a writ issued by the Governor under the Elections Law (2000 Revision) as the date for a general election, the Financial Secretary shall gazette a pre-election economic and financial update.**

**(2) A pre-election economic and financial update shall include –**

- (a) economic forecast for the current financial year and for the next two financial years...**

**The Speaker:** Please let us have some order so that I can hear what the Honourable Member is saying.

**Hon. W. McKeeva Bush:...**which shall contain the information set out in the First Schedule;

- (b) forecast financial statements for the entire public sector for the current financial year and for the next two financial years which shall contain the statements and information set out in the Second Schedule;**
- (c) a statement specifying the date on which those economic forecasts and forecast financial statements were prepared; and**
- (d) an explanation of how those forecast financial statement accord with the principles of responsible financial management and, if those forecasts depart from those principles, the information required by section 14.**

**(3) As soon as the pre-election economic and financial update is published it shall be a public document, and the Financial Secretary shall provide a copy to any person requiring one on payment of a copying charge prescribed by regulations made by the Financial Secretary.**

**(4) A pre-election economic and financial update shall not be required if an annual plan and estimates has been presented to the Legislative Assembly less than three months before the date specified for a general election in a writ issued by the Governor under the Elections Law (2000 Revision).**

**The Speaker:** Thank you Honourable Member. I think it is quite clear from the Public Management and Finance Law the procedures in regards to the record of the stewardship of the Government. I am satisfied that the Honourable Financial Secretary will indeed provide this information within the period stipulated in the Public Management and Finance Law. I do not believe that it was the intention of the Second Elected Member for George Town to intentionally mislead the House. I would just ask him to be very careful in his further debate. I will not stop the proceedings to check the *Hansard* of the House at this time, but I will keep very close notes of the further debates on the subject. Please continue, Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you Mr. Speaker. I will close that issue with this question to the Honourable Leader of Government Business who is the Minister with the responsibility for Cayman Airways, where are the Cayman Airways accounts?

**Hon. W. McKeeva Bush:** When I get them you will get them, my son. I have not gotten them yet.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, moving on to page 118 of the Supplementary Annual Plan and Estimates, very conveniently the Ministry of Tourism, Environment, Development & Commerce.

**The Speaker:** Honourable Member, before you continue I would just like to advise the Honourable House that it was agreed in Business Committee that the House would sit until 10 pm or the earlier of the completion of the Order Paper. I would just remind Honourable Members that...

*[Inaudible comments]*

**The Speaker:** Honourable Leader of Government Business was it 8 pm or 10 pm? I was advised 10 pm.

**Hon. W. McKeeva Bush:** Lest I incur the wrath of the Opposition again, let us say 8 pm. I know what was said in Business Committee and I asked the House to report that to Members. We would go until 8.00 pm but if necessary, to make sure business gets done because of the dissolution of the House, we would continue on until 10 pm and if a Member was not finished at 8 pm we would continue until Members finished.

**The Speaker:** I just thought that I would remind you of that because I had received a note that it was 10 pm, but it is indeed 8 pm. I was reminding you that if it was indeed 10 pm that by 10 pm you might find yourself running out of what to say.

*[Laughter]*

**The Speaker:** Please continue Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, for the Ministry of Tourism, Environment, Development & Commerce additionally equity investment is sought for the Department of Tourism (DOT) Fit Out of the Cayman Corporate Center \$520,000.

**The Speaker:** Honourable Member, if you could refer to the appropriation reference number and the page it would be helpful.

**Mr. Alden M. McLaughlin, Jr.:** I am sorry, Sir. E1-15 on page 118—Department of Tourism's furniture - \$280,000; FIRE, their tankers and rescue units - \$808,000—well that is clear enough; repairs to Fire training Grounds \$78,000; Chief Fire Officer vehicle - \$38,000; Cayman Islands Investment Bureau (CIIB) - \$10,000 and then replacement of assets - \$268,000.

Mr. Speaker, this is an increase of \$2 million. I would have thought that this Honourable House was

owed some form of explanation from the Leader of Government Business in relation to such substantial expenditure.

Under E1 16 on the same page 118, there is equity investment to fund the construction of MRCU facility and Seismology offices - \$580,000; that is clear enough. For Landfills in Cayman Brac and Grand Cayman, and equipment for Environmental Health - \$1,486,500; to replace damaged assets - \$5,272,351; to purchase new assets - \$235,657; additional assets - \$560,000; to fund operational loss - \$1,042,000; office equipment and an A/C system - \$262,871.

That is an increase of more than \$9 million. The question is in relation to replacing damaged assets, which is just over \$5 million, what elements of that sum are the result of the hurricane. What is to be funded there that was not in the contemplation of the Government in May of last year? In relation to the damaged assets, what is the answer to the question about insurance? Were these assets insured or not? If not, why not? If so how much and where is the insurance claim or claims? What is a \$1 million in operational loss of the Ministry? That is something I do not believe I have seen before.

**The Speaker:** Honourable Member, I would just like to remind the House that in debating the Bill we should be dealing with the major issues and policies. The details of line items can be provided in Finance Committee. The Members of Government will have a responsibility to do so if questioned. I am just reminding you that even though these are rhetorical questions at this point, the Members would have to answer them if they are asked in Finance Committee. Maybe we should not spend too much time on this debate in dealing with the line items or details.

Please continue Honourable Member.

**Mr. Alden M. McLaughlin, Jr.:** I thank you Mr. Speaker. I entirely accept what you say and it is regrettable that I am being forced down this course because of a lack of any policy being articulated by the Government.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, Sir, on a point of order.

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

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, if I could kindly draw your attention to Standing Order 63(2) which you have just alluded to. This is a provision which has been here before both myself and my good friend from George Town joined this Honourable Parliament and I do not think that your good self or any Member in this House is forcing a Member, but in fact the rules of debate were laid down in Standing Order 63(2).

**The Speaker:** Honourable Member you are quite correct, and for the information of the Honourable House I would like to read it as it deals with financial procedures. It states: **“On the motion for the Second Reading of an Appropriation Bill, debate shall be confined to the financial and economic state of the Islands and the general principles of Government policy and administration as indicated by the Bill and the estimates.”**

This is basically the point I was raising earlier. I do know that Members want to get as much information as possible but this can and should be provided in Finance Committee if requested.

Second Elected Member for George Town, please continue.

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

In the provision for the landfills in Cayman Brac and Grand Cayman, there is a provision for just under \$1.5 million. Maybe in Finance Committee we will find out how much is to be allocated to Grand Cayman and how much to Cayman Brac. However, the big question remains; what is the Government doing about the abysmal situation in relation to the landfill in Grand Cayman?

When I entered this Honourable House in November, 2000 one of the first things that was noted by the Government then, of which you were a part Sir, was the need to deal with the situation of solid waste in this country. We were told then that the landfill had 18 months to run. I have asked question after question in this Honourable House and in Finance Committee what is being done to deal with the growing problem of disposal of solid waste in this country and I have been met each and every time with some technical, diplomatically worded response, but nothing concrete has reached my ears about what Government is really doing about this matter.

I have received complaints as recently as last week from persons who say that with the strong north easterly winds we have been having the smell from the George Town landfill reaches the Seven Mile Beach. Of course such mango buffer or other vegetation buffer as there may have been has been treated badly by Ivan.

Given the location of the landfill we are going to have to find a way to deal with solid waste. It is a big dollar item; it is not a sexy subject; it is not the kind of thing that anyone likes to get up on a platform or at a CBO meeting and brag about. For that reason it has perhaps been in receipt of less attention than it ought to have had these past years. We need to address the issue. I see the paltry sum of \$1,486,000 proposed in this Budget which has to be spilt between Grand Cayman and Cayman Brac. I do not know how far that is going to go to deal with what is a huge problem. I would be most grateful when someone from the Government finally addresses this matter and would give us some insight into their thinking. It certainly does not

seem that they have any plans for this matter being sorted out anytime soon, given what money has been allocated to it.

I now come to the subject of housing. Housing has been a challenge in this country for many, many years. In the aftermath of the hurricane it is even worse. It is much, much worse because persons who did have homes no longer have homes. Persons who had homes have had them badly damaged, many of them have been rendered uninhabitable. So, a situation we had that was chronic has now reached critical proportions. Is the Government doing the right thing about housing? Are they spending the kind of resources that ought to be allocated to such a critically important area and are they spending those resources in the wisest possible manner? I submit that they are not. In the budget there is a provision for \$5.5 million, most of which I expect must have been spent by now and has been used through one government vehicle or another to assist people with getting their houses back to a state where they can live in them. I say that does not even begin to be enough.

We have seen, with the usual fanfare, another announcement by the Leader of Government Business of \$1 million to be spent on hard-hit Bodden Town and another \$1 million to be divided up amongst the other districts in Grand Cayman. Then we have the Trust, which is out there somewhere.

**The Speaker:** Honourable Member if I may interrupt you for a quick minute. We have reached the hour of 4.30 pm and it is my understanding that Honourable Members wish to continue to the earlier of the completion of the Order Paper or 8 pm. May I therefore have a motion for the suspension of Standing Order 10(2).

The Honourable Member for Communication.

### **Suspension of Standing Order 10(2)**

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Speaker. I move the suspension of Standing Order 10(2) to allow the business of the House to continue until 8 pm tonight.

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow for proceedings to continue to the earlier of the completion of the Order Paper or 8 pm. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed. Standing Order 10(2) suspended.**

**The Speaker:** Would the Honourable Second Elected Member for George Town please continue.

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

As I was saying, we have the trust which is out there somewhere. All of these various agencies or vehicles of government are purportedly seeking to do the same thing, to give people back some decent accommodations in the wake of the hurricane. Now, why is it that we need three separate agencies of government, or more, if there is more? I am yet to hear how the \$2 million which the Leader of Government Business announced recently, is going to be administered. Whether the ministries themselves are going to deal with it or the elected Ministers from the various districts are going to deal with it, or how it is going to be dealt with is yet to be said. The point remains the same. It must take an army of government personnel to be able to administer all of these various dispensations. Why are we doing this? In my view it is a monumental waste of government resources, not to mention the aggravation factor involved with persons who are trying to deal with these myriads of various agencies.

There is no day in the working week that I do not have to deal with some constituent who is angry and upset about not having received a response or having been turned down by one of these agencies. I am not going to say that what has been done has been a complete failure because I do not think that would be fair. There are quite a number of persons who have benefited as a result of this, but no where near the number that need the assistance. I believe a big part of the problem is the lack of centralisation, we have got too many chiefs involved. Whatever resources government has available to assist needy people ought to be carefully marshaled and carefully administered from one central place.

At one point, and I am not sure if this situation still obtains, I understood that aspects of the housing were being dealt with by a Permanent Secretary from another ministry other than the Ministry of Housing. Mr. Speaker, I am very much on the outside, but it seems to me to be a shambles. What I do know is that there are literally still hundreds of persons in this country who need assistance to get their places back to some semblance of decency where they can carry on their lives with some sense of normalcy. That I know, because I see them, I talk to them, I go to their places. For many people, you look at it from the outside and the place looks livable, and then you go inside and you see the disaster zone that their places still are. We have not devoted sufficient resources to assisting the people of this country who live here, to get their lives back to some semblance of normalcy.

Again, they can say what they want about me, but I am a person of firm opinions and convictions. I believe that it is a huge mistake to import trailer homes believing that they are going to be some sort of a temporary ease. We can all imagine how difficult it is to put someone out of their home and the reality is that for many people, unless government does some-

thing more substantial than they have thus far done, two years is not going to be anywhere near to enough for many people to get back decent accommodations.

In my view I do not believe that the \$1.5 million or whatever it is will come close in the end to what they are going to have to spend, because that may be the cost of the trailers, but getting the trailers in places and in a condition where people can actually live in them is going to cost a lot more money. There needs to be septic facilities, electricity hookups and water. Somehow I am not sure that all of these factors have been carefully considered and added to the figure that is being put forward. In my view, that money and additional monies ought to have been made available and still be made available to persons who did not have insurance who are struggling to get their lives back to some sense of order. Do not spend the money on trailer homes, help them rebuild their homes.

The big question is where are the low-income houses? Where is the low-income housing scheme that the Honourable Minister for Housing has been such a staunch proponent of for these past three years? How many of them are occupied at this time? How many of them are occupied by needy Caymanians and Caymanian residents? What are we doing about the scheme? It would seem to me if I were sitting where the Honourable Minister is sitting now that now would be the time to accelerate that scheme and build houses that people can live in.

The last I heard, or to be more accurate, the last I read in the *Caymanian Compass* some time ago, was an interview conducted with the Honourable Minister for Housing, which said that the scheme which is located across from Cox off of Easter Avenue was to be demolished because lo and behold, three years down the road Government had finally worked out that it was uneconomic to build single story low income houses on what is prime commercial land. I am glad that somebody finally woke up, rather late in the day. What is happening to the insurance money? I understand that the places were insured. I hope they were. I would believe that the Trust would have ensured that that was the case. Where is that money? When are we likely to get it? This was a grand scheme which was supposed to be a total of 200 houses when completed.

A short while ago I had a look at a statement made by the Honourable Minister to this House in May, 2004 and at that point, including government subsidies and land where an amount of \$16,836,613 had been spent on that project. What is the value of the project now? How many more houses are we going to build? I do not believe that there is any scheme; that there is any plan on how to deal with the housing crisis that this country is enduring at the moment. I think the Government is simply knocking about from pillar to post, with whatever fancy sounding idea that they think might endear them to the general populace.

This is not a problem that is going to go away in the short term and unless this community is able to

be decently accommodated, nothing else in terms of real recovery is going to happen. People do not function at anywhere near the levels of productivity that are required when their personal lives are in chaos, especially when people are still jammed 14 and 15 in a house. There will be some who will decry what I say, but we have got to find the means to help those who cannot help themselves to get back decent accommodations. If we do not, the way forward is going to be fraught with no end of problems. We talk about social contracts and social conscience and all of these fancy sounding sociological terms, but if we do have a social conscience government is going to have to do more in financial terms, in real financial terms for persons who cannot get their places back in order.

Seven million is not going to cut it. Trailer homes are a terrible idea. They are going to create a whole new set of problems for this community. The process is started, the homes are here and I am not going to suggest that we should pack them up and send them back. However, I am telling you, Sir, in my considerable view it is a terrible, terrible mistake. It ought never to have been considered.

Conspicuous for its absence in the Honourable Third Official Member's address is any statement regarding the Government's thinking about the long term funding of the recovery process. The Honourable Third Official Member has said that they are treating what is before this Honourable House as an extraordinary expenditure and one that should not recur. I wish I could be so optimistic. Without question, there are many items here that one would not expect to see further expenditure on next year or the year after. However, I do believe that given all that has transpired, in terms of getting the infrastructure of this country back to where it needs to be; in terms of assisting with the rebuilding of the tourism industry; in terms of housing; in terms of other aspects of what used to be called social services, there is going to be additional recurrent expenditure.

Therefore I caution us not to get into the kind of thinking in saying "*Well as long as we can find the means to fund this everything is going to be okay in the long term.*" What is conspicuous for its absence is any real discussion about Government's thinking in relation to raising additional revenue in the long-term. Are we going to continue to rely on the traditional sources of revenue, essentially the same tax base and expect to deal with the tremendous rebuilding that this country needs? It will not be this Government; it will be whichever Government is elected again. So, when I say government, I am talking about whoever is running the country over the next four years.

Is Government saying that traditional sources of revenue are going to enable us to fund the rebuilding process? Are we looking to any external agencies to help us with the rebuilding process? Have we thought about establishing a special dedicated fund for education? A dedicated fund, one that is ring fenced by legislation so that we cannot take the

money out and put it into tourism. It is that sort of lateral thinking that I think is so critical at this point. If government even has the means by which to accept it, most people are afraid to simply donate money to the Government because it just goes into this black hole and disappears.

I believe that there is sufficient international interest in ensuring the improvement of educational standards around the world, that if we were to establish a dedicated fund for education it would be possible for us to receive substantial grants to help us do what we need to do. I am no financial person; that is not something that I claim to have any great expertise in but having had a look at the numbers and having been in this Honourable House for four years now, I do believe that I have a feel in ballpark terms, for what kind of money we are looking at to do what needs to be done to the education plant in this country. I believe it to be in the region of \$100 million. Now clearly we cannot acquire or spend all that money in a year but to get the education plant in this country to where it needs to be, I believe that is the kind of money we are looking at. Where are we going to get that kind of money from? I am certain that \$2.5 million cannot build us the kind of high schools we need, if we are going to create an institution that our children can compete with what is out there now.

I have long said that the education system in this country ought to be the envy of the region. We are the richest country in the region. It is nothing short of a disgrace that our educational plant is not better than it is now. This has all sorts of ramifications because it affects the quality of teachers who are prepared to leave his or her jobs somewhere else to come and work here. People within any profession talk to each other and pride is an important factor, everyone wants to know that they are working for an institution that is highly regarded, one that looks good on their curriculum vitae when they move on. Teachers especially, want the personal satisfaction to know that what they have done has really made a difference in children's lives.

I have said before and I say it again—I believe a large part of the damage which has been done to the education plant in this country is because of its age. If the education plant in this country had been improved the way it ought to have been improved; if some of the buildings were not 50 years old it would not, in my view, have suffered the extent of damage that it has. I still believe that we are missing a wonderful opportunity to really do what needs to be done for this country and I do not expect that much is going to be done before the elections. However, I do hope that what is done does not stand in the way of whoever is there the next time around to make sure that the entire education system is improved the way it needs to be improved. I am speaking about the plant in this country.

There is another related matter that really worries me tremendously. In the past we have used

the Halls of various schools in this country as hurricane shelters. We are in the middle of February and God forbid if we were to sustain another hurricane hit in the coming months. What are we going to use for shelters? Why has Government been so slow to recognise the need to have these places properly repaired? The Isley Conolly Hall has been devastated and George Hicks Hall similarly devastated. At the moment the Children at John Gray are using what I call the old Hall as their cafeteria, which has traditionally been used to sit mock and external exams. Where are they going to sit exams in June, or alternatively where are they going to eat lunch when they are sitting exams in June?

The Honourable Second Elected Member for West Bay in his audacious address to this Honourable House, a short while ago, spoke about the importance of multitasking and I could not agree more, it is important to multitask. However, as the organised individual he is, I know he recognises the importance of prioritising too because all things do not bear equal importance. In my view, we have failed on two important aspects; firstly, assistance with the provision of adequate housing and secondly, in relation to the provision of sufficient decent classroom space for our children.

We can get up as much as we want and boast about the recovery of the cruise ship industry. Of course cruise ship visitors are necessary and they bring some income to these Islands, but the reality is that the tourist industry has also been extremely hard hit. We are pretending to the outside that all is well. When you talk to the hoteliers and people who work in the industry you come to understand that we still have less than 600 rooms available out of a stock that was over 4000.

The Government can make as many grand speeches as it wishes and the eloquent Second Elected Member for West Bay can beat the drum as long as he wants, but if he has moved around and talked to people he will know that there are still many, many people who used to work in the tourism industry who are not working. He will know that businesses which have benefited from the stay-over tourists are hurting. He will understand that there are many restaurants in Cayman that are not open and will never reopen. Therefore, let us not try to paint the picture that there has been a marvelous recovery and that all will be well as long as this Government is returned.

This is something on a scale that none of us could even contemplate. I thought I would have been able to understand the degree of damage that we would have sustained. I did not have a clue because none of us had ever experienced something on this scale. Mr. Speaker, I come back to this point again where, I believe, that one of the fundamental errors we have made, is pretending to the outside world that Cayman was not too badly hit. In my view, that is in large, partly responsible for why there has been an

almost complete and total absence of financial assistance from anywhere else in the world.

My belief is that it is a classic case of mismanagement. I also believe that the Government fundamentally erred when it came to that issue and no amount of trips late in the day to London or Washington, or wherever, is going to remedy that initial impression. It is remarkable that Fox News Network did a special, the week before last on Hurricane Ivan and they talked about Jamaica, Granada, Florida, but they never mentioned the Cayman Islands. In my view, the reason for this is because that is the propaganda line the Government took.

Mr. Speaker, if we are going to rebuild this country they way it needs to be done, borrowing \$25 million is not going to be enough. We are going to have to have access to funds from overseas, money that we do not have to pay back or if we have to pay it back, it has to be very cheap money payable over a long period of time. We are going to have to convince agencies overseas that we are truly in need of assistance and will utilise those funds for good and proper purposes. Given the stance that the current Government has taken, I do not believe that will be possible unless there is a change of the Government. Given the limited information available to us on this side, I have done my best to offer a contribution to this address and to the Appropriation Bill before this Honourable House.

I wish to close by referring to an article in Fridays *Cayman Net News*, which I have to say, struck me like a bolt of lightning because here we are on the 14 February, 2005, Valentines Day, and the Government is seeking approval of this Honourable House to enable it to borrow some \$25 million to fund extraordinary expenditure caused as a result of the hurricane. Here it is that the Government is projecting an operating deficit of \$1.7 million before this extraordinary expenditure, and the country learns that this Government agreed to waive import duty amounting to US\$4.46 million on behalf of the Ritz-Carlton Cayman and further agreed to defer US\$17.84 million in duty for seven years. I do believe that someone in the Government ought to explain to this Honourable House and to the country the rationale for the waiver of US\$4.46 million and the deferral for seven years of the further US\$17.84 million.

In my view, there would have been cause for complaint even if those events had occurred before 11 and 12 September of last year. However, the most astounding thing to me is that the letter advising the Ritz-Carlton Grand Cayman of this waiver and deferral is dated the 22 October, 2004. Why? Why should import duty be waived in relation to material or equipment or whatever it was that was imported by the Ritz-Carlton Cayman? Why is duty being deferred on a further US\$17.84 million for seven years? Why did we just not waive it on the importation of all material to be imported to the Cayman Islands following the hurri-

cane? At least that way the poor residents of the Island may have benefited from it

Someone ought to explain what government policy drove that decision. It is a question that is on the lips of many people throughout this country. At a time like this when people are suffering deprivation and hardship and at a time when Government is coming to borrow \$25 million to fund extraordinary expenditure we are telling a rich developer "You do not have to pay any duty to the tune of US\$4.46 million". In my view there is something fundamentally wrong with that.

The rest of what I have to say will have to be reserved for Finance Committee unless after you have heard what the Leader of Government Business has to say about Government's policy you will give us an opportunity to further offer some debate on those remarks. I thank you for your patience Sir. I know at times it may have been a bit trying and I am grateful for your graciousness. Thank you, Sir.

**The Speaker:** Honourable Members I will take a 10-minute suspension at this time for the afternoon break.

#### Proceedings suspended at 5 pm

#### Proceedings resumed at 5.39 pm

**The Speaker:** Please be seated.

The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you very much, Mr. Speaker. I am sorry I was in the offices.

Mr. Speaker, you have heard much from the Opposition Front Bench talking about policy; that is the two George Town Members. The Honourable Leader of the Opposition really did not have a lot to say and no wonder, because he left it all for the Second Elected Member for George Town to do his usual type of debate. I cannot say that there was anything generous about it but that is how the two work together. As usual, anytime they get the Budget or Expenditure Bill, anything that they can complain about, the Second Elected Member for George Town gets up and talks about how they are forced to debate without knowing what Government policy is.

The Member said that basically he wanted to support Government but he needs to know what the policy is. If he wanted to support Government Mr. Speaker, this would be the first time because on previous budgets he has walked out, so he did not know what the policy was or he did not care. He did not care how they could represent the country. At least two budgets in the past went without their debate or votes. He went on to say that he was forced to speculate. What he was trying to say was that he would like people to believe that he did not know. The time for this meeting has been somewhat in question since the

hurricane. I think Members would find in the Hansard that I said we must be kept on notice as we might have to be called back because of the particular circumstances that this country was in since the hurricane.

We particularly, did not set a date on the adjournment; we adjourned the house *Sine die*. We did not set a date but we talked amongst ourselves to say that the new revised expenditure would come down on the 13 or the 14 February, one of those days. We are not dealing in ordinary times. My life has been disheveled, family, functions, ever since I left the office the Thursday before the hurricane to help people in West Bay 'board up' as we would put it. Ever since Hurricane Ivan life in government has not been the same and a responsible Opposition would understand that and I am speaking to the Leadership of the Opposition, the General Secretary of the Party and the Leader of the Party. If they were responsible Members and they were responsible Opposition they would understand the situation the country is in with civil servants all over this town! Change in the administration of the departments of Finance and various changes in the ministries.

How can anyone be so downright ready to grab power, rush to get into the seat, to criticise the Government at a time when they know full well, and I know they know full well because the Leader of the Opposition would not get into the muck and the mire, he lets the General Secretary do that! They know and he knows within his heart of hearts that this country faces extraordinary times! This is not the usual situation. I have appointments also that I have to cancel, very important to this country, but my work here stands first and I have to bob and weave and rush to one meeting and then get back here to help keep business going.

Supplementary Expenditure Bill came to this House on Thursday. However, before I get into that I think in defense of the Clerk, the Business Committee and myself, I should say something since it was made to sound that things were run so badly at this time and in the past two to three years; that this is a constant thing getting close times for meetings. I asked the Clerk to give me some times when Meetings were set and notices were given, and at least she went back to February, 2002. The State opening 2002, 15 February 2002, notice was given on the 24 January and again on the 6 February 2002 was also given for the 15 February 2002 meeting. The Opposition complained about that! Did not have enough time!

Proposed dates by the Speaker for 2002 session, notice was given 11 April 2002 and at the close of the sitting held the 15 April 2002 the House adjourned until 10 am for Wednesday the 5 June 2002. The second meeting on the 5 June 2002, notice was given on 16 April 2002 and the Opposition, I think, complained about that! On the 17 July 2002 the House adjourned until Monday, 2 September 2002. The third meeting 2 September 2002, the first letter of

business to Members was, I think, on the 28 August 2002. If I remember correctly there were complaints about that. On 17 July 2002 the House adjourned until Monday 2 September 2002. The third meeting 2 September 2002, like I said, the first letter of business to Members was 28 August 2002. The fourth meeting of 2002, the 4 November 2002 there was a letter dated 22 October 2002.

The State opening of 6 March 2003 was given on 14 January 2003. The second meeting, 4 June 2003, the letter was sent out on the 16 May 2003. The third meeting on the 17 September 2003 the notice went out on the 22 August 2003. The fourth meeting on the 17 November 2003, notice went out on the 27 August and I know they complained about that also. Notice went out for the 17 November 2003 meeting on 27 October 2003. The fifth meeting, the 13 February 2004, notice went out on the 30 January 2004.

We had to reschedule the 2003 because of the new Finance Law which gave us a new finance year and then the State opening was on 2 July 2004, and the first notice went out on 22 June 2004. As I said they had been given notices of the change because we were changing to a new financial year. However, I think over in the Corporate Center where the House was then sitting there was a big uproar about that and I had to do the same thing I am doing now. State opening—the second meeting 22 September 2004, the notice went out on 7 September 2004.

Mr. Speaker, except for those times when we changed the year, look at the times given. You could say that that was not bad, but we were more or less in normal times even though the world economy was in shambles and we were scrambling to keep the country together and bring investment in and all the other things that you have to do. If you look at those time frames you could say it was not that bad although there were many complaints about it.

The written notice for this meeting was sent out on 4 February 2005 and the House started 10 February 2005. We are not living in normal times and no one can believe that right now in this country or since September 200—much less September 2004—business cannot be as usual! Try as hard as you may business cannot be as usual, where everything is hunky dory and everybody comes in and smiles with their jacket on and says *'we are nice guys we are here for the meeting'* and we will conduct business and that is it. No, Mr. Speaker, these are difficult times; times when I like to say *"Try men's soul"*. Believe you me, it does, it does.

The Opposition complains at all times because that is a good thing to jump on and the paper will carry it, looking like the Government is not doing a fair job and the main thrust of the Opposition is that they have no time to study these things. Phaw! They should have been here in the early days when I was here, when the Budget was given and brought down on a Friday morning and you had until Monday to get out and debate it. You should remember those times

Mr. Speaker, because if I dare say, you were part of a Government that did so also. You will well remember that we came prepared to debate. They talk about getting information, we had no information! No information! Today, as much as people complain about information they have more information because the Glass House leaks like a sieve! Before it happens—before it enters your mind—they've got it in some paper. What is not spoken of yet, they think it up, then go and put it in somewhere in the paper. You then see some email in some criminal newspaper!

Can you believe in this day and age Mr. Speaker, printing emails, crying crocodile tears? Oh what tangled webs they are weaving. The Supplementary Expenditure Bill came to this House on Thursday last week. The Member from George Town has had for all that time, what all of us, all other Members has had—that document. No one was treated any different. The document which tells us all, what the Government is doing; it tells us and the world, for those days before we even get in here and debate what the Government is doing. So much so that newspapers, the internet and talk shows can carry what you do before you even get a chance to stand up here and debate it. Do not tell me that there is not information.

Mr. Speaker, the process has not changed. The Supplementary Expenditure Bill came down and the Member spoke to it. They were expecting me to get up so they get could beat me over the head worse than what they done! I had no obligation to get up at the time. We will then explain the expenditure when we go to Finance Committee, which is the usual procedure when we come to this House for supplementary expenditure.

Not because they talk about this policy; not because we are asking for more funds or moving funds around to another head that the policy has changed! If more funds are needed for the hospital that does not mean the policy changed. What it means is changing worn out equipment and repairs and other such necessary work. There is a vote in the expenditure for \$200,000 plus, more than what was voted before for the work on Boggy Sands, Mary Molly Hydes Road. Has the policy changed? Has the policy changed from me completing the wall that some of the Opposition, I cannot say all of the Opposition complained about it with the little peck-peck. No! The policy has not changed; what it means is that we are completing and there is some extra work to be done now, and if there was a policy change then Government would have said there is policy change, but no, there is no change. The policy or the process has not changed. We present a request in the House and if we want to debate it we do so, and then we go to Finance Committee where it is all questioned by Members, if they feel it necessary; that is the process. What else is the process and why all this hullabaloo and carrying on over there and flowery language about policy and Government not doing its part.



I wish to God that there were other such Governments that have worked as hard as this one has; that were caring in the way that we have cared. I keep saying the elections are in May. I am not scared of the elections and if the people want a change they will make a change! Woe be onto them if they change us for some who are on the Opposition front bench. If they think they got it bad just wait until the High and Mighty and the Hoity Toity get elected and get in a position. I do not need to tell the people because they already know what will happen to them.

I guess that it is time if we are going to have elections for the politicking to start, but I tell you, I have work to do, I have work to do and that is what I am all about. When the bell is rung and the gate is open then they can make it a free-for-all, but we are not flying the gate before time. They want us into that election mode because if we do not say something they cannot say anything! You saw how much they begged me to get up there and make my policy statement so they could come behind and beat me over the head. If I do not say something they are not saying anything.

Mr. Speaker, tell them I say to go and represent the people, there is work to be done. The people in George Town need plenty help; plenty! They need to be about the people's business. This is part of the people's business, but this does not cut the cake! It does not put the roofs on! They talk shop here and questions here does not give the woman the roof with her children! It does not give them a bed and some of them are still sleeping on the floor. Do not think that we do not realise it; we realise it, Mr. Speaker. You know how much of that we have been doing? Why do they believe that we have gone out and taken the licks to give the amount of money that we have given? I wish I could wave a magic wand and all would be pre-Ivan again. I wish from the depths of my heart that I had that kind of power, but I do not. Realities face us and keep us in check, those of us who are sensible enough to recognise that these are different times. It is not business as usual—no!

When the Financial Secretary brought the Government's Budget for the 2004-2005 financial year to this Honourable House in May last year, none of us had any idea that just a few months later our beloved Islands would be hit by the worst natural disaster we have ever faced. Not in a thousand years would I have believed it and felt what I felt when I walked out of my door Monday morning. I had been out once in the hurricane earlier on Sunday about 8 or 9 thereabouts, but never did I believe that what I saw coming up on West Bay road and into George Town could have happened! When I went to visit Bodden Town and East End, and saw what I saw in South Church Street and the district of George Town, never in a thousand years would I have believed that could have happened to us who had it so good—never! We had it so good for years and we dare again to forget that

God is sending us messages? I believe you know that, because I believe in a God.

Unfortunately there are those who will rile you up to get you on that track with them and sometimes the temptation is so great that you jump and get on, fist for fist. No! I do not think that that is what we should be doing. I really believe that what the people of this country want is a unified force. That could mean some of us together in here, not necessarily one Party, not necessarily the so called Alliances but I believe that the people want us to work together, that is what I believe, wherever that force comes from.

A different shed here Mr. Speaker. The Alliance in George Town, the PPM and the United Democratic Party—be sure people are looking on and they want us to work together. However, as I said, as soon as you throw one blow it is word for word, blow for blow, in this thing called politics. Let us not forget it. I know that my friend, the Leader of the Opposition, knows that. He was sensible enough not to carry on what his deputy did. In a time when everybody has taken a beating, not just some little poor man house got torn up, businesses too! Do they recognise how precarious a position we were in Mr. Speaker? Remember the Haiti days and the few days we met together trying to keep the wolves from the doors of these Islands, from taking our business away.

I got a message from our friends in the British Virgin Islands and in Bermuda who said we have the infrastructure and we will take your business and help you. They called me on the hour. Mr. Speaker, you may remember that we did set up a committee and the Leader of the Opposition was a part of it. Do we recognise the precarious situation, it was not just the houses torn up in South Sound; it was businesses; hotels mashed up; gone! Maybe it is a warning for me; maybe it is a warning for you; maybe it is a warning for all of us, but we should not forget, lest we forget we should think back.

None of us expected to experience what we went through, as the hurricane hovered our shores for those 17 hours, and none of us expected to have to deal with the devastation we found afterwards. It is the worst thing in this world for any of us in these precarious times to make people believe that they would not have to wait, that everything was going to be hunky dory and dance-dance again because we would have waved a magic wand and make it all pre-Ivan again. We are not out of the woods yet, we are far from it. No! that is the worst thing that we could ever do. In times of crisis it is natural for the country to look to the Government for leadership and direction and I believe that my Party takes this responsibility very seriously. In the days immediately following the hurricane we understood that there were some urgent issues which needed to be dealt with immediately.

We needed to get basic infrastructure such as power and water and phones operating; we needed to get the port and airport fully functional; we needed to provide temporary shelter and housing for those who

were displaced; we needed to ensure government services were operating; we needed to get our key economic sectors; financial services and tourism up and running; and we needed to get the schools open again. The Government acted as quickly as humanly possible to address these and other immediate issues.

We established the Cayman Islands Recovery Operation Committee (CIRO) to coordinate the recovery and restoration effort. The committee was given three key priorities; coordinate the recovery operations, debris removal and provision of temporary housing. When you read some of the hype . . . and I am not afraid to name the *Caymanian Net News*. He has a problem because I have entered a case against him and he has been served a writ! If you tell lies you have to prove them!

When I see the hype and it is hype; it is really hype when you see the nonsense and the outright hatred coming out of it because you have to wonder. Only in the Cayman Islands, as much as they talk about us, would that criminal be able to run a newspaper in this country—only in the Cayman Islands. Only in the Cayman Islands would he be doing what he is doing and has done for so long when we are trying to build international relations and keep our financial services intact, anything that he can do to give us a black eye he helps to do it, thinking that that is hurting the Government. It is hurting the entire Caymanian country and anyone joining him is just like him.

**The Speaker:** Honourable Leader of Government Business I am appreciative of the privilege that extends to all Members in the House but I would ask that you be very careful in any further discussion in regards to the case that you have brought against the person in question, since it could constitute *sub judice*.

**Hon. W. McKeever Bush:** Mr. Speaker, I appreciate your efforts. I do not agree with you that it is *sub judice*, to the extent because of the kind of case it is, but I am speaking the truth though! Oh!

I have taken my licks in the past and I have been accused, ridiculed and anything else that you want to put with it but I have withstood the test and I am still here. In spite of them I am still here and in spite of others I am still here, and with the help of Almighty God he is going to give me the strength to finish out the next four years. The next four years I will be 54 and I say to this country through this medium, I do not intend to run after that, but we have work yet to be done and we cannot leave the country. I would walk away from it if I were a coward because I am tired of working without facilities; I am tired of working under the system we have where I am held accountable, but have no authority; I am held responsible, but no authority. I am tired of having to work with a Governor who sometimes says one thing and sometimes

does another thing and if he can slap you behind your back, you get it! Not man enough to stand up and do it.

If the people of this country believe that it is a good time now, then Mr. Speaker they have another guess coming. I decided I would take this route to say what I have to say here today because of fact and I bury it in my heart of hearts, I have not done wrong by this country, I have done everything good that I can. Let them go ahead, the hype is there and there will probably be more after this meeting.

Look at what we have done, we are criticised but look at what we have done. We reduced duty on housing materials, motor vehicles, businesses. We have reduced planning fees, 50 per cent for business and individuals; we provided grants to the uninsured for the repair and necessary restoration of houses; we made interest free loans available to civil servants; we provided additional financial assistance to the more vulnerable groups in our community; we funded community groups to assist with the clean up; we relocated Government departments and agencies where premises were destroyed—note that the whole Tower Building is gone. We began repair of the schools, roads and other essential infrastructure; we increased mosquito and fly control activity, very necessary. People look at these as small things—you think it is? Well you know what Mr. Speaker, let us not have done some clean up in this country then you would have seen some diseases running around here because of the amount of flies, mosquitoes and rodents that came in after the hurricane.

We assisted the civil servants and we would have loved to do much more but we have some limitations. As I understand it from the officials, debris removal is three quarters complete; that is what they are saying. However, we know that insurance companies have not yet paid some people. There is still a lot left to be cleaned up because as soon as people get their insurance money, and I hope they get it, there is going to be a lot more debris to be concerned about.

The first batch of temporary trailer homes are currently being commissioned and further shipments are on their way and I note the concern by the Member for George Town. He said it was the wrong thing and I never heard what he suggested should be the right thing, but he said they were the wrong things. I tell you what; some needy people are going to be sheltered properly in those trailers. We know that if a hurricane or any such weather comes in you have to move people and put them back in the strong shelters, but for the time being that is better than somebody sleeping with a leaky roof and a piece of plastic over it.

Housing repair grants; and as I said civil service loans have been processed and issued; schools are reopened; essential roads have been repaired . . .

[Inaudible interjection]

**Hon. W. McKeeva Bush:** Well Mr. Speaker, I know that the Member from East End has some concerns and I guess he will explain to the Minister of Education what that concern is, but schools are open and albeit that they have to go into a shift system. Look at what we were faced with for years! You think the structures were good? One sheet of plywood sits on two rafters, eight feet apart, eight feet apart. You think it is easy? Now there is concern about three high schools. We were in need of them years ago! That is the problem. We were in need of them years ago! I think the Minister of Education is well equipped to deal with it.

The financial sector is fully operational and the tourism sector is recovering faster than many predicted. However, let me say that the industry has been hit hard. Major hotels will not reopen until late this year and that means that we will miss this season, which means a tremendous loss to this country. As much licks as I have taken from the cruise ship industry; from the Leader of the Opposition; from the Secretary General of the same Party; from their cohorts in West Bay and those who generally want to get on the bandwagon to beat you up when somebody else is doing so, I am saying that I made the right decision to make a good partnership with the cruise industry. For one it is growing, and secondly they were there, not going away and always willing to be here.

I must say that never in my imagination I thought that a hurricane would have destroyed us but I always wondered what would happen to our hotel industry and our long stay visitors if something happened to the airline industry or worldwide otherwise. Never mind the fact that we do not have the hotel rooms for them now. The ships will get their people and they will go. We are still a good destination and soothe same is being said by the cruise industry.

If I had taken the advice of the Opposition Leader at the time, then I would not have done anything and you want to see starving people? You want to see people laid off from all of those Duty Free shops? You want to see mom and pop operations go under? You want to see some 30 seater buses lying around empty and general unemployment? No I did not go to a university. No, I did not even get a change to go to comprehensive school but I was over there in secondary modern school which Mr. McHale said the system was a disaster, but common sense and vision mean a lot, and that is what I think I have, if I should say so myself. I am glad that I took that position.

The port has doubled its staff and tripled its throughput and opening hours are extended to facilitate people who hopefully are now coming to collect their import. Custom clearance has been streamlined and opening hours have been extended also.

Mr. Speaker, thank God that we still have good, loyal civil servants and as much hullabaloo that is trying to be made about people persecuting civil servants by one little chip-chip or peck-peck as I refer to him. I am glad that we have those who will work until 2 am and 3 am as they had to do recently to get

through this Budget. When some of them are off drinking beer and playing dominoes, the civil servants that they say we are persecuting are working hard to help us because we know they are loyal civil servants and I thank God for them at this time.

Much has been achieved in a relatively short period of time. Ivan will have more than a short term impact on the Cayman Islands. The Government understands that more than short term responses are needed; we understand that. The immediate actions I have just outlined are only part of the Governments strategy to address the devastation of Ivan. The Government has also developed plans to assist restoration in the medium term. These include \$5.5 million for housing repair grants through the development bank; the \$1 million donation to the Cayman Islands National Recovery Fund; a new \$2 million district hurricane relief assistance fund for homes destroyed by Hurricane Ivan; additional funding for repairs to road infrastructure; significant enhancement to our school infrastructure through the provision of temporary classrooms; repairs to existing school buildings; the expansion of the Savannah Primary School and bringing forward the plans for Frank Sound and West Bay High Schools.

Mr. Speaker, the Minister is right in doing this, and, as I said, I know he will explain it. Thank God we have set about this new expansion of repairs to docks and other Government owned infrastructural assets such as the Courts Building; temporary financial support to organizations whose operations were severely affected by the impact of Ivan including the Pines; the National Museum; the National Cultural Foundation; the Health Services Authority and Cayman Airways. We also had to extend our grant to Cayman Airways because of the serious rise in fuel, and of course, other factors such as the downslide in stay-over visitors.

I had hoped that Cayman Airways would not have been the subject of the kind of criticism that was leveled by the General Secretary and Deputy Leader of the PPM. He did a good job of putting credit in one pocket and taking it out of the next. Now he did not say a whole heap but what he said did lay aspersions that something is radically wrong. We know what is wrong, the airline was always in that problem but we did a lot to bring it out and I am not going to get into it at this point. If I have to do so while on the campaign trail, I can do so. However, I am not going to get into it because the country understands that Cayman Airways is on a better footing today that it was in 2001 and prior.

People know I gave Cayman Airways an ultimatum, you are going to do better or you are going to sink, simple. Things were done to make things better. Immediately \$10 million was cut; there was streamlining and it is in a healthier position today. They cannot say that McKeeva Bush did not support it. Look at what we have done; look at the expansion and how much stronger it is today. Thank God, the Govern-

ment of the day could do that. I am not the accountant and I do not sit on the Board. I made a conscious decision to streamline that Board; it had good members before and it still has good members. We had to give it a whole new structure where people can watch things better and have a little bit more hands-on. The accounts will come in due course, and if he wants to find out what due course means, it means due course!

I think we gave financial and fiscal assistance to the agricultural sector and they are wondering what we mean by social assistance in the budget. We increased wages for the veterans because where they were getting \$400 they now get \$450; we added more. As I said, we have put back on many of those who were taken off before. We can see what we have done. Yes, maybe there are people, Members who could do more individually, maybe, but I know as a Government I like to think that we have been conscious and worked hard to assist this country to bring us to where we are today since Ivan.

Now more than ever we have to learn from our experience and prepare for the future. With this in mind the Government has also commissioned a review of our emergency management system to see how we could reduce our vulnerability of future risk and better manage emergency situations. I see one candidate who jumped out of my Ministry overnight complaining about the Government. I took the time out to go and talk to Marsh McLennan about preparing for natural disasters and how we could deal with it before and afterwards, and we were given a presentation by them in the Cabinet but no Paper went to Cabinet. I had to really speak in a rough way to get him to put the Paper—and you know when that Paper went? He left in July and that is when the Paper went to Cabinet. A little bit too late to do anything about what we faced in September, but for the whole year it languished and they are now talking about how they are prepared to help people? They want to get on the bandwagon punching out at people? I say little peck-pecks like that should keep quiet. However, I am not ready to campaign, not ready yet.

We now are working with the emergency management system to see how we can reduce our vulnerability to future risk and better manage emergency situations, and speaking of the future we are also setting up a new strategic planning and research unit within my Ministry.

I believe that the people of this country really need to look at where we are. Yes, we need to get people in houses and I wish that we could do so quicker. However, development on the shores of this country needs to take a hard look when they develop by thinking about whether or not to build a living floor on the ground floor or whether to use the ground floor for parking; or the second floor for parking and then start up on the third floor and have three or four more floors. I am talking about development on the shorelines of this country. We need to look at it because some of this is what causes insurance rates to in-

crease. When you go by the shore and you do the same thing like before which has caused the damage, well then what is going to happen if something happens again? Obviously you get damaged again and the same thing occurs again. I believe that we have to look at things differently in planning, as I said, new strategic planning that is one aspect; the other aspect of it is proper revenue stream in this country.

I hear a lot about what Government needs to do but I do not hear a lot about where we will get the money. They can make any kind of accusation and I will deal with one raised by the General Secretary of the PPM. That is a serious concern for this country and people better get the idea that it cannot be business as usual. We are going to have to be innovative and welcome people whom we may not have wanted to in the past. You better hug 'em up now and as I said one time, "embrace wealth or you sup salt".

We need to look at our situation here in this country as far as new revenue is concerned. We cannot do all that we need to do under the same revenue system. That is why I have said I will look at a refinery, give it the highest environmental protection, but let us look at it, cheaper fuel for electricity, probably good gasoline for ourselves and better aviation fuel. Do you know how much cheaper it would be if we could get cheaper fuel domestically, exporting some rather than importing it?

As much as we grumble and cry and carry on, we need a new dock, and we can do it so that it enhances and gives a greater return to the country. If we can do that and a new airport also, all those things will enhance our revenue, therefore we can have more benefits for people. Instead of the older people getting \$400-\$450 per month and living hand to mouth, we could probably increase that.

We are talking about schools, giving children computers and all those sorts of things, and more hospital equipment for better medical services, well the money has to come from somewhere! Let us not make people believe that this can happen without doing the things necessary to get the funds! Where is the money going to come from? Have you ever thought about it? While they criticise development and say: "Oh McKeeva is selling the country"—yet they want a new road, they want the Minister of Works to build new roads all over! Build them in the sky even if that is where we have to build them! They want all of that; they want the new schools also, and we have to get those things.

I heard the Member who debated last, before me, say that Cayman is a rich country and should not have this and then he went on to say that why we are not getting international help is because of the Government. Well you cannot say that we are a rich country and then go out and ask for international help. That is one of the reasons why we did not get the assistance we needed; because everyone thought that the Cayman Islands was the richest country in the world with no poor people. Mr. Speaker, do not let anybody

in here say again that the world did not know. They could not know the first two days or even three days because we had no communications with the outside world. However, as soon as we could we had press conferences in New York and all over. Yes, the Cayman Islands is seriously damaged; yes the Cayman Islands do need help; yes. So, we told them, however, we cannot say that we are the richest country in the world on one hand and on the next hand, say that it is the Government's fault why international help was not on its way.

The people are not fool-fool after all, you know; they are very astute. I give Caymanians that, they have good common sense; they know what is right and what is wrong, the vast majority of us and others who live here amongst us. So, when we hear that kind of debate, oh it is good, good as I said, nice language, good debate for an opposition, but where is the substance and the truth in it? Above all else be true to thyself.

They know better. I have said many times in this House, Sir, that Government is committed to fiscal responsibility. It would have been easy for us to say that because of the unprecedented circumstances the country was in that we would just spend and forget about where the money was coming from. Well, that is not what a responsible Government does. Immediately after Ivan the Government set about a detailed review of all its expenditure and they worked as hard as they could at it. All ministries and departments were asked to review their budgets against the new priorities set by the Government after Ivan. This resulted in the most significant reprioritisation of expenditure in the history of the Islands, I believe. We did not just throw money at the problem; we made sure that each dollar was spent wisely. In short, we took a considered approach and the results can be seen in the Supplementary Annual Plan and Estimates. The key measure of Government's financial performance is the operating surplus before extraordinary items, and you, as an accountant, know that, Mr. Speaker.

The forecast shows this to be a small \$1.7 million deficit; do you think that is not good? That is good management. This is less than one half of one per cent of core Government expenditure. As the Financial Secretary has said, this is so small that it can be considered a balanced budget. Let me repeat that, the Government has funded a wide range of recovery and restoration actions and still balanced the Budget.

We realise that some may want to make a big deal out of the extraordinary items which amount to \$31 million. Well they can try but they will not succeed. There is a good reason why they are called extraordinary and the Financial Secretary has explained that to all Honourable Members of this House. The extraordinary items are one-off, not on going. They are not a reflection of the Government's underlying fiscal position and no one should be tricked into thinking they are. The real question is: how will the Government fund those extraordinary items? The answer

to that question is: mostly from reserves. Mostly from reserves and those are the reserves which the Opposition—he is not here when I am speaking Mr. Speaker, he has left—the Opposition said that we did not have them. Well, that is why we have reserves and the fact that we have them at all is testimony to the fiscal prudence of this Government.

As you will recall when we became the Government, and the Leader of the Opposition should remember this, the cash reserves were equal to less than two days expenditure. Less than two days expenditure; that is a pretty fair reflection of the fiscal irresponsibility. We are responsible and in our three years in office we grew the reserves from almost nothing to over 60 days of expenditure and the answer to the reason why we did this, is in all the efforts we made to keep a strong economy. Remember the licks I was taking about only helping big businesses. Mr. Speaker, the small businesses were doing well in this country then, and are still getting back on track today. The proof of that is to take the Economic Commission for Latin America and the Caribbean (ECLAC) Report done by the United Nations and read what they had to say about the economy of the Cayman Islands 2000/2001, up until the hurricane. See what they said. As I said, I will walk with that also when I go to campaign. I have been asked by my opposition in West Bay to walk the walk. Oh! I will, Mr. Speaker, I will.

We made the effort to keep the economy strong, assist businesses and we made great strides to bring in sustainable development, again something which I took licks for, such as the Ritz Hotel and the Dart project. They bring revenue to the country and the Government benefits. That is where the money comes from. We spend money to make money. We have to assist and that gets me right to the point of this waiver to the Ritz-Carlton.

Let me go back to 2001 or even before that when the project was given its first permission, there was an agreement to waive duty for them. In the early days the decision was made to do some waiving and to defer some. With other projects complete waivers were made. When this Government took office in 2001, the Governor in his throne speech addressed the matter. The Leader of the Opposition, who at that time, was the Leader of Government Business and the Second Elected Member for George Town, as he is now, was his big advisor. We said that we were going to support the Ritz-Carlton because we felt it was good development for the country.

Post Hurricane Ivan everyone was concerned that the project and the economy could have slipped into serious problems, therefore we took the proactive step to show our continued support for this project and help launch it on the way to recovery. Government needs to lead when it is necessary. The waiver given to the Ritz-Carlton, Grand Cayman project, as I said, it was not the first time that it has been done. Government needs to encourage high-end developments like that to fuel our local economy as it has done. Many

countries in the region waive almost all duties in order to attract these types of development. In the case of the Ritz-Carlton, Grand Cayman this is a small concession for a project that has and will continue to have major economic impact.

It is important to note that with regard to this issue the request was made to the Government well before the hurricane. I heard the Member from George Town saying that if this was made before the hurricane he could understand it. I suggest that he ask the Financial Secretary to show him the letters. The request was made before the hurricane and it was precipitated by a Deloitte Economic Impact Study which showed that the total economic benefit of the project was far more than originally anticipated. A \$500 million positive economic impact by October 2005 was expected. Over \$1 billion in positive economic impact when all phases are complete, and when opened the Ritz-Carlton, Grand Cayman will represent a full seven per cent of this country's gross domestic product. This is what we need to pay attention to and that is why I said that we need to have good business sense because to make money you have to spend money.

The Ritz-Carlton, Grand Cayman will yield approximately \$139 million in direct government revenues. Pre-hurricane it was projected that it would provide over \$58 million of this to government in the first phase and post-hurricane the project would provide an estimated additional \$12 million in revenue to government as a result of new purchases that are not exempt. Even with the waiver the Government has assisted them with net an additional \$6 million in revenues from this project and the duty waiver represents only one per cent of the over \$440 million project costs. Other countries in our region and throughout the world routinely grant concessions up to 15 percent of development project costs.

Our job is to promote business and help our country. This is not about Michael Ryan or anybody else; this is about the Cayman Islands. This show of support is the right thing to do as we have and continue to show support wherever possible to all people and businesses of these Islands.

The Bahamas have gambling, the Cayman Islands do not. They have something to attract the people. They have hundreds of islands where people love to visit. Their Government had to build a bridge to Paradise Island, and there is not just gambling there or gaming. They have huge developments where the football stars and other stars from the United States have gone to live. Do you think that is not helping the economy? Sure it is! Millions of dollars are pouring into the Government coffers. I believe the Government had to spend well over \$20 million in building that bridge. While we are down here suffering with only 600 rooms they are overbooked by a thousand people, or twelve to fifteen hundred people. They are seriously overbooked at Christmas and Easter. We have to prepare for the future and we cannot do that by be-

ing shortsighted and small-minded and say: "*Oh McKeever has a real estate company, so he perhaps can get some real estate*". I saw the innuendos in that criminal newspaper.

We have to forget about who is involved. Once all legal things are done and think about the future of the country and what it is going to do for the children of the country, we have to give up things, yes! We had to take down some mangroves to do it. Yes, we had to give up things. The same criticism came about the hotel in East End, The Mandarin. Do you know what that could do for this country? You realise the prestige that this country could have and the sustainability—they like to use that word—Members and the opposition on the outside like to use that word about sustainability. Do you recognise what that could do to our tourism industry and yet we want to play around and criticise and try to make people look like crooks. Well if they want to believe that let them go ahead, as I said I cannot lose one ounce after them cursing me or talking about me, I cannot lose weight off of it. It does not make me sick—ha. I am not worried about that Mr. Speaker. When I leave here I want to know that I have done the best I can do for this country, that there is a lasting positive effect; that is what I want.

I know that the Member from George Town is not yet done because he is now going to try and ride that hobby horse into the campaign. I hope it throws him off!

We cannot do anything for people unless we have money to do it with and we cannot get money from ourselves. It is no use of me building a clothes store and you building one and the next one building one, or I investing in doing a hairdressing parlor and then you come along and you are going to do two; that is not helping this country; that is not bringing revenue; it plays its role, but you have to bring in other people and we have to put up with it. Cuss them as much you like—and some have done that, but some of the people that we gave status to are the ones that stuck close by us. I hear some ran away but those we gave stuck with us—thank God! Look at what Mrs. Oldy has done for the district of East End. We should get down on our knees and be thankful.

They have accused us of all sorts of trickery in building the reserves. The plain fact of the matter is that when Ivan hit we had 60 plus days of cash in our reserves so we are able to fund the extraordinary expenditure. What would have happened with two or less days general reserves, if we had kept on that track? I say again with emphasis that you have to give and put up with things you may not want to put up with. You might say: '*Oh it is overdevelopment*' but it is what brings in the money. It is what pays the Civil Servants; it is what pays people on the street; and it is what keeps me and you in a good standard of living.

Despite the hurricane and despite the fact that it is an election year we still continue to be fiscally responsible. The supplementary expenditure tabled in

the House today complies with all but one of the principles laid down in law of responsible financial management, and misses that one only marginally. Is that not good? Sure it is good! Good, yes. The opening surplus is a very small negative and the Government is committed to ensuring that it is positive in the next financial year. I hope I have that chance and the people of this country gives me that chance to work with the Cabinet and the Civil Servants to be able to turn that negative into a positive in the next financial year and pay down our loan even more. Although extra one-off borrowing is necessary to replace destroyed assets the Government's borrowing and debt servicing ratios continue to be well within established limits.

We have not spent all the reserves, in fact we have maintained them at the same level as the original Budget so there is no policy change here, this is more than double the required level and a prudent safe guard for the future.

Before I conclude there is one matter that I would like to refer to because it was raised, and that is the District Assistance Fund of \$2 million. I would like say, and probably the best thing to do is to lay it on the Table of the House and . . .

*[Inaudible interjection]*

**Hon. W. McKeeva Bush:** Mr. Speaker, to be honest with the House, this has gone through Cabinet but I did not get the permission to lay it. So, I would ask that I not be asked to lay it, however, because it was raised and it stops the innuendo and the accusations let me tell Members a little bit about it.

We are going to have several district committees to administer this fund. The special district fund in the sum of \$2 million has been established and is in addition to the other hurricane relief funds. This fund will focus more on the respective districts where we can better assist individual needs and the new fund. In addition to being allocated for the rebuilding of roofs and walls we will also address a wide range of needs including the replacement of furniture and appliances which were destroyed as a result of Hurricane Ivan. This new district assistance fund will be more accessible by the various needy persons in all districts whose properties have been damaged by Hurricane Ivan. These funds from the district will go to the Housing Repair vote in the Ministry of Community Affairs and the district committees will have access to the funds as, and when they are needed.

In terms of reference, the district committees are established to oversee and manage the disbursement of approximately \$2 million. As follows the Committee will identify and examine persons who still have a need as a result of Hurricane Ivan. The Committee along with the applicant will agree on the builder and they will ensure that monies are appropriately spent and be responsible for collecting all receipts on behalf of the Government and for providing Government with a statement of accounts and sup-

porting documents of how the monies were disbursed. There will be district committees to administer this.

Bodden Town—a grant of \$1 million with the committee being as follows: Mr. Samuel Rose will be the Chairman, Duane Seymour, Joseph Solomon, Omar McLean, Caroline Solomon and Florence Wood.

A grant of \$375,000 to the district of George Town and the Chairman would be Patricia Ulette along with Alex Oneil, Donna Myrie, Derek Ebanks and Merta Day.

A grant of \$325,000 for the district of West Bay—committee members are as follows: Judy Powery as Chairman along with Julie Hunter, Recelda Ebanks, Cora Grant-James and Bruce Blake.

For the district of North Side a grant of \$100,000—to be disbursed by the committee members, Jason Azan, Burke Connolly and Lucy Ebanks.

For the district of East End \$150,000 and the committee members are Mr. Darrell Rankin, Ann Kirchman as Chairman and Patricia Bell as a member.

For Cayman Brac \$50,000 and The Public Works Department of Cayman Brac will administer that.

We believe that this will help and we are not saying that this is going to be everything that is needed because we know that there will be a need for much more. However, thank God Ministers felt that this was necessary and we are moving with other things we thought necessary at this time, such as looking at individual needs. We looked at the debris, the emergency stuff and now we are paying attention to individual needs as much as possible.

I have taken this upon myself and as Minister and Leader of Government Business I would like to announce that we would like to have some gospel concerts to raise some funds. We are all called upon to constantly give and on Saturday (this one was planned for my birthday) when I became 50 my supporters and friends decided to put on a gospel concert with churches and individuals taking part where they are raising funds. There is no cover charge to get in but there will be an offering received and businesses in the community have responded by giving building materials, groceries, furniture, and appliances from A.L. Thompson which will be given out at that time. We plan on the 19 March to do one in North Side for the three eastern districts. Again this will assist with raising funds and helping people who need to buy a bed, stove or something that they are not getting assistance with. These are people who do not have insurance. Hopefully sometime in April we will have one in the George Town district.

In West Bay the guest artist is Carlene Davis. I think it is good to try to lift the spirits and people have said to me: '*well you are fifty now, why are you not having a big bash?*' and I answer telling them that I do not feel like having a dance but we will do a good

singsong and spirit uplifting time at the West Bay Town Hall Field on 19 February. I hope to see many of you and your friends there.

In concluding, a government's budget is not just about numbers and figures but it is a statement of the Government's vision and how it intends to achieve it. It is about the focus of Government. The Government's original Budget for 2004 laid out a clear plan for the development of the Islands. Just a few months into that plan, things changed for all of us. The Government has responded to that challenge. We took immediate steps to address immediate needs and we have developed a strategy to address the country's medium-term restoration needs. We are ensuring that we learn from the experience of Hurricane Ivan to mitigate the impact of future disasters. We are doing all of this while balancing the Budget and ensuring compliance with the principles of responsible financial management.

Mr. Speaker, it is said that anyone can govern in good times but it takes a government with vision and leadership to govern in difficult times. As this Supplementary Expenditure clearly shows the Government is such a government. We invite the Members of the Opposition to walk with us on this walk, to be one on this and to pull the same ore that we are pulling in the same direction, to sing from the same hymn sheet and let us sing the same song. Mr. Speaker, this is not for McKeeva; this is not for Roy Bodden, Gilbert McLean, Juliana O'Connor or Frank McField; this is for the people of the Cayman Islands.

I know Members have their concerns about various things in their constituencies and I am not asking them not to be a representative, their job is to say what the problem is but for God sake let us not blow things out of proportion. We are still in a precarious situation in this country. Times are not good yet, but we are moving in the right direction. It is difficult for everyone and I recognise that the Opposition has their challenges. I am not trying to make their work difficult here. It is a difficult time we are living in; it is not the same business.

As I said, when we are ready to launch the campaign I will ring the bell.

**The Speaker:** Honourable Members I did give the assurance that I would comment on the contents of the debate of the Honourable Leader of Government Business to ascertain whether or not the policy initiatives that underpin the Supplementary Appropriation Bill were indeed significantly different from those attached to the substantive Bill that came before us last year.

I am satisfied that I have heard no significant changes in the Policy. Most of what the Honourable Leader of Government Business stated has already been made available through the media. So, I do not think that he has strayed beyond what he had originally stated that he would be commenting on, he has not gone beyond that. Accordingly I see no need for a

second chance debate on what was said by him in his debate.

I would like to take a short suspension for consultation with the Clerk and I ask Honourable Members to please remain in their seats.

#### Proceedings suspended at 7.16 pm

#### Proceedings resumed at 7.18 pm

**The Speaker:** Proceedings are resumed. Does any other Member wish to speak?

The Honourable Minister for Education.

**Hon. Roy Bodden:** Thank you, Mr. Speaker.

During the height of the Civil Rights struggle the Rev. Dr. Martin Luther King in one of his speeches said that the ultimate position of a man is not where he stands in times of comfort and convenience but where he stands in times of challenge and controversy.

Where the Government is now standing is the best and most long lasting characteristic considering where we stood prior to where we are now. I know what time this is. I have seen many such moons and I have weathered many such storms and expect that there are those who will try to proffer themselves as more deserving and as more effective than the Government. However, I say without fear and favour that the record of this Government, even before the events of Hurricane Ivan, proves that the Government is capable of effectively managing the affairs of this country. I have listened to the debates coming from the other side and I have to say, as a student of human behaviour, that the Leader of the Opposition continues to be crafty and experience because once again he debated like a gentleman and left the muck raking to his young colleague, the General Secretary of the Party, the Second Elected Member for George Town. All I want to say is perhaps that is a perhaps that is a good baptism for him because this business is by no means one sided.

The stench of hypocrisy, like a cheap perfume, permeated the atmosphere when that speaker was contributing to this debate. I was shocked, like Claude Reins in the film Casablanca, to hear him make some rueful admissions. That gentleman whom when we talked about bringing in modular classrooms to deal with the situation we had, proclaimed that the world was coming to an end! Now he is touting the concept. If we were to believe that gentleman we would believe that this is the worst education and governance has been in this country since it was first settled but nothing could be further from the truth. Then as if to make matters worse, in a little side bar in the Common Room he told me that I could not speak before his colleague, the Member for East End. I am speaking because no cowards came from the loins of my grandfather and I do not have to worry about his



colleague, the Member for East End because he is not in my league.

I guess before I sit down, if there are any doubting Thomases over there they will understand that I am defending my record because it is about honour, integrity and performance; and in case there are any doubts I will rise and fall with the United Democratic Party. However, I believe that I am going to rise like the Phoenix because I know the efforts and polls they conduct; they polled some of my good supporters. I am not worried; I am just going about it efficiently doing my work. In this debate I am going to largely confine myself to answering the questions which was raised by my good friend, the Second Elected Member for George Town, because I do not wish it to be said that this Minister is not conscientious and does not have his finger on the pulse of what is happening in education.

So, I am going to lay the groundwork and the justification for what we have included in this Budget document.

When Hurricane Ivan struck the Cayman Islands I was attending an education conference put on by the UNESCO (United Nations Development Programme) in Geneva Switzerland. The reason I went to that conference was to primarily be able to benchmark and compare what was being done in the Cayman Islands vis-à-vis the rest of the world and particularly the developing world. I believe if we are successful we have to prepare the cohorts of Caymanian students to compete in the service industries which the Cayman Islands have chosen to make their record in.

So, when Hurricane Ivan struck I was not here and up to that point, from what I garnered from the conference, the Cayman Islands were doing well. People were talking about universal primary education and achieving universal secondary education when we have clearly established roots to universal tertiary level education.

Mr. Speaker, the Economic Commission for Latin America and the Caribbean (ECLAC) Report concerning post Ivan assessments had this to say about the education sector. The ECLAC Report is a report which was conducted under the auspices of the United Nations Development Programme and (ECLAC) is the acronym for the Economic Commission for Latin America and the Caribbean. This Organisation came to the Cayman Islands and made first hand assessments of various sectors in the Cayman Islands society.

On page 50 of the document on Education I quote, **“Damage to the education sector proved to be both costly and disruptive to the every day life patterns of the Grand Cayman population. Financial damage to the sector amounted to \$44.8 million. However, if it were measured in school days lost, this varied from 25 days to a maximum of 490 days per student depending on the level of education and the severity of the impact of Ivan on the specific institution. It would be safe to estimate**

**that as much as 64 per cent of the student population was directly affected.”**

I vividly recall when the Government said it was going to be building the prospect primary school and the Opposition said no such thing would happen. There were all kinds of discouraging and disparaging comments as to why the Government would never achieve that objective. Well the Prospect School was built and opened in the time that the Government said it would be built and opened. I was not here, as I have said, but I understand that it was fortuitous timely, perhaps a God send, I also understand that at one stage during Hurricane Ivan this same school housed close to one thousand persons. We had the official opening and the Opposition showed their interest by absenting themselves. So, I do not expect that they are going to give the efforts of the Government or the Minister any plaudits when they are so begrudging that they do not even show what is accepted in political circles as, common courtesy. However, the show went on without them and the show will continue to go on without them if they insist on being immature.

At the opening, the Leader of Government Business, my colleague, the Minister of Health and myself were there. I got apologies from the rest of my Government but I received no apologies from the Opposition and I know they got invitations.

We, very early, gave an indication of the long-term objectives of education. I want to say something and I will not say it lightly; I am going to be like a preacher! I was surprised and disheartened when I heard the Second Elected Member from George Town say that there was no indication of the long and short-term educational objectives in this country. That hurt me because at one stage I was his history master and I know I did not teach him that characteristic. I do not want to say that it is lying but I want to say it is extreme difficulty with the truth!

I vividly recall the day over in Kirk House when not only me, but an entourage of people I brought, asking why we had to transform the Community College to a University College. Why it was necessary to take this route and what we saw as the future of education in the country. I also vividly recall when I tabled the so-called report card from my Ministry how the Opposition made a hullabaloo and poked fun at it, saying all kinds of unflattering and disparaging things. In that particular document, which was tabled in this Honourable House, was clearly laid out the objectives of education in this country for my tenure of being a Minister. So, how can that gentleman in all good conscience get up and say that there was no indication. This is serious business. How can we purport to represent people if we have trouble coming to grips with the truth? Is political position that important? If we cannot be honest in the small things how in the world can we be expected to be honest in the large things? Is it that important to gain political advantage? If they want me out of the fray they will have to beat me out of it.

Mr. Speaker, it goes even further than that, I have had hitches and run-ins with colleagues of his that bordered on the extreme withholding of information to make somebody look bad. Is it that necessary to stoop to that dept to gain a political advantage to make somebody look unfavourable? I have never, in all of my life, resorted to that! Until they get there and have weathered the storms they will not understand. Mr. Speaker, trust me, you know, I wrote the book on Back Bench behaviour and I thought I was going to die on it but I never resorted to those kinds of things. It is not that important to me because I look forward to being Mr. Citizen, Roy, but I am not going down without a fight unless, of course, I am ready and willing.

Going back to the essence of my debate, it was clear what the long term and short term educational objectives of the Ministry, under my guidance, was. What I am not prepared to do is be reactionary or to come without a plan, neither am I prepared to jettison the long term objectives for the short term promise of a false success just to look good on the eve of an election. I am dealing with the future of this country; the future leaders of this country, and I am never going to sacrifice certain principles to look good and to get re-elected on the eve of an election only for events to turn, and four or five years down the road for people to learn that what I did was purely shambolic and cosmetic! There is a plan and the long awaited second high school in Frank Sound, God's willing, the launch will be on 1 March. As for the Boatswain Bay School that is coming along too and we will embark.

The Second Elected Member asked what the \$2.5 million is. The \$2.5 million in the Budget is per school site, \$2.5 million for Frank Sound and \$2.5 million for Boatswain Bay is for the geotechnical survey and for the preparation of the site. Why are we doing that? I have said in here repeatedly that the John Gray School has passed its natural life. The buildings are infested with termite. We had problems with the laboratory because it needs redevelopment. We are going to redevelop that site but the engineers and builders have told us that we cannot rebuild that site or undertake the extensive works while school is in session with such a large population. They have concurred with the suggestion I made, that it makes more sense, it is safer, more manageable and more sensible to build two new high schools and platoon the students between those two schools thus freeing up the John Gray site for extensive redevelopment.

So, we have embarked on what I gave notice of; that we are reforming secondary education because out of this whole experience of Hurricane Ivan we have found that the problem was not as we rightly thought with the students, but in the numbers being manageable. That experience was brought home very clearly to us since we had the year tens at the Agape Worship Centre. The behaviour has tremendously improved, it is almost miraculous. I visited the students and as you see their dress and observe them the standards of decorum are elevated beyond what I

ever imagined would happen. I too have learnt from the teachers as to what has been their academic performance and general interest level in school. The teachers tell me, Mr. Minister, we will have to import a whole new lower level because these students are performing at such a level that they will all have to be elevated.

I heard the Second Elected Member from George Town, like the Philistine he is, making hay of the fact that the students have to go to school on alternate days. Many societies would not have any school period if they had the damaging effects of Hurricane Ivan as we have had! They have the split shift system in countries in the region and beyond when they did not have the effects of Hurricane Ivan. Split shift schooling has been going on in the Dominican Republic for a decade, it goes on in Cuba, Jamaica and there is absolutely nothing wrong with that. When I bring my report and make my statement they will understand that the Minister has his plan and the students will not be disadvantaged.

I can boast of what none of them can boast about. I am a professional educator! None of them can boast that; they are only pretends and I call them arm chair generals. I do not go around telling anyone I am an attorney at law. I am an educator and I am proud to be one and my record is immaculate! When the earthworm boasts of its elegant wings the eagle can afford to be silent. So, that is the position and I want to say something. When they were debating I listened with a stoic endurance and bore what they were saying. I expect to be able to say my piece without having batter and crosstalk. I know such behaviour is indicative of shallow minds but I demand my parliamentary right.

**The Speaker:** Honourable Members, I know that it is getting late and people are getting a little edgy but I would ask you to exercise the very best decorum. Please extend to others the same treatment and respect that you would want extended you. It is improper and discourteous for Members to be talking across the isle when another Member is speaking and that applies to both sides of House. I would ask you to please bear that in mind and extend the courtesy that you would indeed want extended to yourselves.

Please continue Honourable Minister of Education.

**Hon. Roy Boddén:** Thank you, Mr. Speaker.

So, that is the situation. We have to resort to a split shift system but it is not the end of the world and I am not a detached aloof Minister. I visited the school, spoke with the teachers and students, and I dialogued with some of the bus drivers. It is only a temporary system.

The teachers are conscientious of what we are doing and we have extended the school year. The situation, as it affects the year ten students at the John Gray High School, I hope that it can be remedied

by May when we can move back from the Agape Centre. I also wish to thank Pastor Al and the Church Council for the courtesy extended until we can move back to our surroundings. However, when we move back to those surroundings we shall have a challenge. Because of the year group now being split into more manageable numbers, the behaviour and performance has improved. We shall have the challenge of ensuring that continues when we move back into the regular surroundings and we are once again amalgamated.

The bottom line is that we are learning from the experience of Hurricane Ivan and we are putting this into practice. A great hullabaloo has been made of the state of disrepair which has persisted for so long after Hurricane Ivan with the physical state of the schools. Savannah Primary School, as an example—the engineers have found out that the trusses were defective. Should we then have put back on the plywood and cover them or would it not be more sensible to repair the trusses and strengthen them as we are now doing then cover them and go back to full functioning? I heard the Second Elected Member for George Town make much of that.

The rafters at the George Hicks School are eight feet apart! The school was built twenty five years ago. Would I have been a good Minister if I had ordered that to be covered immediately after Hurricane Ivan, then run the risk of the Auditor General scolding me for misappropriating and wasting public funds or would it be more sensible to do as I am doing now by saying we have to repair this by decreasing the space between the rafters and doing the necessary strengthening? That is one reason why the repairs have not been more expedient than they have been. When it comes to the bottom line it is about the safety of the students and teachers and about ensuring that Government gets the best value for its money. It is a problem that I inherited and I believe in applied learning, that is, the experiences we have learnt must be applied to our current practice and behaviour and if it needs changing then we change it to improve the system. So, that is happening.

Mr. Speaker, all of the Government schools, with the exception of the new Prospect School which was especially designed and bunkered for events like Hurricane Ivan, were damaged. There is no guarantee that they are going to be able to withstand another hurricane of the force of Hurricane Ivan but we are trying our best to repair them and strengthen them where we can.

Contracts were awarded for repairs to be done but this is a time when it is difficult to get contractors. In addition to the fact that we have to do some reengineering work and some strengthening and bolstering, we have the problem where all the reputable contractors were busy elsewhere. Therefore, between Public Works Department and the Ministry and the cooperation of the firms, Public Works Department and the Ministry had to apply a little pres-

sure. Now, happily they are working at the Savannah School, Bodden Town Primary School and work is also being done on the George Hicks School.

The infamous modular classrooms, which the Opposition lamented and decried when we mentioned that we were importing them, we got a donation of \$100,000 from an excellent corporate citizen, the Foster Group, Mr. David and Woody Foster. For this I thank them on behalf of the Government. Let me tell you how that came about.

One day I met these gentlemen on the fourth floor of the Glass House (Government Administration Building) as I exited the door of my office. I believe they may have been coming to see or coming from visiting the Minister of Tourism and they asked me—I told them the plight we were in. Mr. David Foster right there in my presence told his son Woody, after asking me what would be the cost of one classroom, which I told him would be in the region of \$15 - \$20,000, to cut the Government a cheque for \$100,000 to be used for modular classrooms. Mr. David Foster, God bless the gentleman. Mr. Speaker, what if there were more corporate citizens like this gentleman? I cannot thank him enough.

I heard detractors and Philistines go on the radio and write in the papers that the classrooms are rickety and tottering. There was a picture in the paper of the handover with Mr. Woody Foster, myself and some people from the Ministry and other people. When this complaint was made I went there myself because I knew that could not have been true. The ones that we have at Savannah are temporary only until the roof of the school is completed, after that they will have to be moved. We have a lot at the John Gray site.

One detractor got on the radio and said that they were trailers; this nonsense has got to cease! These are specially designed and special ordered made by an arm of the General Electric Company. These are modular classrooms which have air-condition and all of the electrical receptacles. They come in halves and have to be joined together. They are used not only in the Cayman Islands; they are used in the United States and Canada, I visited them there, perfectly acceptable. The Minister of Health and I visited one of the schools recently and I asked the students, let me see the hands of those who like to have their classes in these rooms and every student put up their hands. I spoke with the teachers and nothing is teetering. I spoke with Mr. Jim Scott and questioned him at length to ensure that the children were in safety, I was satisfied myself.

If I did nothing they would say the Minister is worthless because he is not doing anything! I am doing something and they are cursing me. You know what I do not like? I do not like hypocrites! That is the one lesson my mother thought me, do not deal with them, do not associate with them or keep their company. I am not infallible and I expect criticism but I do not like people who stretch the truth and who are be-

grudging in their credit and then talk nonsense just to gain political advantage. It is dishonesty and the person who does that will steal your wallet and steal your wife too!

I want to get it clearly established that these temporary classrooms pose no threat to the students; they are not second rate or something that is a phenomena only in the Cayman Islands. In most cases they are temporary. We spoke about the numbers of our students and while I am on this I want to give credit, thanks and praise to the Cayman Brac education establishment. I told the Permanent Secretary this morning that I am going up there and make sure that she liaise with the Minister of Cayman Brac because I might have to involve the Leader of Government Business because no one like to party like him and he can throw a party. We are going to Cayman Brac to show appreciation for what they have done because they bore the brunt. About three hundred of our students were there immediately after the Hurricane Ivan and we could not have done it without them. They need a school hall and they are getting the school hall because we have to be appreciative of what they have done.

So, the temporary classrooms are only temporary. We are going with the Boatswain Bay High School and the Frank Sound High School and at the same time we are redeveloping the George Town Primary School because I head the Second Elected Member from George Town asking about that too. However, they say education is not going anywhere. In 2007 the two high schools are coming on line—Boatswain Bay School and the Frank Sound School, which by the way will be named after a prominent Caymanian citizen and educator of which I will make an announcement later. Ground breaking is 1 March and immediately after that we are going to tackle the redevelopment of the John Gray High School so that we will have three regional high schools of approximately eight hundred students each. The lessons we have learnt tells us this is the route to go and we expect by doing this that one of the side effects is going to be an alleviation of the traffic problem. The students in George Town will go to the high school in George Town; West Bay students in West Bay and Savannah, Bodden Town, East End and North Side to the high school in Frank Sound so we expect that it will do something to ease the traffic congestion.

Mr. Speaker, I have to give credit where credit is due, the High School in Frank Sound was the idea of the Elected Member for North Side and myself. While it was much talked about it is now coming into effect so that there is going to be a reform of secondary education and I am going to ensure that whatever happens to me, because I am a soldier; I am expendable; that the plans will be there if I am not around for the successor to follow. However, I am trying hard to be the successor, to succeed myself.

I know what the detractors and the supporters of the Opposition are saying and some of them have

proclaimed me dead, they did that in 2000 also and in 1996 they were on the podium to read my obituary but like Mark Twain I say, the news of my death has been much exaggerated. I am the kind of fighter Mr. Speaker, that when I come to my corner in the twelfth round, my handlers say to me, I do not know what you are doing but this guy is beating you up, and this is the last round. I can take care of myself, Sir. When I get that signal I know what to do. The record speaks for itself so I am not worrying about those who come behind me to think that they can surpass me, I have a track record of delivering!

Thank you, Sir.

## STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE CABINET

**The Speaker:** Honourable Members we have reached the hour of 8 pm and we do in fact have another item to deal with before the adjournment but I have not received any statements or notice of statements from Honourable Ministers or Members of the Cabinet.

Before putting the question on the adjournment I would like to advise all Honourable Members that the Annual Parliamentary Prayer Breakfast is scheduled for Friday 11 March 2005, this promises to be a very inspiring occasion and I ask all Honourable Members to make a note in their diaries. Your invitations are being sent out through the Clerk's office and should be received by you within a short time.

## ADJOURNMENT

**The Speaker:** At this point I would ask the Honourable Leader of Government Business to move the adjournment.

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker. I move the adjournment of this Honourable House until Wednesday, 16 February 2005 at 10 am.

**The Speaker:** The question is that this House do now adjourn until 10 am Wednesday, 16 February 2005. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**At 8 pm the House stood adjourned until 10 am Wednesday, 16 February 2005.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**16 FEBRUARY 2005**  
**11.04 AM**  
*Fourth Sitting*

**The Speaker:** I invite the Honourable Minister for Education to lead us with prayers.

cation, District Administration and Information Technology.

**PRAYERS**

**Hon. Roy Boddén:** 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 Cabinet 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 are resumed.

**Proceedings resumed at 11.07 am**

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

**Apologies**

**The Speaker:** I have apologies for the late arrival from the Honourable Minister of Planning, Communi-

**STATEMENTS BY HONOURABLE  
MINISTERS/MEMBERS  
OF THE CABINET**

**The Speaker:** I have received no statements from either Ministers or Members of the Cabinet.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READING**

**The Supplementary Appropriation (July 2004 to  
June 2005) Bill 2005**

*(Continuation of debate thereon)*

**The Speaker:** I invite the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture to continue his debate.

**Hon. Roy Boddén:** Mr. Speaker, before I commence, please tell me how much time I have left.

**The Speaker:** Madam Clerk, please let me have that information.

Honourable Member I am informed that you have spoken for thirty eight minutes which would leave you with one hour and twenty two minutes.

**Hon. Roy Boddén:** Thank you kindly, Sir.

Mr. Speaker, I would like to make a few more comments with regards to the proposed expenditure for Education before moving on to another area and then winding up.

The extra ordinary position in which we find ourselves as a result of Hurricane Ivan demands the most stringent and rigorous assessment of the way forward. While, as I indicated earlier, that there were some plans being formulated in the Ministry for the reorganisation of secondary schools the exigencies have forced us to move forward at a more rapid pace thus the need for the expenditures which we have set out. Therefore we realise that in some areas we have to amalgamate our efforts and work expeditiously, which leads me to say that I noticed in the criticisms coming from the Opposition and also generally that

no consideration has been given to the social and psychological circumstances which have emanated as a result of the disruption caused by Hurricane Ivan. Mr. Speaker, what I do not appreciate with criticism is the lack of balance and I suppose that no one in this business is so naïve as to expect that opponents and detractors are going to make them look good however, that does not preclude us from being fair.

Immediately after the aftermath of Hurricane Ivan one of the first things we sought to do in the Ministry was to make an assessment of the physical state of the staff, particularly the teachers, and to take into consideration the fact that at such a time they certainly would have psychological and emotional needs, and to this extent, I was able to capitalise on my acquaintanceship with a very eminent and renown psychologist, Dr. Jerome Broadly, formally a professor at Yale University and also a consultant psychologist on the CBS Morning Show. He is an eminent psychologist in the United States with a successful consultancy who consulted in many acrimonious divorce cases with regards to child settlement, rights and welfare from high profile movie stars down to wealthy industrialists and businessmen.

Dr. Jerome Broadly who makes his home part of the year in North Side came to us, and of his own volition contacted me at the Ministry wanting to find out what he could do and offered us free seminars in counselling and post trauma stress assessment so that the efforts of the Ministry, lest anyone be misled, is not only limited to the problems confronting us with physical space but our efforts have also been expended to ensure that our teachers psychological needs have been catered to as well because we see this as being important. Dr. Broadly came about two or three times, if my record serves to be correct, and gave training seminars as well as one open lecture, which I attended, and left us with valuable information as to what to look for by way of symptoms and how to address these things.

I have never heard anyone in the Opposition or anyone in the general public, during this episode, address the plight of teachers. We still have teachers who are displaced; we still have teachers who have to be dependent on other colleagues for rides to and from school; we still have teachers who have no shelter of their own; we even have teachers whose residences were destroyed and devastated who now have to be paying both a mortgage on the devastated and destroyed residence and rent. The Opposition did not take consideration for these kinds of things and they do not mention them, which is why I say the Opposition is shallow because they are concentrating only on physical facilities but you cannot have a successful educational system if it is not a holistic and balanced system. That is why they are preaching a hallowed gospel.

In addition to catering to the physical infrastructure we have to deal with all of these other needs and I am happy to say that they are being success-

fully addressed. I underscore and reiterate that I am not so naïve in the business nor do I lay any claims to perfection in spite of how I may sound sometimes. I have always prefaced my position with the fact that as a human being I am fallible. I do not know everything, I cannot do everything, I will never accomplish everything but I try my best to be balanced, fair and reasoned.

So, the monies that we have requested in the Budget, while to a great extent it is going to improve the physical facilities, we also have to take into consideration the catering of psychological, social and emotional needs and that is the mark of any successful manager or policy maker.

When we took the adjournment on Monday, I was talking about the reform of secondary education. I am happy to say that soon I will be bringing to Cabinet a paper dealing with reform and restructuring so that we have a more uniformed and balanced system. I made mention of the fact that the proposal hinges on the fact that we should have three regional 10 plus to 16 plus high schools which incorporate both the junior and the senior high school phases.

We are also using our monies to place greater emphasis on technical and vocational education which was long talked about but prior to my assuming the responsibility little to nothing was done. We are also expanding our efforts to deal with the infrastructural needs in Cayman Brac because the high school in Cayman Brac, for some years now, needed a hall and we will be providing this hall. We also have the commitment to the redevelopment of the George Town Primary School. I have a paper bringing to the Cabinet dealing with proposals for this redevelopment, all of which carry the same urgency. We are also accommodating an organisational review. I remind Honourable Members that some time ago the drafting instructions for a new Education and Training Bill was laid on the Table of this Honourable House and it is anticipated that that Bill will be coming for debate during this Sitting.

It is easy to be critical. I know that only too well having spent only twelve years on the Back Bench. Sometimes I wish that I could be there now because it is easy to get up and criticise. It is much more difficult to offer constructive criticism complete with alternatives. So, I take cognisance of what the Opposition says and their criticism, but I also have to note that there is a lack of any alternative proposals. So, quite often what happens is that there is little or no interaction with the gravamen of the arguments and positions that I put forward, therefore it is difficult to really and truly accept the criticism as being of a constructive nature. I know what time this is and I expect that there will be some political posturing, but if we are to be constructive we cannot present spectacles under the guise of truth seeking. Maybe that is enough said on that because this morning I want to behave as an Oxford don, not like a backwoods preacher.

There are three kinds of governments in the world and it has nothing to do so much with ideology as it has to do with there are those governments that make things happen, those who watch things happen and those who wonder what has happened. I would like to be part of a government that make things happen. Sometimes in making things happen one has to take decisions which seems unpopular or decisions whose reasons and philosophy would escape certain people at the time. I think this is what has been done in the case of education, as when we had to bring in modular classrooms, and now when we have to do some restructuring. I certainly would expect to be questioned and I am prepared to defend the request and proposals that I have put.

I want to conclude by saying that I think for all its challenges and for all the problems that we may be facing now as a result of Hurricane Ivan, the public education sector of the Cayman Islands is in a good position. We are poised to continue the excellence that we have started out on; we are poised to continue with information and communications technology; and we are poised to continue our efforts in improving technical and vocational education.

A bragging point—we have at this time as of now, two hundred young Caymanian students studying at foreign universities at a cost of US \$20,000 per student. Might I say, coming from a microscopic jurisdiction such as the Cayman Islands with no direct taxation system, that is something to crow about. When I travel and meet with my colleagues and contemporaries from other jurisdictions and I tell them this, they are astounded as to how we can do that. Here is the kicking point. To a man, all of these students return to this jurisdiction and I can tell you that the same does not hold true for competing jurisdictions such as Jersey, Bermuda, Bahamas nor for any of the other jurisdictions because they send students who do not return so we have something to be proud about, not only in the numbers we send from such a small jurisdiction, but that our students return with a one hundred per cent success rate. Now you tell me, if the system was so bad would we be able to make such a boast? Would we be able to state such a fact? We would not! So, this system is working.

Recently, prior to Hurricane Ivan, we transformed our Community College into a University College so that we have about three times as many students accessing tertiary education on a full time basis from our own local institution which is as good as any new institution established in the developed world.

Mr. Speaker, I am prepared to defend my record. I believe in what I have been doing. I have certainly demonstrated over four years that I have been a good steward of public funds which was allotted to my Ministry and I do not intend to depart from such a practice. I defy anyone to bring the proof that I have been other than conscientious, well meaning and effective because in all that I have been hearing, I have not yet seen any alternatives that would be equally as

attractive as those put forward, let alone more attractive, nor have I seen the person that the Opposition and detractors are proposing to be the Minister of Education. Trust me! It is not every cook that can govern, just like it is true that every governor may not be a good cook.

We are in an unusual position in the Cayman Islands as a result of Hurricane Ivan and it behoves all of us to work hard to see that the recovery goes well. This Budget, which has been presented, takes that into account and I want to make a comment that I think should be sobering. I see that we are increasingly relying on charity to help us in certain aspects and in certain areas but in jurisdictions such as this, I wonder about the element of donor fatigue because we are a small jurisdiction and there is only a certain amount of charity that can be expected and certainly the number of agencies depending on the charitable-ness of corporations and individuals seem to be increasing. I say that to say that we have to be prepared as a Government, as a Parliament and as a people to assume more responsibility ourselves because donor fatigue is a characteristic that will easily set in and as I listen to the calls and listen to all of the beseeching that is being done and follow the results, I wonder if we have not reached the point of donor fatigue now, which brings me to say that if this is indeed the case then greater onus will have to be placed on public funds to manage this recovery.

There are other aspects of the Ministry for which monies have been requested. An important element is also the cultural element and the element of the development of human resources. Now more than ever we need to ensure that we have balanced development, that all of the departments and agencies within the Ministry plays their role and bears their responsibility. I have great faith in the people with whom I work. I have faith in their ability to manage, to get the best value for the public funds which are expended and that is why in Finance Committee I am prepared to energetically defend the requests that we have and to defend the outputs we propose to purchase.

Mr. Speaker, in regards to recovery in the constituency of which I am one of the representatives, much has been said about the shortcomings of my colleague and I as Ministers. I can say that we have never been reactionaries, we have always studied situations before we take action and make pronouncements. At the end of the day while it is true that Bodden Town has perhaps been the hardest hit place, it is also true to say that efforts have been expended on constructive development. I do not believe in grand standing, I have never been a grandstander nor do I necessarily believe in doing things for the sake of being a showman. We are helping; we are doing things and working from where we sit.

Mr. Speaker, I believe I hear unknown voices mumbling “everybody must die and it is my turn” Well, I want to say something about that; I will take that



personal and I have always been a good fighter, the eldest of five children. I had to do the fighting for my siblings and I fought with fists but I am better at fighting with words. Imagine someone who is just making four years telling someone sixteen years that it is time to die. Perhaps it might be, but if it my turn to die, I can die a proud man because my record here speaks for itself. I have been constructive in what I have put forward but, Mr. Speaker, trust me, I have, as yet, no presentiment of my death, I am not seeing my own ghost and if anyone is seeing my ghost then my suggestion is that they go to the optometrist because they have a problem with their sight.

Many people have read my obituary before but no one was bold enough to seal the casket and if the voice I hear has the trowel and mortar ready then maybe he should hold off because things might work in the reverse.

This is a good Budget. This is a Budget of which the Government should be proud. We borrowed, under the circumstances, a minimum; the deficit was at a minimum. I believe, in spite of all that can be said, good stewardship and would that the blowhards, when their chance comes, as well it might, be as good stewards as we are. There will not be perfection. The very nature of man is that there will not be perfection and I, like many others, wait with bated breath to see what May 11<sup>th</sup> will bring forward. I have seen many high profile pretenders and gas bags asphyxiated by their own mouths, so I say that if indeed it is my turn to die, I shall die like I have lived, believing in what I have put forward and knowing full well that my efforts will not be surpassed by any pretender, but rather by people of action of a similar metal to myself.

Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Thank you, Mr. Speaker.

I would have hoped that this was going to be a very short and precise Finance Committee Meeting basically allowing people to get outside to help their constituents and their families with the recovery process, but it appears to me that coming into this Legislative Assembly seems to be the catalyst for rhetoric or debate that does not really inform the general population of the true state of affairs of the country.

Since this is an extraordinary Finance Committee Budget, and since we are here in the Legislative Assembly because of an Appropriation Bill that is necessary, we have gone back to the kind of rhetoric that we would not be allowed to entertain in Finance Committee of where we would probably be limited to line item questions and we would have an idea of why

the Government was bringing the types of requests that were being made.

Since Hurricane Ivan I have found that not only my house has been in disarray but I have found that the Government Administration Offices, not just the Glass House, but the Tower Building has been demolished. Many of my departments have found themselves in different types of accommodations; many of the people that work for Substance Abuse Services, Children and Family Services, Sports and Youth have found themselves having to come to the Ministry at the Glass House to be able to use a computer and to continue to pay attention to their mandates. That is just a reminder for the Opposition and for the country as a whole that the Government of the Cayman Islands is handicapped; it is physically restrained in terms of being able to accomplish certain objectives at a fast rate.

So, when persons get up and try to convince the general population that things are normal in the Cayman Islands they must be normal only in their minds, for if they would go back to their own homes they would find that in their homes things are not normal. Unless of course they have been a little bit more fortunate than I have been because I have just been able to get some work done in the interior of my house from Wednesday last week to Sunday and I am still sniffing and coughing from the dust that has been accumulating, and that we do not seem to be able to get rid of even when we continue to dust and clean. So, the state of the country because of natural occurrences is not normal.

Why then are we here pretending somehow that things are normal or that things were not affected by events that were outside of the control of the people and the Government? Why are we doing that? Is it because there were certain individuals who were set on making sure that an election took place in this country before November 2005? Was it because those people felt that they could remove the present Government from its position? Is that what the whole ploy is about, not trying to communicate the realities to the people but trying to remove the Government? No consideration for the facts. At the end of the day the facts are, things are not normal therefore we are here to pass an Appropriation Bill that deals with extraordinary circumstances. Therefore the expenses that we are here to debate and discuss have to do with extraordinary expenses. That goes back to the point that I am trying to demonstrate and that is that things are not normal! If things are not normal why then is it that we have such behaviour from the Second Elected Member for George Town?

When I hear the Second Elected Member from George Town debate in trying to find an interest in criticism when that interest is not really in his soul; trying to find facts to debate when he probably would be better off doing something else and when I listen to him create an entire story of Opposition to the Government at a time when he knows that the Gov-

ernment is functioning well, I know that it is not being done from his heart. It is being done from his ability as an attorney to turn the facts upside down and inside out. That ability he has proven here during his tenure in this Legislative Assembly. He has proven that he has the capability to make white look black and black look pink; that he has the ability to do. I hope and pray that when the general public listens that they will recognise there is not much substance in what he says. What he says is directed towards people who are frustrated, irritated, inconvenienced, not by the Government of their country or by their neighbours but by something called terrible Ivan.

Terrible Ivan was one of the most, if not the most, terrible events in our country's history and yet there are persons who are trying to convince the population of this country that although Ivan was terrible and although we were terrorised that things are normal when things are far from being normal. All you have to do is go along the South Sound Road and see how many rich people have been able to put their roofs, kitchens or windows back together, and yet, the Second Elected Member from the district of George Town would like to give the impression that things should be happening a lot faster if Government would only do more.

If Government would do more things could be happening a lot faster because there are people out there who need financial assistance and cannot get the work done because of the lack of finances. What about the condominiums that still have patched roofs? What about the hotel rooms that have not been repaired when there is a possibility if they were repaired that the owners could make a profit? So, the fact that I may come from a particular neighbourhood and I do not have certain things, it is not because the Government have neglected the poor, it is because the conditions in the country at the moment are such that the more speed we make is the less haste.

The Government decides to get involved with one recovery fund. The Government creates another fund and another and still the resources are slow in making their targets to the people who are badly in need in this country. Is it the fault of the politicians that have no administrative capacities in our country because of the type of Constitution that the people have maintained in this country over a long period of time? No, it is not our fault! We have voted the money and we are here again to vote money for extraordinary causes of this country. It is not the fault of the United Democratic Party Government that things are not moving faster than they are.

The Opposition have forgotten the criticism of the Government based upon the pre Ivan situation. There were things they said that we did wrong before Hurricane Ivan. Now it is what we are not doing right post Hurricane Ivan. So, there is a certain amount of emotional power that they get because people are discomfited and uneasy about the situation that they are in. My question is, what is the Opposition doing? I

know there are Members of the Opposition in the districts of Bodden Town and East End that I see doing things on an individual basis, but I cannot say that for my colleagues in the district of George Town because if they are doing it they must be hiding it from me. The access that the Member from East End has to Government's funds is the same access that the Members from George Town have. Yet, how can we distinguish the difference?

We are acting as if there are not philanthropists in our communities, as if there are not people who will give something, as if the only way that the Leader of the Opposition and the General Secretary of the PPM (People's Progressive Movement) can have something is if they get it from Government. Well how are they going to get it from Government? Why is the Member from East End getting so much? Is it because he is so persuasive and begging for his people? He needs to lend a little of that persuasiveness to the Second Elected Member from George Town who would be better off . . .

*[Inaudible interjection]*

**The Speaker:** Order. Order!

**Dr. the Hon. Frank S. McField:** . . .using some of his motions to convince people to give more to the district of George Town and the people that need, rather than coming in trying to make the people bitter against the Government because of the circumstances which the country finds itself in, in relation to terrible Ivan.

The gentleman from George Town would like to know about my trucks at the housing scheme. I am not in his position to be able to comfortably collect monies as a partner of a major law firm in the Cayman Islands. I am not as fortunate as his partner to be able to have certain business interests to benefit from. The fact that I have shown a little ambition and willingness to take risks he has seen it as an attempt to make money.

I would like to explain to that gentleman—since he wants to know—and the general public how I came to the position of having those said trucks in the Cayman Islands. It was because that—unlike you—I went out from the very beginning to clean up in the district of George Town and I started with the Bermudan Regiment on Oak Street in Windsor Park cleaning on a rainy Sunday and many residents in that area remember the fact that I was out there attempting to clean up.

There are many people that remember the difficulties existing at that time in finding equipment to remove debris from the streets. There exists no prohibition against me thinking as an entrepreneur, which means there seems to be a need for something and I could therefore hope to supply it. So, I felt that it would be very difficult to bring equipment through the United States where everybody and his brother was going to be piling up equipment where you would

probably have to know someone to do a few favours to be able to get yours in here. So, I decided that we would send someone to see what we could find on the Island of Jamaica. We were given a proposal to lease some trucks for a period of three months, which is the period that I thought that an intensive campaign would go on in this Island. The idea was that the trucks would be removed from the Island after they had completed that activity, which means that the trucks would not be here to continue to compete with people when the amount of work had been lessened. Now you have to prove to me why that is criminal and unethical when you are a member of the law establishment in the Cayman Islands. Your future is guaranteed outside this Legislative Assembly because you are a partner with foreign people in these companies and these companies do very well here, especially when they can have a Caymanian that they can say at the end of the day, we are doing something for Caymanians.

You tell me, Sir, what is unethical about me trying to secure the future of my son when you have secured the future of your children? Tell me what is so terrible about me deciding to take advantage of an opportunity in this country when there were no known vehicles that could be able to take that amount of debris over a period of three months? I did not tell other people not to import and they have imported and continue to take risks because business is not only about profit but about risks as well. I have learnt that because people like the Second Elected Member from George Town spends his time going around the district of George Town trying to blackguard me because of the trucks. So, there are two things he feels he has against me, the trucks and the Affordable Housing Initiative, which I will get to very very soon.

Some of the trucks have to leave on Saturday to return to Jamaica because they are leased, we made a deal with Customs where we wrote a cheque and said that the trucks will be out of the country within a particular period of time. The campaign to clean up the country was drawn out over a longer period than we thought but the majority of trucks will be leaving on Saturday. I have lost a lot of money, thanks to the kind of attitude that certain people have in this country that they and their class should be the only ones that benefit from certain types of activities. So, if you think that I should not be returned to the Government because of that then you seriously need to think a little more about your privileged position.

As for the Affordable Housing Scheme, which is the great crime that I have committed and I stand willing to take my punishment for having providing people with accommodations, and rightly so after Hurricane Ivan struck when these people had no place to go and when you were not inviting them to stay in your home, we had to have place for people to live and the Affordable Housing Scheme was able to provide accommodation for persons. Presently, the Affordable Housing Scheme is housing over one hun-

dred and eighty persons. Seventy seven of the houses are occupied. Many houses in South Sound, Seven Mile Beach and condos cannot be occupied! What is my crime? Is it because I stopped promising and started doing? Is it because I refuse to believe that people should live on empty promises from politicians? There is not one politician that has not promised housing in this country and how many have delivered? You may criticise what I have delivered but you should not criticise it until you go to those homes where those people are occupying. Should we ask for us to have an adjournment, Mr. Speaker, so that we can go to the district of West Bay? You have been inside of them and it does not look like your house and that is what your problem is but there is no reason why if you want to that you cannot give them your house. Give people your house, I would love to see them living in the kind of house that you are living in.

I am not running in the district of North Side so I will spare my words for the lady Member for North Side and leave that for somebody else, but when I am dealing with this particular issue, I would like to reiterate. He is trying to suggest that we have foreigners living in these houses. We have statistics to prove that they are people with Caymanian status living there, but they have a right too. We have people who are married to Caymanians who have been able to but the majority of people are all Caymanians.

It is as if the Second Elected Member from George Town is idle. It is as if his understanding of politics is *politrickery*. I am saying that I have done some things; it is there for people to see and I would have been able to do even more if I did not stand in the seat of the power of the Opposition, which is the district of George Town because the George Town representatives prefer to be Members of the Opposition rather than to be Members supporting the Government or me in achieving some of the objectives. He asked yesterday, why is it that we are not speeding up the policy of the housing programmes at this particular time, and you know why? Every time I turn around he and his friend from *NetNews* are trying to ridicule what I am doing. How can people have confidence in doing anything when you have such strong opposition to what it is you are doing?

The Opposition should take some credit for the fact that we have not gone any further than we have. However, that does not deny the fact that we have completed one hundred and thirty two homes before Hurricane Ivan struck, and you think that is a number to laugh and ridicule at. We said that by that time we should have completed two hundred does not necessarily mean that we have done nothing. We have at least gone beyond half of the number—one hundred and thirty two homes! The fact that we took some beatings—all the homes in the Cayman Islands took a beating. We took more of a beating on Eastern Avenue because we had two containers that went through from one section to the next damaging because of the sea surge and wind and elements that I

might not even know about because I was not out there looking, but we know the hurricane was a terrible one and we know that is the reason why he is here complaining about the fact that the Government is not doing enough because so many peoples' homes were damaged. So many people cannot live in their homes today so why is it an abomination that we are providing housing at this time for people in the Cayman Islands? Jealousy, envy, and maliciousness that is why! I can always tell because when they come out bating, they come out bating on the same old side, they cannot change their allegiance for the people who they articulate for. I know who I articulate for and I could go and talk to any of those people living in those homes because we have had meetings with them.

It is not perfect, it is not like yours, it is not like your friends but it is home for them and the National Housing Community Development Trust stands behind those persons and their investments and the Government's investments and we are trying our best to make sure that it is not a burden on the people but in fact an asset for everybody.

There is a great philosophy also behind why we believe that people in the low income bracket should also participate in the private housing market in the Cayman Islands. Up until now the private sector saw no motives in getting involved but there are a lot of political motives in being critical of what we have done. There are a lot of attempts to show that I did it because, either I do not know what I am doing or because I am just selfish and stupid. Something has started and there is a possibility that we should really be here appropriating more money for housing. Yes, the Second Elected Member from George Town can bring a Private Members' Motion asking the Government to consider doing exactly what he is criticising the Government for not doing. I was on the Back Bench too, I heard him criticise the Government Insurance Scheme. I brought a private members' motion during my term that said that Government should investigate the possibility of establishing a Government insurance company. We now have one and I wonder what you are going to be able to credit yourself with after your term is over, for having brought to the Government to consider besides objections to the Government; objections to everything!

What is the Second Elected Member from George Town, after his first term, going down as having asked the Government to consider that was successful and significant? He is the first Member that has come into this Legislative Assembly that has done nothing significantly. He thinks that the only thing to do is to be in control of resources. That is not the only thing. We can bring motions, debate them and enlighten the people and the Government and get the Government to agree with us. What has the Second Elected Member from George Town done?

He goes to my families and my communities and tells them what a terrible person I am and he is

going to fix me. Just wait until he gets on the political platform and he is going to deal with me. Well, he did not deal with me too much when he made his delivery and I was very surprised that he had not spent more time dealing with me. It appears as if he knows where to go to deal with me because he knows I can hear and answer him here. When he goes among the roots and branches and whispers and sings his little lullabies about how terrible and how I lie he knows that I am not listening but working. Here I am listening because I am working and I am answering back.

The worst thing that happened to the National Housing Scheme was the criticisms and ridicules made against it by Members of the Opposition who went around and told people that they should not live in them because they are not decent enough. People who are now living in these places have confessed this to us.

The National Housing Community Development Scheme has been disrupted by Hurricane Ivan. We had to go into a repair and recovery mode and not a building mode. We are not building right now because we are recovering and repairing. We have seventy seven houses occupied. Why is that such an irrelevant number in a country that has such a housing crisis? I do not know! It is irrelevant that we shelter one hundred and eighty persons and that we can prove they are Caymanians. He wants to find out why I had not thought about using commercial land to build something else other than single dwellings. You know why? I am not as smart as him but my heart is in the right place. I am not as smart as that good gentleman from the district of George Town (Second Elected Member from George Town) but my heart is in the right place and I was thinking about people and I could not postpone my actions. So, when it comes to the people I am not that controllable in terms of being able to control my actions but I will act. I will not just sit and plan. We have seen so many plans on the shelves of this country that it is time for someone like me who can take them, digest them at some point and keep going, but actions speak louder than paper. The Eastern Avenue site was the worst hit. It is not indicative of the types of damages which we received overall in the project. It gives us a possibility to redevelop the site.

He wanted to find out whether we had enough sense to have insurance. Well, my senses are not as great as the Second Elected Member from George Town but we had enough sense to have insurance and we also had enough sense to make our claims early and to be insured with a decent reputable company, and we have gotten most of our money. We are not going to tittle tattle about the amount but I can tell you it is far greater than you would think. As a result of that we have finances to be able to make choices about development. We are saying that land, through our own experience now—I did not start as a building genius but I started as the genius with a heart and as a result of that I have possibilities to improve

the project. A project that was not started could only be improved on paper where we can improve it in reality.

We decided that we would like to put three-story apartments where we have lost our buildings. We tore down the buildings that were badly damaged and we would like to rebuild them as apartments. Now everything I say is always taken out of context and brought back to me so I am not going to talk to you about timing, cost or nothing because then you will say, "you said you was going to do this". Hey, I say what my technical people tell me in these aspects and I say what I wish or dream but if I tell you I am going to be here at 6 and I get here at 7 it is not because I did not want to be here at 6, it is because it was traffic, but I came. What I am saying to you is that although I might not have achieved one hundred per cent I have to be given credit for achieving a per cent more than you or many people have achieved with regards to these particular issues of housing.

The fact that Hurricane Ivan has made the housing need in this country so apparent it does not mean that it was not apparent to me when I started this scheme; it was apparent all along, the statistics are there. The low income committees were formed, they made their deliberations, looked for materials and developers. People pretend today that they did not know anything about the needs; it is not true, they were there.

In this Appropriations Bill we should be talking about extraordinary money for housing because I would love to see more money go towards housing and it does not have to go to my Ministry but it can go somewhere else. I do not have to control it but I know that there is a need and I know that the Opposition should be concerned about the housing needs so much so that if the Government was not going to bring an Appropriations Bill to appropriate money for more housing the Opposition should have a Private Members' Motion waiting here to suggest that it be done.

I think that we will continue to work with the Eastern Avenue site; it is already a developed site. We will have to do some work in order to create a situation there but I am hoping to be able to put sixty apartments where twenty homes were. So, I have increased the number by forty and I still have not made my target because I said two hundred and we borrowed money to do two hundred. If we cannot deliver the number of homes within a particular time period, our calculations are off. We find ourselves in a situation where our income is less than what we projected and therefore we do have a financial issue there. It is something that we do not have to deal with at this particular point in this Finance Committee but it has to be dealt with at some time with Government because there is not one company in this country that has not suffered great loss as a result of not being able to meet their projected income.

I began talking about the fact that we have government people scattered all over the place; productivity is at its lowest. In the private sector and in Government things are not normal. Why should the National Housing Community Development Trust be in a normal financial position at this time? I can report that we have sufficient money to continue to build and provide people with homes. I can assure you that we have not wasted any money. I can assure you that we have reached out from the point of view of management to embrace the trailers that you criticised in order to help manage the trailers and in order to provide site for the trailers to be located at. I can assure you that we are seen as having a function and a need at this time in our history. I wish that we could build faster; I wish that we could have agreement and not opposition; I wish that we could really come to a harmonious point in our country's politics where we could be civil towards one another and recognise that the greatest need is the need of the people not the need of politicians to have power.

You talk about the trucks. I am willing to say during this Appropriations Bill debate that I am at the age now where I can retire, I can collect a pension from the Government and my thought was if I collect my pension and have a small business then I can support myself. I do not have to be over greedy about being elected. I can tell the truth. The truth is that I did what was right and somebody else should have done it long ago and the Opposition from George Town should have supported me, like you did, Mr. Speaker, when you were in the Government. The Opposition should have supported this initiative because it is a necessary initiative, it got things started. I do not know what the problem of the Opposition is because they can agree with nothing.

I need to make the point because it seems that every time I move I hear the Second Elected Member from George Town, not the First Elected Member from George Town. One thing people know and that is how to back news. That mischievous Second Elected Member from the district of George Town who continues to turn the facts upside down has to remember that the masses is not exactly judicious, they are not exactly measuring all the facts and weighing all of the points. So sometimes they listen to how we talk rather than what we say. The way he says things could get people very riled up to believe that the Government is concentrating more on the financial community of this country than they are in the people. That they are more concerned about giving the Ritz Carlton duty concessions than they are to people when that is not the truth because the first thing the Leader of Government Business did was to insist that when people were replacing articles that the duties would be reduced whether it was on cars, furniture or rooftops or whatever.

If the Ritz Carlton is going to bring revenue to the Cayman Islands sometimes we have to pay for investments; it is something that you know and the

Second Elected Member from George Town knows as a business man. He is a business person because he collects dividends from his relationship to the big downtown law firm. He knows that sometimes you have to pay to play or pay to benefit. You have to invest something to profit and countries can be that intelligent and governments can be that intelligent to now that you cannot continue to tax people.

I am happy that I have tired to do some business for myself. I think that every person who is in politics should try it because it gives you sympathy for the private sector that you would never have if you did not try it because it is not as easy as we think; it is difficult and perhaps politics is a little easier.

I am saying that to say that I think that we ought to have great congratulations to the private sector. We have to show that we are not going to bring an Appropriation Bill here and say okay we pass this and we will see who is going to be in the Government next time and then bring taxes. No, the Second Elected Member from George Town might be suggesting that we cannot make it without taxation on new revenue measures but that is against the policies of the United Democratic Party Government! We brought in revenue measures one time and he was the greatest opponent of that so imagine if we were to bring it in again, boy he would have something to talk about again. Is he suggesting that we would be silly to not learn from the Opposition's objections? We are learning each day from the Opposition's objections and when they are good objections we integrate them into our policy decisions process. What the Opposition needs to do is to learn something from the Government, to learn not criticise good things that are working and to tell the people that the Government is working well and not to change the Government, especially not to change the Government at a time that the country is fragile socially and economically.

The Opposition need to convince the people that they are willing to sit there for another four years, if they are returned, because they are such good stewards that they are willing to allow the Government to continue to do its good work in order for the country to be recovered—in the best and general interest; that is what the Opposition needs to do. We expect that from a good Opposition.

So, the private sector we understand is doing well. Why is it doing well? The Second Elected Member from George Town said that the Government should have broadcast to the whole world how we are hurting and destroyed and charity would have come. Yes, charity would have come but at what price? Everything is at a price. I believe that we did the right thing, we are not getting charity but we can pay our bills, we can borrow and we can help. If we had gone the hedge fund might have been gone and the whole financial situation might have disappeared from the Cayman Islands, so I think the Leader of Government Business is a good leader, manager and made the right decisions because at the end of the day when

people see you hurting, especially your enemies, they do not have sympathy, they come and take you out. So, you do not broadcast the fact that you are hurting. People do not have that kind of sympathy.

So, we have stood up, maintained and coming for extraordinary financial measures which are a result of Hurricane Ivan. We are not getting it from the United States, Britain or Germany, but we are getting it from our own resources. Although we would have loved to see people give us in order to at least demonstrate sympathy and understanding for our situation, sometimes we have to understand that we cannot have it both ways. When you have to go into the international community and pretend to be poor, hurt and destroyed then you would convince those people who are strong and who are with us because we are strong that we are weak then we would really be in a bad position.

I do not understand why the Second Elected Member from George Town, with all of his rationality and great intelligence that he could not think on that basis. Perhaps he does think on that basis but he does not share that with his constituents because that would be saying that the Government made the right decision. I know the Second Elected Member from George Town believes that he is a greater leader of the Opposition than the Leader of the Opposition because he talks, turns things and agitates, and I could see him as a bourgeoisie on the front lines and everybody would follow him, 'let us go to the barricades'. However, the Leader of the Opposition is not the same kind of leader. The Leader of the Opposition is a person who knows when it is time to be quiet and time to think about harmony and working together.

I feel that there is a lot of positive contribution that the Second Elected Member from George Town could have made because he is an experienced man in the private sector. He is a member of one of the more established financial or economic institutions in George Town and he knows that if they did not get electricity back first, his company and partners would have lost a lot of money; the country would have lost a lot of money. We would have no one to go for to get the licence fees from. So, all of the companies that they manage there would be no body to pay if we did not allow those people to be first. It worked well the way I saw it worked.

I am in Prospect and waited a long time like he did for electricity. I waited a long time like you, Mr. Speaker. We all waited and it was a long wait and it was uncomfortable but we put our priorities right. Now it is important for us to pass this Appropriations Bill and move into Finance Committee in order to allocate monies to people who are in need. Although those monies have been allocated towards the organisation that is distributing it still needs to come back to Parliament to be passed. Some of the money has already been spent, for instance, the debris removal money, the money that they criticised saying that we spent too much money on debris removal. I do not know

why they would say MC stands for McKeeva, when they did not say MC stands for McField or McLaughlin. All I can say that we need to come to a politics of construction. We do not need to be in a politics of destruction and it is very destructive when we always try to interrupt what we are doing as a Government.

Mr. Speaker, the Governor can rely on his emergency powers, suspend the democratic process and be able to deal with emergency issues. We as a Government have not asked for those powers to be prolonged; we have not asked or think that we should have those types of powers, but normally when there are disasters in countries Governments have extraordinary powers or advantages for a period of time, not to pervert the system but to help the general interest, the general good. What we have done was done with the same kind of power and authority, the only difference is the fact that we were able to appropriate money because of the Public Management and Finance Law and now we come to Parliament to legitimise the types of appropriations which we need to spend. What we are asking is that the Opposition assist us. That the Opposition agrees with the appropriation because these are not your normal appropriations. These are extraordinary as a result of Hurricane Ivan. So, how can the Opposition not agree with this? If the Opposition does not agree with this it is callous, mean and incredible.

We came here before, for instance it was \$800,000 that my Ministry spent to assist persons with employment because so many people had become unemployed as a result of Hurricane Ivan. Many of them were unemployed before but Hurricane Ivan created a worse condition for those persons who were unemployed before. My Ministry initiated a community clean up project. We spent \$800,000 and none of it on my trucks because they did not participate. I made sure that I did not cross the line and even if I was to lose at the end I did not cross the line. A lot of the poorer people in our neighbourhood got to truck the stuff away, was able to serve their community and we gave them certificates at the end of the day to make them see that the country appreciated the great job they did cleaning the district of George Town; \$800,000! Now we have to come and ask the Opposition to support this and the Opposition is saying 'No'. Well if the Opposition is saying that they are not going to support this then they have not supported those persons.

We are one Government, all elected by the people, we just play different roles. At certain times the Opposition has to realise it has to cross over and support the Government when it comes to national issues. We have seen that happen while we were out together giving out water and food, when I could find where they were hiding. Not the Leader of the Opposition but the Second Elected Member for George Town who was commandeering the team.

I will say that there are so many things that I realise that this Supplementary Annual Plan and Es-

timates deals with. I have not tried to bring in all the things that should be brought in, which is the Government's Budget of 2004/2005 but I have tried to deal with the Supplementary Annual Plan and Estimates by referring to certain issues that seem to have come into the debate as a result of the type of debate which the Second Elected Member from George Town has had. So, it has been a rebuttal of certain remarks that he has made rather than an attempt to explore some of the very good points in this Supplementary Annual Plan and Estimates for the Cayman Islands Government.

From the point of view of my Ministry, we are trying to give the Pines Home \$300,000. I would again ask the support of the Opposition because I think that the Pines deserve it. Long before we heard that Maples and Calder was going to give a generous donation of \$1 Million, we had decided that we would give the Pines \$300,000. It is unfortunate because we are losing that money for a fifty meters swimming pool. They indicated that they would give the Swimming Association that money for a swimming pool and now we are losing it to a much more worthy cause, and although the cause of competitive swimming in this country is very worthy, we should not forget our elderly. The United Democratic Party does not forget the elderly because we have over eleven hundred people between seamen and veterans that are collecting \$450 per month. That is an increase of \$50 which we did and we increased the numbers when the past Government had decreased the numbers so we have made more people eligible for financial assistance because we recognise that at this particular time it is very difficult for people. So, there will be things that will be showing up in this Bill that we need to support.

I can rest assured that the good people of George Town will see me as a practical person, a person who does little things but the things that are significant. I do not try to have big plans; I only try to do simple things that I see are needed. One of the things we know that is needed for a long time is the need for more open space, play areas and parks. We would like to thank the Dart Management Group for the incredible contribution which they have made to the development of parks in their growing community projects in the Cayman Islands. The Dart Management Group developed the East End, North Side and West Bay Parks; they will develop the Bodden Town Park and they will complete their development of the George Town Park in April and the Park will open on 9 April. We would like to take this opportunity to invite all Members of the Legislative Assembly and the general public to that opening on 9 April 2005. Some of the George Town people said to me that they did not feel that they were going to get the same kind of park that West Bay has but now the West Bayers are saying to me that they want the same kind of park we have in George Town. So, I do not know how we can help the Leader of Government Business.

*[Inaudible interjection]*

**Dr. the Hon. Frank S. McField:** Well the park in East End is the best park. We know that you would think that, but we have to tell you that until you see what we have in George Town you will not think. Mr. Speaker, I have to thank you for your support because it was during your tenure that you allowed us to be able to acquire that piece of land to be used for this magnificent park. Again we find that the Members of the Opposition have not done too much in this respect.

I would like to say to my colleagues here that I have decided to name the Park after the Dart family. Therefore the Park in South Sound, George Town will be called the Dart Family Park. I know we have people that will be critical of this but I think that we have to remember, especially at a time when the Cayman Islands is in the condition that it is in, that it needs so much assistance and entrepreneurs that it is good for us to recognise what an entrepreneur has done. The building of these Parks have cost millions of dollars and I also believe that the name attached to that park will give it a certain guarantee from the point of view of the upkeep of that park, which I think is absolutely essential. It is one of the better facilities that we have been able to achieve. I am happy that we have been able to achieve this during the rule of the United Democratic Party and I thank all Members of the United Democratic Party for their wonderful support. I thank the Leader of Government Business and, in particular, the Third and Fourth Elected Members from West Bay for the way in which he worked in terms of bringing forward this magnificent effort.

So, Mr. Speaker, my heart is free, my mind is clear, my determination is okay and I would like for people to remember that we have done a lot in a very short period of time. We have done it in the areas of sports, prison reforms, probation, parole, children and family issues, Bonaventure/Marine Institute where we were criticised for what we were moving and now we have Michael Myles as a Caymanian running it. We have Caymanised it to a certain extent. We have it under control! There is a lot to do and it could not be done in one term and this is the reason why we would be asking the people to return us again so that we can complete the job that we have started.

Somebody said to me yesterday, "Well if you guys have made a mess why would the Opposition want to be the Government to clean up the mess? If they have made a mess leave them and let them clean up their mess and if they have done good then why change what is good?" Either way, it goes. One good term deserves another. That was just a wise man off the street who came and whispered to me. He also said: "When you change they will come and kick out everything that you have paid for, other wise they are saying it was okay". So, if they keep it then it was okay otherwise they will come and kick it out.

Therefore why at this particular time when we are having a cost that we are having in the country. . . .

*[Laughter and interjections]*

**Dr. the Hon. Frank S. McField:** Mr. Speaker, it is always good to be able to end on a happy note because with all of what the Second Elected Member from George Town says—once you go into the cafeteria with him he is all smiles and lovey-dovey and he does not take it any further than that; it is just that he cannot help himself from turning facts upside down and you have to remember he is an attorney at law, the attorney that removed the other attorney. I wonder if there is going to be another attorney to remove this attorney.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? If this is a convenient time we will take the luncheon break at this time and return at 2 pm.

**Proceedings suspended at 12.41 pm**

**Proceedings resumed at 2.20 pm**

**The Speaker:** Please be seated. Proceedings are resumed. Does any other Member wish to speak? Does any other Member wish to speak? 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 my contribution to the Appropriation Bill that is before this Honourable House. Before I go into the depth of my contribution there are a few issues that I believe I need to address, particularly those that came from the Minister of Education. On Monday the Minister took the Second Elected Member from George Town and me to task. Under normal circumstances I am sure that the Second Elected Member from George Town can defend himself, however, he is no longer able to do that in this debate and I am not here to defend him in its entirety but I am going to defend me.

The Minister spoke of how disingenuous and dishonest I am. He spoke of how he wanted me to know that no cowards came from the loins of his grandparents. I take that to mean that he is talking about his parents because they came from the loins of his grandparents. I am here to tell the Minister that no cowards came from the loins of Lester McLean either, who is my father, and that directly relates to me. Nor did any come from the loins of McDonald McLean who is my paternal grandfather or Ennis McLaughlin who is my maternal grandfather; all of whom I am extremely proud of and the record will reflect that there are no cowards amongst my family. If he thought that I was a coward I will demonstrate to him today that there is no coward on this side.



He also said that anyone who is so dishonest and tries to hide things to get political gain would steal your wallet and your wife. I say to anyone who has a wife and someone steals her to be glad she is gone because no one can be stolen unless they want to be stolen and, I am not in the habit of picking people's pockets. He said I am not in his league; that is so true because I certainly would not want to be in the league of the Minister of Education. I will tell him a little bit of how he gets up here in this Honourable and beats his chest about being the professional educator. I have always believed that it does not take education to lead. There is more to it than that, its not education alone, you have to want to be in service to your people and you must have the courage of your convictions. When he speaks of actions being louder than words we do not see it in him. As a professional educator he should also understand that he has a responsibility to impart that which he has learnt and part of that is to show others how to utilise the education which you have received. If he is not doing that which he is not, he is no professional educator.

On Monday, the manner in which the Minister went on honestly bothers me because it touches me personally. For sixteen years, I, Vincent Arden McLean advocated for the current Minister to be the Minister of Education for our country. I did that, Mr. Speaker, so much so that I have been abused by many of my friends. Nevertheless I continued to support him. It is like what a former legislator said here once: 'Only a dead man and a fool cannot change their minds'. I have changed! I was wrong and I publicly now apologise to this country.

That report card that the Minister talked so passionately about, as a professional educator I am sure he understands what grading your work is about. Mr. Speaker, whilst it is not normal that the student grade the teacher, I am going to do it this time and for the Minister his report card has a great big "F" across it. Since I am not in his league, educationally he needs to go out and tell the people in layman terms what "F" means. Whilst I am not in his league certainly the people of this country understands me and they know where I am coming from. He also said that I was shallow. We all understand shallow, but I can tell him that at the end of the day it is not too much soil under his feet either that is fertile. I do not know what is sprouting from the ground that he stands on but it is certainly not helping this country.

**The Speaker:** Honourable Member, if I may? I would like to remind you of Standing Order 35(3). I know you are aware of this but I remind you nonetheless.

Standing Order 35(3) **"It is out of order to use offensive or insulting language about other Members"** Also for the record and for the sake of the Press I elucidate on the remarks made earlier. When the Honourable Member speaking said that he was grading the Minister of Education and would give him an "F" in red, I am sure that he meant "failure". We

would not want any other connotation to be put to that; it really means "failure".

Thank you, please continue Honourable Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. If I did not clarify I was hoping that the Minister would clarify what "F" means in educational terms. It means he has failed miserably!

On Monday the Minister brought to your attention that we were talking on this side of the aisle while he was speaking and he requested that he be afforded the same privileges that he is entitled to that he has given everyone else. Now he is talking and he said this morning that he was going to continue his debate, not as a backwoods preacher, but as an Oxford don. I would like to know what kind of don he is over there now. With all due respect, Mr. Speaker, I am requesting the same privileges of being afforded the right to debate and reply to him without his disturbance.

**The Speaker:** Honourable Member, yesterday when the Honourable Minister for Education was speaking, I recall asking all Honourable Members to afford due respect to each other when speaking and I am sure this will continue into today.

I would ask the Honourable Member for East End to remember the contents of the Standing Orders in regard to debate and let him know that we are debating the Supplementary Annual Plan and Estimates and that we are in fact giving latitude on this as we always do, but we should keep within the bounds.

Please continue, Honourable Member.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. He who gives must be prepared to take. With reference to you bringing to my attention about the use of insulting language I will abide by your ruling and try to avoid that but certainly the Minister stood over there and I sat here and took it. He called me a Philistine, dishonest hypocrite—

**Hon. Roy Bodden:** Mr. Speaker, on a point of order.

**The Speaker:** Honourable Minister of Education, please state your point of order.

#### Point of Order

**Hon. Roy Bodden:** The Honourable Member is misleading the House and making false allegations against me because if I had called him those names personally you would have interrupted me, Sir.

I spoke generally saying that whoever would adopt such practices would be dishonest.

**The Speaker:** Honourable Minister, I recall you making those statements.

Firstly, I would like to remind the House again as there is no such point of order as misleading; the points of order are clearly stated in the Standing Orders.

Yes, on the statement you made yesterday, I think you are quite accurate in that. I did recall you making the statement about Members, generally speaking, of being Philistines, hypocrites and so on. However, I do not recall you directing that to any particular Member of the House.

Please continue, Honourable Member for East End.

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

I expected this so I am prepared for the disruptions. Certainly, whilst that was not directed at the Elected Member from East End, being myself, it was prefaced with all the Members of the Opposition and I am one of them. So, it was at me. That is how this works.

I have some grave concerns. The Minister can get up here and talk about—and I want to get this right—the redevelopment of the Cayman Brac High School and the George Town Primary School, yet no mention was of East End. None! Yes, he talked about secondary education and the Cayman Brac School needs a canteen. I would like to know what happened about the one in East End or the one that should be there. Mr. Speaker, shortly after being elected as the representative for East End and entering these hallowed Chambers, I started requesting from the current Minister his intervention at the East End School to have it upgraded. I wrote to him specifically about the kitchen facilities and a canteen. It has been four years and I have not let up on this Minister about East End school.

Here we are going into another election and nothing has been done, and I must not say that he has not failed? He has failed! You know what the Minister of Education's problem is? He thinks we are here to create a legacy for ourselves. We are not here to do that. If we are not here in the service of our people we should not be here. Mr. Speaker, I have had appointments with this man in his office to specifically discuss the school in East End and nothing has been done except a lot of empty promises. The Minister for Education cannot say anything good about the East End School because he does not go there. Then he tries to ban me from going there. You want back wood preaching, you will get back wood preaching today\_\_\_

**The Speaker:** Honourable Member, are you rising on a point of order?

**Hon. Roy Bodden:** The Honourable gentleman is making false allegations because I did not try to ban him from visiting the school. He cannot say I do not visit East End Primary School because I visited it in my official capacity and the school log will show. I am reasonable, I accept criticism and I accept his be-

cause he is doing what he is supposed to do, but he cannot do so with false allegations mislead the House, Sir.

**The Speaker:** Honourable Member for East End, you did make the statement that the Honourable Minister for Education has not visited the school in East End and some other remarks. Would you clarify those remarks please?

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

The Minister has visited East End School twice in four years. He does not visit the school as frequently as necessary and I do not mind putting it that way. On banning me from the school, the Minister told me—let us go back a minute. In 2002 the Minister stood on the Floor of this House and encouraged every Member in here to support their schools in their respective districts. Recently, (and I know this was coming so I am prepared) the day before the school was to open on 4 January I visited the school in East End to see if it was prepared for the following day it was set to open, which was Wednesday, 5 January. Upon arriving there, the kitchen was a total mess, rodent droppings, and dead roaches on the floor. I reported that to the Department of Environmental Health, I did, I take full responsibility, but I did not let him know. I reported other issues that needed to be addressed at the school like the temporary classroom, which was not completed. When I called him back that evening he said to me: "Do not go back to that school unless you have permission from the Ministry". If he wants to say that is not banning, then so be it.

**The Speaker:** Honourable Member I now wish to rule on the point of order. I note Honourable Minister for Education that the Member from East End stated that there were two times in your four years that you visited the school and he qualified that by saying that it was not very frequent. That was slightly different from what he said originally, which was that you had not visited the school but he did correct that by saying it was twice in four years and he was questioning the frequency.

Regarding the banning from the school, he is interpreting what you said about him not going back there without permission as banning him from the school. I do not see this as an outright ban but that he should get permission from the Education Department or elsewhere in the Education structure. If he is correct that all Members were encouraged in 2002 to support their schools, there could have been a misunderstanding on his part. I would like to ask the Honourable Member from East End to continue but to be very careful unless he has the facts to back up what he is saying.

Thank you, please continue.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I am subject to correction and I will bow to that whenever

the time comes I have to withdraw I will do that if I am wrong. However, I am upset with the manner in which the children in my constituency are being treated.

It goes much further. Shortly after the storm, I tried, not tried I acquired a generator from one of my constituents and now I can publicly thank Mr. Andrew Reid, who lives in the district of East End. A brand new generator! I tried to get the children of the district off the streets and get them out of the way of restoration efforts and the people who are trying to restore the district. I tried to open the library that was intact and it was almost derailed. That is the kind of treatment my children are getting and I must stand here and be nice to the Minister of Education? No, no, Mr. Speaker, today I am prepared to show *who is coward from who ain't coward*. As long as I stand as the Elected Member for East End, I am going to speak! No man is going to stop my mouth!

**Hon. Gilbert A. McLean:** Mr. Speaker, on a point of order.

**The Speaker:** The Honourable Minister for Health, please state your point of order.

**Hon. Gilbert A. McLean:** Under Standing Order 36(1) “**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;...**” The question before the House is the Supplementary Appropriation July 2004 Bill, and it is not about cockroaches or the Minister for Education. While the Minister for Education was quite profound in some of the statements he made, they were made in a much more judicious manner than what is happening now. I suggest that the Member speaking is not speaking to the question before the House.

**The Speaker:** Thank you, Honourable Minister of Health. I am sure we are all quite acquainted with the contents of the Supplementary Annual Planning Estimates before us. We do know that one of the major purchasing groups under the estimates is the schools. I did say from yesterday when the Ministers and Members from government were speaking that I would be allowing the same latitude to the Opposition that I allowed to Ministers. That shall continue but nonetheless, I would ask the Honourable Member for East End to try to confine his debate as closely as possible to the contents of the Supplementary Annual Planning Estimates that is before us.

As I said, this is a wide ranging debate and I will allow Members to touch on things that are directly or indirectly connected with this, but the debates should be confined as closely as possible to the subject before us, which the Honourable Member of Health has brought to my attention, so Honourable Member from East End I would ask you to continue your debate but try to contain your debate as close as possible to the subject matter. Thank you.

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

Just let me say that I am disappointed with the Budget and there is nothing in here to support the East End school. Nothing that I see as a narrative saying directly for East End School and I want to see a narrative saying East End School. That is why I am debating it in that manner. However, there seems to be some jealousy from his partner of part 2. Do not worry, I have two hours and his time is coming in this too.

*[Inaudible comments]*

**Mr. V. Arden McLean:** No, Mr. Speaker, I am not dumb and do not expect anybody to be dumb, but when I am finished I am going to be like the mosquitoes that were here in the 1960s and still are – everybody will get a little piece of it. So, I will be ready and willing to take mine.

The Minister of Education cannot today give this country an updated assessment of the condition of East End School. I will bet my life that he cannot do it. He does not know what is going on there. I was there this morning at 7 o'clock and there yesterday before 12 o'clock. For his information I have twelve people working there today! What am I doing, Mr. Speaker? Painting the fence and putting down a new sidewalk. He cannot tell the country what is going on. I must not be angry? I must not be upset? The people of East End should not be upset? They should, they have every right to be, when the Government is not providing sufficient funds for their school and their children. The best thing in this world is to touch someone's heart as long as you do not play with it and the hearts of the children in East End are being played with, Mr. Speaker.

The Minister spoke passionately about the psychological effect of the hurricane on the teachers, yet I did not hear him say anything about the students. Of course, he has left the Chamber. I never heard him say anything about the students! I want him to come to East End and look, but he cannot see it now because it is covered. The walls were broken down. How can our children go back into the schools in that condition? And he sits by and not try to get monies to do our schools!

On 6 September 2004, there was a request for the new Frank Sound School of \$3.5 million and by 10 February it dropped to \$2.5 million and it is the same description, site work. Mr. Speaker, it is hoped and hoped by everyone on the eastern side of the country, that the Ministers for Bodden Town would look out for the eastern districts. Now I will go and show where the policies of this Government have fundamentally changed since September. The Government says they have not changed their policy. On 6 September 2004, the Government requested of the Finance Committee \$743,000 to build a fire station in Bodden Town; has it been built? No! Nonetheless, it is not reflected in February 2005 Supplementary Budget

Annual Plans and Estimates. What happened to it? We are saying that is not a fundamental shift in policy? It is! For the people in the eastern districts there was a policy made by the Government and appropriated the funds to build a fire station to protect the people of the eastern districts from disaster by fire and now we are not going to build it. That is a fundamental change!

*[Inaudible crosstalk]*

**Mr. V. Arden McLean:** So, it was not a policy to build the fire station? So have you reversed that policy, Mr. Speaker and now we are not going to build it?

**An Hon. Member:** No!

**Mr. V. Arden McLean:** Oh! We are going to postpone it?

**An Hon. Member:** That is right!

**Mr. V. Arden McLean:** Well, it affects the people of this country.

I recall the Minister for Community Affairs, in 2002 for the first time saying that the distribution of resources was the responsibility of the Government. That is true, but it must be to the benefit of its people.

I would like to know why is it that the two fifths of the Cabinet cannot do more for the eastern districts. It is not only Bodden Town, but East End and North Side too. We do not need anymore than two Ministers from the Eastern districts; we should be getting something, we should have someone in there to defend us and we are getting nothing or very little compared to the others. It is the same people, we might speak a little differently but we are the same people; our country, and our people. If our job here is not to defend and provide the basic necessities for our people, then we have lost the central piece of the jigsaw puzzle. We are losing poorly, Mr. Speaker. Three of the Opposition Members come from the eastern districts, three out of the five and four of them live in the eastern districts. Is this punishment for us? It is high time that the eastern districts get their due, it is high time.

I see under the Ministry for Education, the monies to repair schools and maybe I need to discuss the repairs to our schools now too. The Minister spoke of how plywood was installed with rafters having a space of eight feet, maybe he needs to stick to something he knows or thinks he knows – Education. He does not know anything about construction. No one in their wildest dream would install plywood on eight foot centre rafters because it would drop out when you stood on it to put on the covering. Now I can understand, four feet spacing but not eight feet.

Are we saying that we could not do anything for our schools for five months; it has just started? I live next to the Savannah Primary School and both

Ministers from Bodden Town live above it and have to cross it at least twice a day. They have only just started today to put the roof on, five months after the fact. Do we really think that is fair? They have not started mine yet, it still has tarp on it. I know they are going to say the contractors would not take it on, they were greedy and they are going to find other work that will pay them more, I know they are going to say all that, all kinds of excuses, but I have news for them because there are other reasons too.

Mr. Speaker, one of the main reasons that we do not have contractors working on the East End School is because the contractors experience with the Government is that they have to finance the job and then are not paid for two months or six weeks and that sort of time frame. The contractors said they are not doing it anymore, but you know what? I offered to repair the East End Primary School, the roof, if the Government would reimburse IAM Co. However, that was not forthcoming, thus the school is in the same condition that it was in. I offered to do that, Mr. Speaker. So, when we hear the reasons for the lack of involvement in the East End Primary school, they must stop. Whilst they may not be in tune with their district, I am in tune with mine. At least I know exactly what is going on in my district, from one end to the next. At least twice per week I drive straight around North Side, so I know. No one else can tell me what is going on up there.

Yes I am grateful to the Government for the \$150,000. Do not think we are not going to refuse it, we need it, our people need it. The Minister for Community Affairs a while ago talked about how well I begged, yes, if anybody is offering something for the people of East End or Cayman, call me. Of course, I will take it. I have had building materials come to me from Canada, trailer loads of it. It is for East End being utilised on peoples' homes. The first priority right now is East End, and yes, as every place else, I understand the Ministers in that the delay was caused by lack of materials. Someone may be telling them that but I have lived it in East End. The Government was not there I was there alone; there was no budget forthcoming from the Government other than the roads from Public Works. I thank them for that and they did a magnificent job but that was the only money spent in East End. So, when I speak everyone wants to crucify me. The Minister for Education should be ashamed of himself for persecuting me. I too have steered the course and he talks about. . .

Yes, Mr. Speaker, it was me that said everybody must die, politically that is what I am talking about.. Mr. Speaker. . .

**The Speaker:** Honourable Member, I would just like to remind you about tedious repetition. You have been over that particular subject several times, that is of the Minister's remarks. So, I would like to ask you to move on from that at this point please. Thank you.

Please continue.

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

I was just trying to show that we have survived without the Government's involvement in East End. Thank God for IAM Co. and Mrs. Susan Olde. I hear the Minister of Community Affairs saying that he is going to name the park after the Dart family; that is fine by me. However, at some stage, sometime, somehow, something in East End will be named after the Olde family too. We talk about the Queens Highway, they live on it and I did not see the Queen do anything. I saw Mrs. Susan Olde do it, and maybe, we can change the name to the 'Olde Highway'.

I am somewhat concerned about housing. There is ample evidence to prove to the Minister that whatever funds are going to be appropriated for the housing of East End it should not be used on the type of construction we are currently employing. After hurricane Ivan I am sure we now have to review the type of materials we are going to employ in order to ensure that we get as near as possible something that will withstand much more than we originally anticipated.

I note that the Honourable Third Official Member in his address laid out that debris removal will be \$8.5 million, to which he is looking approval for. Everything at this stage in my political life—and this has nothing to do with politics; it has to do with restoring East End—is going to be focused on East End, so I beg the indulgence of Members.

MC Restoration came into this country and was awarded a contract of up to \$10.7 million. As usual, they started on the western end of the Island, not necessarily West Bay but the end other than Bodden Town, East End and North Side. My concentration is Bodden Town, East End and North Side, in particular East End. We all agreed that East End, Bodden Town and the Southern side was hit the worst. I speak no ill of them starting where they did, but I believe, they could have simultaneously cleaned the other districts as well. It is not going to cost anymore and you finish in a shorter period of time, as far as I am concerned. They have only just reached East End. I have been in contact with them and am very thankful for that. However, in the *Caymanian Compass*, of Monday, 14 February 2005, under the caption: 'No End in Sight to Debris' Mr. Mark Scotland is being quoted as saying that the contract will be completed by the end of February. In today's *Compass* it states that there are no provisions for continuity or something to that effect. Here we go again, East end is the last place to get, and we will not get cleaned up, eh? Pease Bay is in a bad state as well. As I understood it, there is some less than 100 thousand cubic yards left to fulfill that contract. There is more than that still laying around in East End.

Public Works has done a magnificent job of managing immediately following the storm. Mr. Leighton Dixon and his men did a magnificent job to repair access roads, try to clear most of the debris but we need to hear what the Government's policy is going to be from here on in getting this cleared. Is this an

additional \$8.5 million that would be required to do it? It is going to take a lot of money and we need to ensure that this is done. As a matter of fact they started for East End exactly at the electoral boundary, the junction at Frank Sound and East End road and they have not gone one mile and have been there for three to four works. They have traversed for more than one mile but they have not cleaned for a continuous mile. There is a lot of work to be done. They should have started from the east and come west. That may have meant that West Bay and George Town would have suffered a little and we would have had East End and Bodden Town cleaned up by now. If the two Bodden Town Ministers had assisted us, they would have helped to direct the cleaning from the eastern end. They know that we were hit the hardest in Bodden Town and East End.

Mr. Speaker, yes, the monies of \$5.5 million for the rebuilding of homes was put into Caribbean Development Bank by the Government, and the private donations given to Cayman Recovery Committee is, at this stage, being given to some of the home owners in East End as well. I am not going to say we do not need it. When I say that I am in tune with what is going on in the district the Ministers try to make it seem as if that is not true.

What I have done successfully is to coordinate those two groups with the group from IAM Co. that is doing the managing of the rebuilding in East End. IAM Co. is the charitable fund that has been created by Mrs. Susan Olde and the monies she donated went to that fund. It is a charitable organisation with directors and the likes, and she has personally also acquired the services of a group out of England called Control Risk group, and they are managing the restoration through IAM Co. I have coordinated those other two with them in order to not step over each other, so that there can be a smooth rebuilding process. Where for instance the CIDB, government's money, is only earmarked to put on roofs, windows and doors, and I think it is similar for the recovery fund, but with the IAM Co. funds we are not restricted to that and once the property has been approved we do everything. So, those granted from the Development Bank, up to the \$15,000 and those granted from the Recovery Committee Fund, once completed we will go in and take over the rest. We have now coordinated it so that we know exactly what house is being worked on. So, the Ministers cannot poke fun at me and say that I do not know what is happening in my district.

It is about re-developing this country and right after the hurricane I talked about the phoenix and rising from the ashes; East End is rising from the ashes. It is going to take a long time. The other day, I asked the Minister for Planning about the restrictions, or lack thereof, regarding the re-development. I was specifically talking about East End. So, we are really appreciative of the funds we are receiving and I am not going to turn it down. This morning, I got a full report on

every home in East End and what is needed in the form of white goods. Twenty five washers, 25 dryers, 21 refrigerators, 15 stoves, 33 queen size beds, 11 full size beds, 8 twin beds, 8 dressers, 22 a/c window units; they are all there. It is not my money; it is the people's money. This is the next stage, to work on it.

The Minister says, (let me not misquote him), "His heart is free and his mind is clear, he has run the race", so have I, Mr. Speaker. My heart is free and my mind is clear too. We have worked. So, when the Government is putting in \$150,000 (it is time) and East End deserves to apply for the other \$5 million. I would have liked to see soft loans given to people as well. People could get loans and repay that because to stretch the \$5 million and the recovery fund as far as it needs to go had to be limited to \$15,000 per home throughout the country. In very few instances would it go over that, but it will do a limited amount of work and maybe we will be able to get more in the future, but right now that is what it is.

We are borrowing \$25 million and I really do not know what it is for because I guess we will get that in Finance Committee. No one told us in any specific terms what \$25 million is for. Will it be to further extend assistance in the rebuilding process? I would like to hope that that is what it is for or part thereof.

I see there is an increase of \$400,000 to construct an abattoir, the same one that already has hundreds to thousands of dollars behind it. Maybe it would have been better to have postponed that at this time, the same way the fire station has been postponed. However, on that issue, I recently read in the paper where we had completed a stray animal impound after the storm. I thought it rather cute that a country could shelter the stray animals and the children did not have a top on the school to be able to go to. I thought that was cute, very cute. I cannot criticise the Minister who is responsible, at least he is living up to his responsibilities, but we can criticise the one responsible for schools. He should have had roofs on the school before a stray animal impound was finished. I wonder if anyone can tell me the priority of that from a government's perspective, not the Humane Society's perspective (because they want to get stray animals), I am still wondering how that works and I guess I will be wondering until somebody explains to me why a stray animal impound was built before the schools could house our children. Maybe it was because the animals were too vicious and due to the lack of food would have bitten people and take over the country. Those kinds of reasons I am sure will be forthcoming. Certainly, we could have put up a little fence and round them up and throw them in there. It is policy shift, shift? We have not seen shift yet!

It was also a little cute that the Minister for Health was in the paper wondering how Bodden Town, after being so devastated, was only getting 5 or 6 of the mobile homes and West Bay was getting eleven. Mr. Speaker, I am only throwing it out. Re-

member I said earlier that there are two of them in there (Cabinet) and only one from West Bay; how that works I will never know. We will never know because as you well know Cabinet is secret, so we will never know. East End got three, the others are on the way but I still believe in the interest of housing, at this stage, the Minister for Housing, who is so proficient in getting affordable homes in this country should have been responsible. We could have built homes in the time that has gone by or even if we are bringing temporary homes I trust that Government would also assist those same people in getting their homes rebuilt. For us in East End, we have 12 of the total rebuilt and many to be repaired but we do not want the sardine tin ones that are available to us. We prefer to have the Flowers block ones because that is the preferred choice for the weather with the salty, easterly prevailing winds. It is impossible for us to do that in East End because they would rust within weeks. So, maybe, and I trust, we are not going that direction anymore. I also trust that those trailer homes will be removed from here in short order. I am not overly optimistic that they will be gone within the 18 months, two year period that the Government has said they have to be out of the country. To whom will we sell them?

I see where we have proposed an appropriation of more for 75 homes, which means we are purchasing them. I hope they will be gone in due course. On the management and maintenance of public roads, I see the Minister is proposing a \$4.1 million appropriation. I know it all takes time and I am not criticising at this stage but we have a lot of exposed roads in East End. I must say that the Minister for roads, with whom I have been in contact and discussed different scenarios, generally we have both been concerned about the exposure to the sea and what needs to be done. Certainly, at the outset, shortly after the storm, my first reaction was that people should move inland. That was wishful thinking because no one wants to move from what they consider their sentimental homes and property.

Yes, Mr. Speaker, we need to complete in East End, the John McLean Drive down to the high-rock area. I spoke to the Minister about that but that should also be a priority, not necessarily paved but open up and the base put in, that it is drivable. I am prepared at any time to go and discuss it with the landowners to see if I can pave the way (pardon the pun) to get this road completed. In the same token, the road on the front needs to be repaired properly to avoid what we had or try to mitigate the same kind of destruction that was recently visited upon us. I am not convinced that \$4.1 million is going to maintain the roads that are currently damaged. I recall shortly after the storm, the then Director of Public Works and now Director of the National Roads Authority, saying there was estimated to be \$10 million damage. That was a preliminary estimate and not sure if that figure still stand today. However, just looking around us, I am sure \$4.1 million is not going to do it. I know that

maybe we need to or cannot go in debt and must go with what is in Finance Committee.

There are so many rumours flying in this country regarding our Health Services and I think it is only fair that I touch briefly on that subject. I wonder what has caused the Health Services Authority to require so much now, when in September there did not appear to be any indication of such subsidy. I know things change, but certainly it is impossible for me to understand how in three months, June to September, the Health Services Authority did not show a loss. Here we are in February, five months later and we are talking about almost \$10 million dollars. That is a lot of money to have been lost in even one year. CINICO, which also to some degree ties in with the Health Services in the country that too is losing or rather needs a subsidy of \$3 million for the seamen and veterans. I am concerned about it not being mentioned before. Of course, it is needed if it is here, but we should have known this at the beginning of the year. This country should have known about this through its duly elected Representatives.

Now I understand the Health Services Authority Equity investment to replace damaged assets, we all had a piece of that, where we have to make provisions for acquisition of new assets. However, to subsidise operating loss? We thought the Health Services Authority was the answer to everything, we all thought that, what has happened? It has been in operation now for two years. What has happened? There is a continuous slide compared with other years prior to the HSA, which was what we were trying to arrest and here we are injecting working capital. There has to be some truth to some of the rumours. The HSA started out with a bang said they were reducing the staff (and I think they cut some hundred staff). It is my understanding that it has a little shy of some 700 staff now and as I can recollect it was not that much before. What are we doing? I am trying to control where I am going here because I do not want the people of this country to think I have no confidence in the HSA. I am merely going down the lane of management operation.

You see, Mr. Speaker, every time the Minister opens his mouth to say something about what I say, I remember something else. I understand that we have a gentleman, a legal person who runs everything. Where did he get such authority, r. Speaker? I thought we had the Chairman, the CEO and the Board. However, I understand the legal man is the one in charge, the man who takes control of everything. He is brought out of Legal Department as the answer to the HSA problems. I have never been in Cabinet and I do not know how it works when we are dealing with an authority; whether it falls under the same civil service guidelines that a civil servant needs permission from the Governor to work for someone else. However, I understand that this same individual is the same legal advisor for everybody in the country. This is what I understand and this is the House of questions where

you hear it on the street and it may not be exactly so but it is bordering on being near. It is going to be close and I have no ends at the HSA, contrary to the Minister who likes to talk about the leaks, I do not have little birds. I am an action man but I too have the right to expose that which I have heard. I did not say I was right, the Minister has to prove me or the rumours I have heard to be wrong. That is all and I am satisfied with that. However, I am sure we cannot have a legal consultant on board running the HSA. Why then did we just recently promote all those young ladies? It is their job to do it, not Mr. Myer's job.

Mr. Speaker, I am very concerned that there is something wrong with the HSA operations and management which we need to correct. I know the Minister is very good at correcting those types of anomalies because I stood here and questioned him about Mr. Elliott. He would not answer my questions but certainly, within months Mr. Elliott was out of the door and how that happened I do not know. So, I know if there is any problem at the HSA, the Minister is quite capable of terminating it. I am really not giving him any backhanded compliment, I just speak the facts. He is capable of doing it and he has done it before.

*[Inaudible crosstalk]*

**Mr. V. Arden McLean:** Mr. Speaker, the Government says that these are extraordinary times and it requires extra ordinary expenditures, and I agree. Right after the storm I implored the Government to go out and get the monies to get the country back on its feet. I did not tell them to not put anything in East End like the basic infrastructure such as the school and the likes, which were needed to get it back on its feet. I see where the Government is transferring funds and not only is it transferring funds but also borrowing \$25 million. Now, Mr. Speaker, the Leader of Government Business spoke of the healthy financial position in which the country was in prior to the hurricane. There were approximately 60 days of recurrent expenditure in the reserves. I wonder if the Government is able to tell us (as much as the Leader of Government Business talked about prudent fiscal management), how much of those 60 days covered is borrowed money.

*[Inaudible comment by Honourable Leader of Government Business]*

**Mr. V. Arden McLean:** The former Financial Secretary knows about that; it was some \$19 million that the Government borrowed. When we did the bond issue that was put in the reserves and as I understood it, we were paying some 5 point odd something per cent interest on it. I am sure we are not covering that interest on it unless we have now started to reinvest government's reserve money. Be that as it may, the Government is now transferring, and if the bond issue had taken us into such a position and we were concerned

about the 60 days reserve, (the rule of thumb is 90 to which we aim to reach) then we should have gone and borrowed more than \$25 million. That is, we are saying that we should have at least 90 days on the reserves and we are now taking out of that. We are also saying the rule of thumb is that your repayments should not exceed 10 per cent of recurrent revenue. These are extraordinary times so it requires extraordinary borrowing at this time. The last time I heard we were at some 6 point something per cent of recurrent revenue and the rule of thumb is 10. My position is that if we are concerned about getting the 90 days in the general reserves, why are we going at it? Leave the reserves alone. The transfer from the environmental fund is for that purpose; let us expend it on the necessary areas . . .

*[Inaudible comments]*

**Mr. V. Arden McLean:** Mr. Speaker, precisely the point I was getting at. When we say in this country the reserves should be 90 days, people immediately think that it is the general reserves meaning one place; it is not. It encompasses all those funds and many governments have tried to make it look like that . . .

*[Inaudible comments by the Leader of Government Business]*

**Mr. V. Arden McLean:** I am no financial whiz either but I do know that it does not spell sense for us to start moving that and we have the borrowing capacity; it does not. Certainly, if we have another disaster we will have that reserve.

Another area I would like to touch on is budgets for the churches and youth after-school programmes in this country. If there was ever a time we needed to assist with the after-school programmes, it is now. I have always supported after-school programmes and I know there are a number of churches in East End that try to keep the program going. Unfortunately since the storm we have had problems with one of those churches, the United Church, not being able to finance it as much as they would like to. It is my understanding that no funds were disbursed to them since June last year. It is also my understating that they have applied and it has not been forthcoming and I notice that the Government is reducing it by half, it is being reduced from \$150,000 to \$75,000.

*[Inaudible comments by the Leader of Government Business]*

**Mr. V. Arden McLean:** Now is the time to get monies to these churches to assist them. For instance, the United Church in East End lost its hall and there is no place for them to keep the after-school; it is difficult for the church to finance it because they are trying to repair and they are utilising all the funds that they have. We need to use the Civic Centre to get these

programmes up again and now is the time government needs to assist with these schools.

The community that I am speaking of has come forward and rallied around the children in that district. The Gun Bay Church and the Adventist Church have their programmes but their buildings are damaged and we are doing our best to assist them wherever we can and. . .

*[Inaudible comment by the Leader of Government Business]*

**Mr. V. Arden McLean:** Mr. Speaker, it is nice to know that the Leader of Government Business has said that they will get their money. I promise him that by next week I will deliver it to the Minister of Community Affairs.

*[Inaudible comment]*

**Mr. V. Arden McLean:** The Minister of Community Affairs just said I will have a better chance of getting it from the Leader of Government Business than if I give it to him. Just a year ago this same Minister was talking about his East End roots. All of a sudden he does not want to give the same East End roots that remain now and it is his extended family I am trying to get this money for! The young ones that he so passionately tried to get the park for and undermined me with the park, it is for the same roots that I am now fighting for and he does not want to give me the money for the churches. I am going to take it to the Leader of Government Business and I will make the country know that the Minister of Community Affairs would not give it to me!

*[Inaudible comments]*

**Mr. V. Arden McLean:** I am going to utilise all of my time because I can see the Minister for Works is rearing and ready to go.

In closing I would like to say that I look forward to the Frank Sound High School. I know it is a tall order, the Minister has said that we are going to have the two high schools by 2007. That is a tall order for him because in four years he was able to get only one primary school, therefore I do not know how he is going to get two high schools in two years if the country puts him back here. It is a tall order so my advice to the country is do not put him back, let someone else do it and we will get it done in two years. We really need the high schools and there has been no indication by the Minister that he is capable of building these two high schools in two years. It is unfortunate but it is a fact that it has been five months and we have not repaired one primary school yet. I trust that we will get the schools completed and that is my primary concern now. The schools are for our children. We give too much lip service to the old cliché that the children are our future.



I see the T-shirts all over the place which says, action speak louder than words. That is true but I know those t-shirts should not be worn in Bodden Town. In East End they can wear them—action speaks louder than words! Those self-proclaimed professionals let them be, but as of today I want those Oxford dons to call me the Action Man!

Thank you very much, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? The Honourable Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker. I promise you I will not be too long but there are a number of comments that I would like to make mainly within the district and beseech those that are in power that can help improve the plight of the people in Bodden Town. Significant amount of help has come there recently and I look forward that this continues.

I will touch on the area of the schools and I was pleased this week to see the significant improvement at the Savannah School. One of the questions that I have is about the section which is being fixed for canteen and kitchen because I see that work still needs to be done on the roof of that section. I briefly touched with the Minister of Education on some of these areas.

As for Bodden Town School, Bodden Town Civic Centre, Breakers Civic Centre and the Savannah Primary School, which are designated hurricane shelters, I know the difficulty in getting work done but I would implore those that are in a position that they look at these promptly as we are a fraction away from the beginning of the hurricane season.

One of the anomalies that has been brought to my attention, and I trust that by now it has been addressed, is that at the Bodden Town School they had started to put in the sheetrock but had not yet secured the roof. I trust that this will be dealt with so that we will not lose the interior part of the work that has been done. I have seen work around there as has happened at the Savannah School.

Housing started to take shape but there are a couple of hiccups that have been brought to my attention, and I have spoken to a number of people in the position who can deal with this. In speaking with some of my constituents, specifically referring to the \$15,000 assistance that was provided for housing, this has been granted to a number of my constituents and it seems that the work is done but the people who have received this benefit are not fully satisfied that the work completed would entail the total of the \$15,000. I have spoken to those involved and they have told me that inspectors will be sent out and this will be rectified. However, there are concerns in this area.

There are also a number of senior citizens in Bodden Town who are still awaiting help and it has brought to my attention about a number of them. As

you know in Bodden Town there are people who rent a room here and there and because it is classified as rental property they may not qualify for the \$15,000 assistance but I do know this is the sole survival and help in actual living for a number of these persons. I was also grateful to see that Bodden Town is going to get the Lions share of the \$2 Million for housing, and in the areas that may not necessarily come under strict guidelines as approved for the \$15,000 that they will look again at these people and help them in this manner.

I know that help has been given for washers, stoves and refrigerators and hopefully some of this money will go to those who really need it. As you know in the back of Bodden Town it was literally inundated with flood waters and I am hoping that some of this money will be given to those people.

The sooner we can get the senior citizens situated properly and the worries taken away from them it will significantly alleviate the mental concern and depression. As we all know in every district a number of our elders have passed on since Hurricane Ivan. It is sad and I would support housing for the older persons. If Government brings it or if we have to borrow a couple of million more or whatever resources we need to get it from, I would support to make sure that the housing for the older people is dealt with properly. As I said earlier on, the hurricane shelters need to be put in place since we are months away from the beginning of another hurricane season, which I do not think any of us here in the Cayman Islands are looking forward.

The other area that bothers me is the debris piled up around the James Manoah Bodden Civic Centre in Bodden Town. I am made to understand this morning that they are starting to clear it up. I took a photo of that a week ago and it is about twenty to forty feet high and on the North West side is a small subdivision, Belford Estates, where I know some of the people have been having a difficult time there with the smell, rodents and everything else that goes along with this problem, however I am made to understand that they will be removing it. I am asking the powers that be to expedite this for more hygienic reasons that anything else. It is an unsightly slur because when you look at the Civic Centre the top is gone and when you look a little bit further back the garbage is piled up around it and I am hoping that this will be dealt with.

As touched on earlier, the Pease Bay area still needs a bit of clearing up on the sides. There is still a bit of sand. I am not sure what the situation is going to be with the sand that has been deposited in some of the areas. I know that there was talk that in some areas it will be left on land owners but it is still quite a bit of debris in the Pease Bay area and some areas of central Bodden Town, and some side road areas. Pease Bay looks about the worst in that, and the vehicles on the side of the road I am hoping that they will soon be removed because as you know go-

ing to East End that is the main road people drive and it will make it aesthetical more favourable than it is at this time for the tourist that go up that way.

The last area that I want to talk about is insurance. It is specifically not dealt with in the Bill before the House but when I listen to people, specifically the young people, on not only insurance for homes but for cars also, I have great concern as I am sure all of my colleagues here have and this is something that we will have to deal with before the House is dissolved on 15 March. With some of the amounts of money that our young people want to borrow to build their own home and with insurance coverage the premiums that they will have to pay along with their car insurance and mortgage it will be extremely difficult for our young people to cope with this. I am hoping that we together as legislators can deal with this and help alleviate that great difficulty for our young people and those who want to start their own homes. One person indicated that their last car insurance was \$400 and they have been notified that it is going to be \$1,400 to \$1,500. This is rough. I was blessed that in my area there was minimal flooding and I feel sorry for those that have been literally devastated. This is the importance of us as legislators being there to help those people that really need the help and when we cannot provide it to guide them to the Government agencies that will be able to help them.

What I found interesting was about a month and a half ago, on one of my medical trips to Miami, on *CNN* the Red Cross indicated that they had raised \$2.175 Billion for the Tsunami Relief and they even said that they needed no more funds at this time. I do not know if the powers that be can check in and see if that is their situation, and knowing what we have experienced here, not to the magnitude as in South East Asia but in some areas, not the loss of life, but we know what has happened to homes and other infrastructure in the Cayman Islands, if we could somehow get further significant relief without having to be obligated to raising our public debt.

In closing I would like to say that there are some rough times ahead and if we work together, despite it being election time we can get significant help for our people and we can give them as much relief as possible but we can only do it in a bipartisan manner, and whatever we do I would like to see us all indicate that it must be the people that we represent; it must be for their benefit and we should all work toward that end.

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? Last call!

The Elected Member for North Side.

**Ms. Edna M. Moyle:** Thank you, Mr. Speaker.

I wish to make a few comments in the debate on the Supplementary Appropriation (July 2004 to

June 2005) Law, 2005 and the Supplementary Annual Plan and Estimates. In this debate much has been said about extraordinary expenses but when one look thorough this Bill many of the items are items that were included in the Supplementary Appropriation Finance Committee of 6 September 2004. The interesting thing which would have allowed the Opposition to debate more clearly the extraordinary items versus the increases in items that took place in Finance Committee on 6 September pre Hurricane Ivan if this had been broken down in this Supplementary Appropriation Law. I ask, what amount of the funds that we are being asked to approve in this Supplementary Appropriation Bill today are actually increases pre Hurricane Ivan, and what are the costs and increases post Hurricane Ivan.

As my good friend, the Minister of Education always says, 'this is the house of politics and there is much political rhetoric', but on a lighter note, I think the best that I have heard since being in this Parliament in 1970 as Deputy Clerk, and in 1992 as a Member, was what my good friend, the Honourable Minister of Community Services said when he said that a good Opposition would go out and campaign for the Government to be returned. The question I ask my good friend is: Does he feel that his being returned to this Parliament is that weak?

The Opposition has been accused of many things but I think it is the first in the history of any parliament that a Minister would stand and ask the Opposition to campaign for the present Government to be returned.

It is obvious some of us do not know the meaning of Opposition. The Opposition is an opposition to any government and it is their intention to be the next government so how could my good friend really be serious in asking us go out and campaign for the return of the present Government?

In my comments on this Bill I will be dealing with the items that directly relate to the district of North Side which I represent. In Finance Committee, I will question other items that I have concerns about.

Mr. Speaker, the first item that I wish to deal with today is TP 18 on page 115 of the Annual Plan and Estimates under the heading "Hurricane Relief Assistance".

I sat in this House on Monday and listened to the Honourable Leader of Government Business announce committees for each district who would disburse the funds that are being allocated. I was totally shocked that as the only representative for the district of North Side, Cabinet (who set up these Committees) did not ask for my input, did not mention to me who they were putting on the Committee—although it is my understanding that with my colleagues from Bodden Town and East End there was discussion. Mr. Speaker, I do not know if there was a discussion with you as an elected Member, however, there was absolutely no discussion with the Honourable Leader of the Opposition, the Second Elected Member from

George Town and myself as the Member for the district of North Side.

Mr. Speaker, the Leader of Government Business is constantly saying that I should answer my phone. I need to tell the Honourable Leader of Government Business that there are two telephones in my home, they both have caller identification (ID) and voice mail; my cellular has caller ID and voice mail. When I go home in the evening the first thing that I do is check my two telephones and I return every call. I do the same with my cell so that is no excuse. It is a very weak excuse but he must live with that, not me.

*[Background comments by the Leader of Government Business]*

**Ms. Edna M. Moyle:** But you know whether anyone likes me in this Parliament or not I . . .

*[The Leader of Government Business rose]*

**Ms. Edna M. Moyle:** Mr. Speaker, I sat here and listened to the Leader of Government Business, I did not interrupt and I do not expect to be interrupted!

#### Point of Order

**Hon. W. McKeeva Bush:** Mr. Speaker, on a point of order.

**The Speaker:** Honourable Leader of Government Business please state your point of order.

**Hon. W. McKeeva Bush:** I hope that she would allow to me explain but I will leave her alone if she will not.

**The Speaker:** That was not a point of order. The Honourable Leader of Government Business is enquiring as to whether you would allow him to elucidate or whether you would give way.

**Ms. Edna M. Moyle:** Mr. Speaker, I will continue with my contribution, Sir.

**The Speaker:** Please continue.

**Hon. W. McKeeva Bush:** That is okay, you did not want it. You told me you did not want it.

**Ms. Edna M. Moyle:** I did not say any such thing so just stop it.

**Hon. W. McKeeva Bush:** You said you did not want it.

**Ms. Edna M. Moyle:** Mr. Speaker, I ask you as the Speaker as this Parliament to ask the Honourable Leader of Government Business to stop interrupting me unless he has a point of order.

As I was saying, it matters not to me whether the United Democratic Party Government likes me, Edna Moyle, or not, but I am the MLA for the district of North Side until the last ballot paper is counted on May 11<sup>th</sup> whether they like it or not!

I can stand along side any Member who has been through this Legislative Assembly and done for their district and has achieved, anytime. They may try to remove me but the people of North Side know that Edna Moyle puts her people first.

After I heard the names announced of the committee to disburse the \$100,000 in the district of North Side, I made it my business to call one of those members—

#### Moment of Interruption

#### Suspension of Standing Order 10(2)

**The Speaker:** Honourable Member, if I may interrupt you at this point and call on the Honourable Minister for Education to move Standing Order 10(2) so that proceedings may continue until the debate is completed, then it is my understanding that we will move into Finance Committee directly after.

**Hon. Roy Bodden:** Mr. Speaker, I beg to move Standing Order 10(2) so that the proceedings of the House may go on beyond the Hour of 4.30 pm.

**The Speaker:** The suspension has been moved that the Second Reading of the debate will continue, after which, we will take the adjournment and the House will then move into Finance Committee.

**Mr. Alden M. McLaughlin, Jr.:** When everyone has finished their debate?

**The Speaker:** When everyone has finished their debate, yes.

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 Member for North Side.

**Ms. Edna M. Moyle:** Thank you, Mr. Speaker.

Even after I learnt the names of those persons on the committee to disburse the \$100,000 for North Side, I had no problem but I made it my business to call one of those members and was told by that member of that committee that it was the United Democratic Party's candidate in the district of North Side who suggested the names of that committee.

I have never, since 1984 that I started running for a seat in this Legislative Assembly, tried to use anybody's money, nor my country's money to buy an election, and I have no choice but to assume that since I could not be involved as the representative for the district of North Side, there is something serious afoot. I will stand in this election on my record and I am certain my record will stand high.

I stood and listened to the Honourable Leader of Government Business debate that this country's people want to see the United Democratic Party, the People's Progressive Movement Opposition and the George Town Alliance unite so that this country can recover. How do we expect the Opposition to unite when three Members of the Opposition was not even asked to contribute a name to a committee or told who those committee members would be until it was said on the Floor of the House. In my humble opinion for what it is worth, If we want unity, unless we all unite we cannot recover from this devastation because we will be constantly fighting.

Mr. Speaker, I would like to speak on EI 12 - Ministry of Education, Human Resource and Culture – Equity investment to commence site work on two high schools and repairs. Firstly, I would like to thank the Honourable Minister of Education for recognising my pushing along with him, when he was on the Back Bench, for a high school in the Frank Sound area. My involvement in trying to get a high school in Frank Sound was from the very first time I stood for election in 1984. It was a part of my manifesto at that time. I will continue to support a high school in the Frank Sound area as long as I am a part of this Parliament, until it becomes a reality and I will support it after being re-elected.

What made me the very first time see the need for a high school in the Frank Sound area is when I would be sitting on my drive way, particularly at this time of the year, and see the little kids in the dark of the morning waiting for a school bus and to see them come back in the evenings sometimes after sunset. That is when I made the decision that I would push for a high school in the Frank Sound area, which would serve the eastern districts. I said to the Minister of Education, "I will be proud to sit alongside you at the groundbreaking for the Frank Sound High School in March".

*[Inaudible comments]*

**The Speaker:** Order.

**Ms. Edna M. Moyle:** Mr. Speaker, a part of that item is also the \$2.89 million for repairs to schools. All primary schools in this Island, I believe, were damaged by Hurricane Ivan.

The North Side Primary School had a roof replaced although no shingles have been put on it. I spoke to the Minister a few days ago because since that has been done I see no work being carried out on

the interior of the North Side Primary School. In his debate I think he spoke about having problems getting contractors to continue on a day to day basis at the schools so that they can be completed. I make a suggestion, not only to the Minister of Education, but if I may be so bold, to the entire Cabinet, that if we cannot find contractors on this Island who are prepared to stay 24/7 to repair our school facilities maybe it is time we look overseas. I hear the Honourable Minister saying that he has looked into this but because of lack of housing; maybe we will have to invest in trailers to house these people because our school facilities need to be back on line. Whatever it takes let us do it.

I noticed under 'Other Executive Expense Name and Description' on page 116 of the document, there seems to be a tremendous amount of repairs to docks throughout the Islands. I do not know if this is where the item that I am about to bring to the attention of this Parliament should be but I am hoping that someone will take it on board and that is the repair of public beaches in the district of North Side in the tourist area of Cayman Kai. The Kaibo Beach, as we all know, is a very popular camping site for everyone in Grand Cayman at Easter time. That beach is in need of serious repair. I have had complaints from tourists and residents about the public bathrooms. There use to be a caretaker of that facility but I do not think there is one anymore. There is a dock at the Kaibo Beach that needs to have sand removed from it. The erosion of the beach at that facility is quite serious.

The other public beach that is known in the district, and I am being very serious here and not saying this is Ezzard's Public Beach because it was one that he built during his time with assistance from the community. Yes, Mr. Speaker, I am only using that as my colleague is saying, to identify the public beach. There use to be a cabana on that beach, which is no longer there. If we are going to promote the Cayman Kai area for tourists these two facilities need to be repaired.

*[Background comments]*

**Ms. Edna M. Moyle:** Mr. Speaker, I hear my good friend across the Floor saying that he is going to invite me again. The Leader of Government Business, we keep almost the same birthday; that is why we are so much alike!

**Hon. W. McKeever Bush:** Tell them how much you love me.

**Ms. Edna M. Moyle:** My nieces say that you are in love with me!

**Hon. W. McKeever Bush:** Sure, I love you.

**Ms. Edna M. Moyle:** Mr. Speaker, I would be more than happy to attend a function at the Kaibo Beach or

the beach that is known in the district as Ezzard's Beach.

*[Background comments]*

**Ms. Edna M. Moyle:** I know who loves me.

Mr. Speaker. Do you know that old saying that says, "With friends like you who needs enemies?"

There is another item I would like to touch on and I do not see the Minister of Health in the Chamber but I guess he is busy doing something in relation to his Ministry or getting information, but I am sure one of his colleagues will pass on my comment.

Before I move on to the Ministry of Health I would like to touch on another item under the Ministry of Education and Culture. I have spoken to the Minister again concerning the North Side Public Library. The North Side Public Library was damaged during Hurricane Ivan. It took some time and many telephone calls to the Permanent Secretary of the Ministry and to Mr. Suckoo of Risk Management.

Because the Library had received water damage the librarian removed the books to the Civic Centre and it was sitting there allowing mould to build up and build up. So, after many telephone calls the Permanent Secretary, my good friend, and to Mr. Suckoo the library was sanitized. But since that took place the Public Library has been painted, electricity has been returned to the building but the librarian has not returned to the Library.

The school children use the North Side Public Library quite often because their school library has been totally destroyed; the residents also use the library so I am saying to the Honourable Minister of Education that of this \$2.8 Million that is for repairs to school buildings and other buildings if the North Side Library could be completed that the people of North Side can once again enjoy that facility.

Mr. Speaker, I was moving on to the item of ambulances. I have looked through and maybe when the Minister gets up to debate he will tell me that there are funds in this document to replace ambulances. I understand that we lost some of our ambulances during Hurricane Ivan but it is five months since Hurricane Ivan, and I visited the ambulance station at the Dica Brown Health Care Centre in North Side, which has the ambulance for the entire eastern districts. I visited that facility three days straight because one of the Emergency Medical Technician's (EMT) had asked me to give him a reference because when he went to have his licence renewed he had to have references. So, for three days I went to look for this young man only to be told there was no ambulance stationed in the eastern districts for the past three days and to be told that the North Side ambulance was covering West Bay ambulance station and sometimes the George Town Hospital. We cannot play with peoples' lives! The eastern districts cannot be without an ambulance service so I am hoping that the Honourable Minister will clearly show me in these

extraordinary items the funds to purchase ambulances for Grand Cayman and Cayman Brac where necessary.

The other item is EI 33 under the Ministry of Community Services, Youth, Sports and Gender Affairs – Equity investment to construct Youth and Sports office building at Truman Bodden Sports Complex and to replace damaged assets. My question to the Honourable Minister responsible for Sports, who has left the Chamber, is about the Old Man Bay Playing Field which was damaged during Hurricane Ivan. I think all the lights came down and some of the bleachers were damaged, and I think I am correct in saying that the Old Man Bay Playing Field is the only facility in the eastern district at this time that can be used for sports, football and the different games. I see the games going on between 2.30 pm and 4.30 pm or between 3.30 pm and 5.30 pm. I am asking the Honourable Minister if somewhere in this Supplementary Appropriation extraordinary items, that out of that \$14.3—I think I am right in saying the amount of insurance that the Government expect to collect and, I understand, they have already collected some—that there are funds to put that football field back to where it was so that all people in the eastern districts can have a proper facility until we are able to repair the one in Bodden Town and the one in East End.

I now ask a few questions. On IEA 16 on page 128 of the AP&E – Community Crime Prevention Promotion Activities are being cut by \$588,264. My question is: Will the revised total cost of \$1,442,823 for this item be sufficient to cover all districts in Grand Cayman?

IEA 18 – Police Incident Response is being cut by \$4,014,195 and my question is: Will the remaining funds of \$1,720,300 be sufficient for the police to cover the eastern districts? Too often I hear that the police was called and did not arrive until hours later. The eastern districts can no longer accept that type of response when the police are called.

IEA 17 – Police Patrols is being increased by \$6,725,699. My question is: Has this money already been spent or will patrols in the eastern districts of the police be increased? I drive that road morning, noon and night, and I want it to be understood here, before someone gets up on the other side, because I understand that they have been given instructions not to spare me one moment, but go right ahead, my father was Wilbanks Miller. Has that money been spent? It is seldom that I pass a police car headed for the eastern districts when I am travelling on the road.

I stopped at the Bodden Town Police Station one morning and saw five police cars parked in the yard so I asked the question: 'Why are these cars here? I am a great believer that police do not need to hide to catch speeders; I am a great believer that if a police traffic car is in the flow of traffic there will be no speeders because they are not going to overtake the police. A senior police officer said to me 'I have one police officer this morning ma'am to cover the entire

eastern districts'. Thus my question: Will there be greater police patrol in the eastern districts?

**The Speaker:** Honourable Member is this a convenient spot to take a break? Members have been sitting for three hours. I will take a break at this time and return in 10 minutes.

**Proceedings suspended at 5.01 pm**

**Proceedings resumed at 5.33 pm**

**The Speaker:** Please be seated. Proceedings are resumed. The Elected Member for North Side continuing with her debate.

**Ms. Edna M. Moyle:** Thank you, Mr. Speaker. My next question is on EHC 14 found on page 129 – School Inspection Services. This item is being cut by \$235,000. My question is will the remaining sum of \$680,057 be sufficient? I would think that since we have to hold classes for schools in buildings not built for that reason and in schools that need serious repairs, that we would need the School Inspection Services more than ever.

CAY 1 – Youth Rehabilitation Program. My question again: This item is being reduced by \$55,000, is the remaining sum of \$1,845,000 sufficient?

Mr. Speaker, I know not why the entire Cabinet Bench has left the Chamber but I do appreciate the Back Bench of the UDP, the three Members and the Official Members that are here, listening to my concerns.

I would like to thank my good friend, Mr. Anglin (the Second Elected Member for West Bay), for returning to the Chamber.

NGS 18 – Youth After-School and Other Youth Related Programmes. The original 2004/2005 Appropriation is \$150,000. This figure is now being cut by \$75,000 and if I read NGS 18 on page 103, I see we are cutting the number of programs by one. I may be wrong because I see in 2004/2005 approved AP&E number of youth programmes, eight and in the 2004/2005 revised I see NM. I see a number of after-school programmes 2004/2005 original Budget, seven and I now see in the revised Budget that this number is between two and four.

I endorse the comments of my Honourable colleague from the district of East End; 'If we ever needed programmes for our youth and after school, we need them now more than ever'. So, I ask the question of the Honourable Minister responsible: Is 50 per cent of the original amount budgeted for after-school and other youth related programmes sufficient to provide the services needed?

TP 17 on page 131 – the Cayman Islands National Recovery Fund, \$1 million. I stand on the Floor of this Honourable House today to say 'thank you' to the persons who are operating the Trust

Funds and the National Recovery Committee. I must say, Sir, they have the highest respect for my position as the Elective Representative for the district of North Side. I am in constant contact because whether some of my colleagues in this Parliament want to believe it or not, because there are subtle things being said like "you are not doing anything so you need to go and do something". I know the name of every person in North Side that has sent an application to the Trust Fund or the National Recovery Fund, and I pick up that telephone every day and call and ask what the position is with this or that application. These people either research it at that precise moment or they say I will get back to you and they do. I am a person whose conscience is clear with the Almighty God about what I do for the people of North Side whether my picture is in the newspaper or not.

From this forum I would also like to express my thanks and appreciation to B. A. Green who lives in the district of North Side and who took it upon herself to solicit funds from the Cayman Kai area residents and repaired many homes in that district and none of it was considered political. So, unless everything that we do for this recovery is done in that frame of mind it is going to take us a long time to recover.

Mr. Speaker, the last item I wish to comment on is the Craddock Ebanks Civic Centre in North Side which lived up to its expectations during Hurricane Ivan. When I became part of the Government at that time (a good Government, I agree with you, the Third Elected Member for Bodden Town) I insisted and took the decision to push for a safe shelter for the people of my district after having spent Hurricane Gilbert in the North Side Town Hall by myself as a shelter warden with my people, and it was leaking like a sieve. I was accused about the acoustics by the Opposition at the time; I was accused that it should have been blocks and metal but I stand by the decision of the Government of the day who built the Craddock Ebanks Civic Centre. The roof has been repaired but the main shutter was damaged because of debris coming either from the school or the Town Hall. It is a shutter and I have reported it and made telephone calls that it will have to be replaced from overseas and we are only a few months from the hurricane season once again. I am impressing upon the Government that this shutter and any other repairs necessary are done prior to the hurricane season so that the people of North Side can once again seek safe shelter in the Craddock Ebanks Civic Centre.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

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

Many of the previous speakers have highlighted that these are extraordinary times in this country.

I experienced a very different Hurricane Ivan than the people of Grand Cayman as I was in Cayman Brac at the time. I felt safe and secure as I weathered the hurricane out at the newly refurbished Ashton Ruttie Civic Centre, refurbished to be a category five hurricane shelter. I felt good during the preparation period to know that I had, during my four year period, been part of an effort which resulted in a shelter of this magnitude being available to the people of Cayman Brac.

The people of Cayman Brac moved in great numbers as the hurricane was forecasted to have its most severe impact on the Islands of Cayman Brac and Little Cayman. I remember the effort of evacuating the population from Little Cayman down to the forty individuals who decided to remain on the Island. I give recognition and credit to the firemen and the District Officer who stood with those forty residents on Little Cayman although they were not obligated to because there was a mandatory evacuation of Little Cayman.

When I sat there out of communication with Grand Cayman for that long period of time, I recall, when I finally got through to the Leader of Government Business. We were receiving calls from Cayman Brackers over here in Grand Cayman outlining their personal situations and asking for assistance and I got through to the Leader of Government Business at his residence and the first words he said to me were, "my roof is being threatened, my neighbours have evacuated and come to my house but Lyndon, I thank God that our Government has a financial position with some reserves that we will be able to help our people once this all clears". He also said "it is a small token, the \$40 Million plus, but it will go a long way of helping our people."

Mr. Speaker, during those moments it was very sporadic communication but it meant a lot to me that a leader who was under that type of challenge at that particular time, his thoughts went beyond his immediate survival and his immediate family who was there with him, but was looking out to the best interest of the community, and Mr. Speaker, highlighted the importance that Government had that reserve. I cannot help but to refer back to the policy statement that has been stated by the Leader of Government Business which still represents the broad policies that this Supplementary Appropriation is brought under. I look at the Policy Statement on the 2004 – 2005 Budget on Friday, 7<sup>th</sup> May, 2004 and I only want to quote one section of it, the slogan— "Maintaining the Course with a Responsible Hand at the Tiller". As highlighted by the Leader of Government Business that responsible hand is United Democratic Party.

Mr. Speaker, I recall the array of the Opposition to creating and increasing the general reserves of this country. I recall the allegations that the Govern-

ment was borrowing unnecessarily just to increase its general reserves. I am certainly happy and I know that the people of this country are happy that the country had a reserve to rely on in the wake of Hurricane Ivan.

Leaders have to make difficult decisions. Leaders have to make decisions that are not necessarily popular at the time that they are made. It takes a bold, strong leader, such as we have evidence with the Leader of Government Business and the stewardship provided by himself and the others in the United Democratic Party who stood up and said 'we are going to put this money aside for rainy days' and never did any of us expect that the rainy days would have come so quick and so intense as we saw after Hurricane Ivan.

I landed on the first aircraft that came with passengers to Grand Cayman following Hurricane Ivan. I must mention and give praise, it was a private aircraft of a private citizen who was contributing to the effort by coming and offering his aircraft for whatever transportation needs the Government or the people of the Cayman Islands needed at the time. It just so happened to be that that gentleman, and I cannot recall his name at this time, was a recent recipient of the status grants by Cabinet who was also radically criticized.

The day before leaving the Brac to come over to Grand Cayman was a very challenging day for the two elected representatives of Cayman Brac because we were out of communication with the Government and many decisions had to be made. Much of our preparation focused on the impact being on Cayman Brac and Little Cayman including relief supplies coordinated to come into Cayman Brac. Decisions then had to be taken as to how we could assist Grand Cayman. I must at this time give special mention and special recognition to the First Elected Member of Cayman Brac and Minister of Planning who took bold leadership and immediately organised a community meeting of some 600 individuals held by herself, myself, the District Commissioner and the Deputy Commissioner of Cayman Brac in order to rally the community and to get ideas to start developing a data bank of rooms available to offer assistance, resources available.

We assessed the quantity of fuel on the Island and I make special mention of that fact because one of the most reassuring facts was when the Texaco manager stood at the meeting and said that we have enough fuel to last this community for 122 days continuing at our current pace. That type of bulk fuel storage capacity and I know it does not have to be said but recognition must be given when it is due, Mr. Speaker, we the people of Cayman Brac thank you for your effort in making that available to the people of Cayman Brac. That assessment was done; a list of people of who were in need in Grand Cayman of being evacuated to the Brac was compiled. Pregnant mothers about to give birth, sick individuals who needed special medical care and we developed that

databank jointly in the Brac. The community reached out.

I came over on the first aircraft and there was no way that I was prepared to see what I encountered as we flew over the district of East End. I remember trying my hardest to look for my home in Newlands to assess its damage but I could not even recognise the area. When I landed here and was assessed as to the total impact of Hurricane Ivan it really brought tears to my eyes, as it did to most grown men. Soon after those tears were replaced with tears of pride as I saw legislatures in this Assembly bonding together! I remember our first meeting in the days following Ivan; the unity. I remember sitting and sharing one bottle of water between three legislatures, three Members of this Parliament, from both sides of the House. Everyone greeted each other with a firm handshake, a hug and a brace, and we all wished each other well in our recovery effort. There was a common unity to stand together for the rebuilding of this country. As I feared, as the days draw closer to 11 May, 2005 the unity between the Members of this House is certainly reducing. We cannot allow for politics to come in between us who are in the position to make an influence to affect the rebuilding of this country. Mr. Speaker, politics, power, election success is not worth breaking down the unity that is necessary to rebuild this country.

*[Background comments]*

**Mr. Lyndon L. Martin:** I want to state publicly that I think it is a disgrace if we allow petty politics to come between us when we have citizens in our country that are still with their roofs not done. We must find some remedy, some recourse to ensure that the unity and the spirit of being Caymanian that we felt in the days following 12, 13, 14, 15 September that we can come back together.

I do not accept that it is inevitable. I do not accept that it is too late. I am urging all Honourable Members to find some way of putting aside the politics. Putting it aside, forgetting about the politics. It is unfortunate that we are faced with an election on 11 May, 2005. I hope that those who opposed the November date rather than a May date understands the problem that was created. This country does not need, or should not be subjected to having to go through an election, to have to go through disunity as a result of politics this early in the rebuilding exercise. It is unproductive and the ultimate sufferer of this is the people of the Cayman Islands. However, the concrete has been cast and the date is 11 May, 2005 but we are human beings and we are Caymanians, we can make a difference and we do not have to allow politics to divide us.

These are extraordinary times and it is during extraordinary times that people are differentiated from each other. I am urging that we must be remembered when the history books are written as legislatures who

stood tall and stood strong for their people during these extraordinary times and did not bend and bow to politics.

So much as been said during the various meetings in this legislative assembly but there is one issue that I am obligated to highlight. It is the importance of having this twin Island state that we have of having two separate economies, that of Cayman Brac and Little Cayman and that of Grand Cayman and the asset that it is to us as a country, as a nation. When Grand Cayman was unable to receive tourists we could truthfully and honestly state that two out of our three Islands were still open for business and available to the visitors. I am proud of how the community of Cayman Brac and Little Cayman responded and stood up to the plate and offered its assistance in re-routing, rebooking passengers that were previously confirmed for their holidays in Grand Cayman. It proves that it is a wise and sensible investment to ensure that the economy of Cayman Brac and Little Cayman remain viable, functional and ready to step in when a disaster of this nature occurs.

On that note, not only did Cayman Brac and Little Cayman assist with the economic recovery by offering regular income to the Government and regular income to Caymanians during the immediate days following Ivan but the community also aided in the relief supplies. I benefited from supplies sent down from the Brac being distributed here in Grand Cayman, and I give a warm and wholehearted thank you to the people of my constituency of Cayman Brac and Little Cayman for their assistance.

It is important that we continue to develop along these lines. Much that is included in the Supplementary Annual Plan and Estimates offer a great opportunity to strengthen the community of Cayman Brac and Little Cayman. I must give recognition to those particular areas.

Prior to going through the particular items that affects Cayman Brac and Little Cayman I feel obligated to return to the issue of unity, or more importantly right now disunity in this Parliament. Today I witnessed the Elected Member from East End questioning the professional integrity of one of our Honourable Ministers. To oppose with such venom is unproductive. Rather than that Member standing here and recognising that for us to continue to develop as a nation they single most important entity is to ensure that our population is well educated.

Mr. Speaker the Member from East End stated that for 16 years he has supported and advocated that this Minister be the Minister for Education. I have not been in politics that long, but I can certainly say that from 1992 I have supported and advocated that the current Minister of Education, the First Elected Member for Bodden Town be the Minister of Education. I have had the privilege of working alongside of that Minister as I serve as the Chairman of the Education Board of Cayman Brac and Little Cayman and a member of the Education Council of the Cay-



man Islands. I would like to inform this Honourable House and any of those who have doubt about this Minister's professionalism and his competence to contribute and to develop this particular sector of our country, I would like to say that I certainly give him a grade A.

I witnessed this Minister in the Education Council along with the Education Department and sometimes I have to wonder if they are speaking a different language because they are speaking of education terminology, education standards. I am a big enough man to say that he is certainly outside of my league as an educator. I give this Minister of Education a passing grade with flying colours! When I see the policies that this Minister has implemented and it is highly unfortunate that things such as italic programme, the true benefits of that program far exceed his tenure as being the Minister and will not be recognised prior to 11 May, 2005. However, the groundwork will have been done that my children and the children of this country will benefit from the programs that this Honourable Minister has put in place. I truly warn and urge this country to be careful that we do not spend time just criticising and opposing but rather offering constructive proposals.

The Honourable Member from East End is a good, good friend of mine and in his contribution he highlighted and I understand that he has been fighting and raring for a cafeteria at the East End Primary School; I have heard him say it over and over. However, it is important to understand that negotiation is not just about screaming along the microphone. Sometimes it takes a little diplomacy. I too have been screaming and raring for a classroom hall for the High School of Cayman Brac and the redevelopment of Cayman Brac. However, I see it in the budget here, I see that we are getting it and I would like to suggest that the difference in the results speak to the difference in approach. I would suggest that it is not very sensible or prudent negotiation practice for the people of East End for its representative to come in 2002 and vote against a budget that had money in for the cafeteria. I would suggest that it is not prudent!

**Mr. V. Arden McLean:** On a Point of Order, Mr. Speaker.

**The Speaker:** Honourable Member for East End please state your Point of Order.

**Mr. V. Arden McLean:** Mr. Speaker there has never been any money in the budget for a canteen for the East End Primary School. There has never been any budget during my tenure for monies in a budget. Therefore the Member is intentionally misleading the House.

**The Speaker:** Honourable Members, I have stated several times in this Honourable House that there is no such Standing Order as 'Misleading the House'.

However, I understand what the Member is trying to point out. He is saying that there was never any specific allocation in the Budget for a canteen in East End. I would ask the Honourable Member on the Floor, the Second Elected Member for Cayman Brac and Little Cayman to respond to that.

**Mr. Lyndon L. Martin:** Mr. Speaker, in 2002 there was a section for the development of plans for an East End cafeteria.

**The Speaker:** Please continue Honourable Member.

**Mr. Lyndon L. Martin:** Mr. Speaker, as I was saying and it is necessary for me just to reiterate since I was interrupted. It is all about the difference in approach of how you negotiate.

*[Inaudible comments]*

**The Speaker:** Order! Order!

**Mr. Lyndon L. Martin:** Mr. Speaker, I am saying that my approach has been to outline the need and to speak to the Minister on the need. I suggest that it is not sensible negotiating practice to slap the Minister around a couple of times to then ask him to support a cafeteria for East End. I am simply saying that, in my opinion, the approach from the Member of East End has been one that did not work in the favour of the people of East End.

I feel a bit offended that the Member for East End in trying to make his point for the need of the cafeteria would suggest that the redevelopment of Cayman Brac High School for some reason should not have been as important. He stated that the Minister spoke of but did not speak of the East End. I would like to thank the Honourable Minister of Education on behalf of the people of Cayman Brac for his commitment and funding for the Cayman Brac High School redevelopment; it is needed. We have heard figures in this Honourable House of the population increase at the High School and other schools in Cayman Brac.

I would also like to add that this Honourable Minister, the Minister of Education, has one record that no one can challenge, see the number of students that have received funding under this Honourable Minister for tertiary education compared to previous administrations, and then we are going to get Honourable Members of this Legislative Assembly come here and challenge his professionalism and his status as a professional educator? That can only be politics and I urge for it to stay out of this Honourable House at this time. I always get great rewards when I stand here and I see that what I am saying is having an effect. The Honourable Minister of Education is a man who is very articulate and well spoken and does not need me to come to his defence, and I am sure that the Honourable Member from East End will hear from the Honourable Minister in another forum.

The Supplementary Appropriation before us here today has many positive attributes but the most significant attribute after an extraordinary event such as the passage of Hurricane Ivan and the great expenditure that had to be met to ensure that our people return to some semblance of normalcy is a budget that could come forward in February 2005 in which the borrowing still does not exceed the required ratio. More importantly, that the Government has been able to manage its affairs and the Recurrent Budget is not being funded by borrowing. Even after all that has happened the Government is still committed to prudent financial management.

In my manifesto of 1996 and the year 2000 I highlighted the need, along with my elected colleague, for low income housing program for Cayman Brac to give an opportunity to these young people, lower income individuals who are not able to come up with the equity necessary to meet the borrowing requirements under the normal commercial loan system or under the normal valuation of a construction plan. The Supplementary Appropriation before us has a revised amount of \$800,000 for Cayman Brac low-income housing project, the construction of 18 affordable housing units on Tibbetts Turn. I am happy that the United Democratic Party is able to deliver upon this project.

This project will be highlighted and detailed more at a later time. It is with great reward that I also note that this particular Supplementary Budget that we have before us also has street lighting money for the streets of Cayman Brac. Much has been done in meeting the street lighting needs of Cayman Brac and Little Cayman over the last four years. I remember a citizen of Little Cayman saying to me that he really wanted to fly into Little Cayman at night to see the difference with all the new street lights to improve road safety and to mitigate against any criminal activity. In Cayman Brac the story is the same, the Bluff roads have been lit, Major Donald drive has been lit from one end to almost three-quarters of the way up. Songbird Road has been lit, it is illuminated. Electricity was put in under this Government! I look forward to the expenditure of this \$30,000 to continue the good work started by the United Democratic Party.

The district in which I grew up, we call it The Byte, its broader span would incorporate the Watering Place; we are all together. The district of Watering Place has seen a great decline in its commercial activity over the years. We have seen a decline in its population over the year. When I see that this Government has solved one of its social needs, the provision of low-income housing and at the same time made an effort to increase the population of this declining area by locating these 18 new homes in the district of Watering Place, it shows me a Government that is very conscious of the needs of all the people of the Cayman Islands, "for all the people", the United Democratic Party's slogan.

Additionally, the Government has seen fit to locate and develop under this Budget a park in the Watering Place area— EA 21, in the sum of \$40,000. For all of the Cayman Brac residents we have seen the work started in the front of Mr. Septimore Scott's house with the rock wall where in that location will be the playground. Again, we will hear more about these projects as time evolves.

A budget that is presented during an extraordinary time in this country with only \$25 million of extra borrowing given what we have gone through and based on the merit of that alone is a budget I would have to support, but a budget that also includes additional appropriation for the district that I am elected to represent. I have to support it and I will be a loud, loud 'Yes' when the vote comes for this Budget.

The provision in the Supplementary Annual Plan and Estimates for the Government of the Cayman Islands for the year ending 30 June 2005, the sum for debris cleanup is the sum contracted to MC Restoration. I would like to urge the Government to also look at some debris cleanup assistance in Little Cayman especially. I note that we still have debris around Kingston Bye in the sea; we still have a lot of debris throughout the Island in Little Cayman and if the Public Works Department or some other agency could offer some assistance in this debris clean up to assist the residents of Little Cayman in returning that Island to its pre-Ivan state it would be greatly appreciated by the people of Cayman Brac and Little Cayman, and certainly by its representatives.

I note with interest that the allocation of the \$2 million for rebuilding that Cayman Brac and Little Cayman have been afforded a sum of \$50,000 for its rebuilding. I know it is not common practice to assist commercial entities but we have all read recently in the *Cayman Net News* and for all of us who live in Cayman Brac know that the hardest hit location on Cayman Brac was the Aunt Sha's kitchen. I watched as that lady, Ms. Sharon Connolly, the proprietor worked diligently along with her waitress and her chef to rebuild the devastated dining room and kitchen area and storage. I watched them from 6.00 am mixing cement, pouring cement with only sporadic volunteer labour to assist them. I ask the Government in whatever manner they may find to assist this proprietor so as to return her source of living to its pre-Ivan state because although it has reopened it has only reopened in a moderate manner, not to its full scale. Therefore, in its allocation of the \$50,000 when I get – what I am sure I will – the opportunity to contribute to the expenditure of that \$50,000 I would like to give some recognition, some assistance to this proprietor who operates a business that is the cornerstone of Cayman Brac. All the locals love it and tourists alike love Aunt Sha's kitchen. I look forward to supporting a budget that includes a sum of \$50,000 that will go to Cayman Brac and look forward that a portion of this \$50,000 could go to assist this proprietor.

The community of Cayman Brac and Little Cayman continue to wish the people of Grand Cayman a speedy recovery, a speedy rebuilding exercise and continue in being committed to offering whatever assistance we can as a community. We are committed to playing a role into the economic and social restructuring of this community. On behalf of the people of Cayman Brac and Little Cayman I wish every Honourable Member of this Legislative Assembly with their personal challenges God's riches blessings. I wish this community, as a whole, the blessing of the Almighty himself.

Mr. Speaker, I beg your indulgence to look for a note. [Pause] I would like to also feed upon a point highlighted by the Member for North Side that a portion of this Supplementary is attributed to Extraordinary Expenditure, expenditure as the Honourable Third Official Member pointed out in his contribution; an expenditure that we do not expect to reoccur on a regular basis. In addition to that there are some other changes in expenditure level and I agree that it is important to separate those two issues. There is one such item that stands out. The figures that I have and I heard Honourable Minister for Community Affairs mention it today, this Supplementary Annual Plan and Estimates includes an amount to fund what is now in excess of 1,100 seamen and veterans. I have compared that figure to the previous figure back in 2001 to being 900 plus. The estimates also include extra expenditure for our seamen and veterans.

Financial assistance to our needed citizens has increased. The number of recipients has increased from 775 in 2001 to the 861 which is the current figure as of January, 2005. It is absolutely correct that this would not be necessary extraordinary events although the financial assistance may be attributed to people who have become in need since the passage of Hurricane Ivan in offering assistance. The seamen and veterans is an increase that we are happy to fund and I look forward to supporting this Supplementary Plan to authorise this expenditure.

The Honourable Member from North Side pointed out that we know that the dollar amount has increased because we voted an increase amount that this Government brought from 400 to 450 and that is why I did not use the dollar amounts to illustrate the increase. I just looked at the number of recipients that have been increased which would not have any relevance to do with that \$50.00 increase. It is a valuable point to mention that in addition to the number of recipients increasing the dollar amount has also increased because the Government increased from 400 to 450. So, I thank her for giving the Government the recognition for that extra \$50.00 that our citizens certainly need.

I make those few remarks and close by only adding and reiterating that it is imperative that somehow, in some form and some fashion that we present this country with a unified position. I have outlined here two or three areas where I would like to see the

Government offer assistance to my constituents that is not provided in this Budget, but I provide that as my constructive opinion on what I would like to see. It is not necessary for us to get up here and do personal attacks to bring your point across. It is not necessary for us as legislatures to try to cripple a man, to try to question his professional qualifications of the position that he holds. It is not necessary! I urge Honourable Members, make our points, make them loud and clear but they do not have to leave bruises on each other's character! They do not have to leave injuries. We are all big men and women who are elected to this very high office and we are here as a result of the people of the Cayman Islands electing us! The people voted for us and they do not at this time want to see us slinging mud and in many instances, as I have seen here today, some East End cliff rock, at each other.

Let us find it within our hearts. Mr. Speaker, I know that on 11 March you have organised the Parliamentary Prayer Breakfast. I hope that events like that might bring us together, hold hands and go to the Lord Almighty for strength to enter this very trying period with a little bit more sanity because what I have seen here demonstrated by the Member of East End crosses over the border of sanity.

I read today's *Cayman Compass* and I saw the remarks from the Second Elected Member for George Town, and then I saw the editorial that picked that up. Mr. Speaker, although it sickens me and motivates me greatly to respond to it I have great confidence that the man who will come after me, the Honourable Minister will certainly show the inaccuracies of his claims. I only mention it at this time to say that those sort of things put the Government in a position to respond because to simply sit silent and accept some of what has been said against the Government would be condoning and rewarding this type of behaviour, and we cannot allow that. I therefore ask the Honourable Members of Her Majesty's Loyal Opposition to think deep and hard about our approach that we come to this Honourable Legislative Assembly with, and let us leave some of the mudslinging to a different forum outside of this Parliament. We will have plenty opportunity to deal with that but in this Honourable House there is a certain decorum that is required.

With those few words said I can only add once more my wholehearted support for this Annual Supplementary Plan and Estimates. Thank you, Mr. Speaker.

**The Speaker:** Honourable Members, I would just like to comment on a circular I had made some time ago on Points of Order. I hope that Honourable Members have been refreshing their memories on this. One such circular had to do with "Misleading the House". Unless the Member can show that it is a fraudulent effort on the part of the person speaking, then "Misleading the House" really is not a Point of Order. Many people unintentionally mislead the House. If it can be

shown that it is an intentional and fraudulent effort on the part of the person speaking then that constitutes a Point of Order. I hope that all Honourable Members will bear that in mind.

Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, in regard to your statement, as it affects the privilege of the House you would agree that “misrepresentation” is a point that affects the House and I think has some bearing on “misleading”.

**The Speaker:** Thank you Honourable Member. As I said, if it can be proven that “misrepresentation” is fraudulent and the misrepresentation being made is fraudulent, and I do not want to get into any argument on this point, I leave that to the Second Official Member for Government to deal with. However, I have made a ruling on “misleading” the House and I want that ruling to be considered by all Honourable Members. I do not wish to consider or discuss this point further at this time.

**Hon. W. McKeeva Bush:** Mr. Speaker it is a very important point that you have raised and that you have written to us on, and it does affect the privilege of the House. Maybe when we look at it as the Second Official Member may do, we would have to look at *Erskine May* because our Standing Orders do not provide for that but *Erskine May* does in the 23<sup>rd</sup> Edition on page 440 which reads: “**Expressions which are unparliamentary and call for prompt interference include:**

- (1) **The imputation of false or unavowed motives**
- (2) **The misrepresentation of the language of another and the accusation of misrepresentation.**
- (3) **Charges of uttering a deliberate falsehood.**

**Abusive and insulting language of a nature likely to create disorder. The Speaker has said in this connection that whether a word should be regarded as unparliamentary depends on the context in which it is used.”**

**The Speaker:** I thank the Honourable Leader of Government Business. I am well acquainted with the provisions of *Erskine May* and I have gone even further than that. I have gone to the House of Commons and gotten their opinion on Misleading the House. I do not need to research this further because I have gotten the opinion for the highest sources otherwise I would not have made a circular to that effect. I am saying that misleading the House on the bare basis of misleading the House is not a Point of Order if it can be proven that it is a misrepresentation, it is fraudulently done, then that constitutes a point of order. Thank you Honourable Members.

I would like to call on any other Member who wishes to speak at this time.

The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

Mr. Speaker, I, unlike some speakers before me, do not hope for the impossible such as unity because I see there is absolute disunity in this Honourable House among the Members elected by the people. Even after we have been through the horror that occurred about five months ago, evil still prevails. I am witnessing a time of madness, I think, that throughout the country in many instances in many ways, not least of which is political. Impossibilities are becoming the possibilities and I think in many instances the country is the worse off for this. In fact, I know it is.

In most societies of the world when a country goes through times of disaster, one that was absolutely unpredictable, one that nothing could be done about, the aftermath is usually a concerted effort by all parties to work together to try to replace and restore that which has been damaged. I get the impression that that has been happening after the Tsunami in Asia and in various instances including nearer to home in the Caribbean in other islands that were struck by the hurricane.

Perhaps nature, or fate, or retribution, or divine power may be led to touch us again maybe more harshly to see if we can learn to be able to live with one another civilly and to have some sense of respect and decency, not least of which is needed in this Honourable House. Anyone in this House that needs to learn about its protocol there are many texts on it, not least of which is *Erskine May*. What I have heard here in the past several days is anything but civil, in my opinion, and much of it was absolute personal attacks. This country has been placed in an unfortunate position by an election being called five months after the strike by a hurricane and I do not know of any other islands here that are facing those kinds of situation. The normal conditions which prevail where accusations, lies, rumours and so on naturally play themselves out, it is intensified one thousand fold with the circumstances we are dealing with.

I marvel at some of the things that I see happening now. The letters in the press are all geared to accusations and criticisms at a Government that is struggling in the most trying times that have ever existed in the history of the Cayman Islands, and I will add, is doing a magnificent job in the circumstances. It is absolutely abhorrent and repulsive to me as I watch the Press, as I listen to things said by certain people, political wannabes, including certain Members of this House whose only objective it seems is to inflame the emotions of the people of this country and further hurt so many that have been hurt; it is revolting and repulsive. That is my position.

The sick attitude is that they are trying to direct that resentment and hatred towards the people who are presently in the Government with the hope

that it will bring them into favour to create another Government in May. All that I can do is trust that the practical common sense that has always prevailed in the Cayman Islands will prevail once again. When the people of this country will once again look at the situation and make the right judgment. I believe, should some of the persons behaving in such vile manner as I have seen be elected, this country would be at a terrible, terrible risk.

Last year the Government came to this House and brought a Budget which was passed with the usual criticisms and so on from the Opposition, particularly some of them. None of us knew or could know that within three months of that Budget we would come up against the fury of nature as we did. None of us knew that this place we love so much, which many of us boast unreasonably about could be levelled in such a short period of time. Hurricane Ivan was the great leveller, even the rich had to get out with their five gallon buckets to get that precious element, water. The lights went out on all of us. Gasoline became almost like holy water, even though there were hundreds of cars destroyed that they could not use it in. Everybody was discombobulated over what happened to us. I think it affected the minds of some of us Elected Members more than others though, as I listened to the words of some of us in here.

For the past several months the Government has been working to restore some semblance of the way it was in this Island. Incredibly, the financial and commercial centre on which we depend so heavily on was back up and running in about ten days. We were doing business as is done by the accounting firms and banks in a very short period of time. Unbelievably outstanding! The electricity company had electricity up in the capital in George Town and some of it was reaching out into other areas. The telephone company, although blasted and in some instances drowned by sea water, we had telephone service, again, unbelievably early.

There was a concerted effort at that time amongst most people to get back where we were. We were not hating each other, at least it was not that visible at that time, we were cooperating with one another, although I knew while in the time of recovery when we were trying to get things back in place with items such as food and water, there were those who were trying to play it all politically as if they were raining manna from heaven. It reminds me of that Bible time where the Bible says that the Israelites were coming out of Egypt where they were slaves and they were being led by Moses who was especially sent and appointed by God to take them out and they were complaining; they were saying send us back there, we had plenty food there, even when manna rained from heaven they complained. Perhaps we are replaying that here in a modern age and time.

Mr. Speaker, what we are doing here today and in the past few days is looking at voting more money in this Legislative Assembly so that we can

attempt to address some of the issues. The Government does not have at its disposal enough money to do it all. It cannot be all done within 2005. It will not be completed by the end of 2006, I predict! It will not be completed in 2007! How many years did it take us to reach where we were? Are we magicians that we can waive a wand and put it all back that way? Some of the Opposition seems to think that they are and some of the writers in the papers, if they were elected they would build houses back in Bodden Town, one house everyday! The only thing that they did not claim is that they would use gold plated tiles.

Numerous lies have been told by so many people in the political forum over this issue. Every accusation and criticism that can be made and the things that these persons have taken to criticise are critical to our social existence. They criticise education and heaven knows we need that more than most places in the world, for I am amazed by how many who claim that they have that behave as crude and as uncivil as someone that we may pull out of a jungle in around the Amazon, as far as western civilisation and manners go.

They talk about health; it seems as though we do not need that service anymore. The only thing that they do is criticise it because they believe that they are criticising me, but the Opposition or anyone else in this country chooses the wrong person when they take to criticising me because confining it to the legislative process, I have the distinguished honour as being, at one time, the only Opposition Member in this House against seventeen others. The only other person that has been in that position is the late Ms. Annie Hulda Bodden.

I enjoyed every moment of it because that great band of cowards would sit and look at me and talk and laugh with one another saying, "is he going to speak, what is he going to say" and I would get up and batter them like you would not believe and the only thing that they could find to talk about then was me. What they had brought they could not defend; I had ripped it to pieces or made suggestions and recommendations that they had not thought about. So, if they want to take me on that is absolutely fine with me. I have been going a bit rusty in fact, in the position as Minister in my performance here in the House and I never fail to remind myself that I became a Minister by default. So, as for being a Back Bench Member that is where I thought in 2000 I would be at this point in time. It happened by default! When it happened by default I took the responsibilities given to me real serious.

I have declared that I am going to be in the election line up again with the help of God and the will of the people. Another thing that I am absolutely certain about, I know it from four sides; I have known it from victory, defeat, the Back Bench and from the Ministerial position, and I add to that that I know it from the administrative side of government. There is not many in here that can match that situation truth-

fully. If they believe that they are worrying me they are making a very terrible mistake.

As I go along it is important that I make this point. Should I not find favour again with the electorate, I have been elected many times. I am the only living person and there is no dead one that has done it, that has been elected in two different constituencies. I represented Cayman Brac for eight years (two terms) and the people in Bodden Town saw fit to elect me as well. I do not need the Opposition or anyone to say to me that I have accomplished certain things during the three years I have been a Minister because I know I have. I know I have taken on issues that none would touch and I have succeeded in them for the betterment of the community and the people. I do not need to worry if I have done something nor do I need anyone to assure me of those things.

That is why, when the new Financial Secretary, and he is a new Financial Secretary, has been up against the major challenge that he has, I can sympathise and empathise with him and assist in any way I can for us to arrive at a position that we can live with financially. There is nothing in the Financial Secretary's address that speaks about cockroaches or rat droppings as the Member from East End was talking about. He has brought a bill here to find sufficient money to rid this Island, on a whole, of the many pests that have increased since the time of the hurricane strike, and that is being dealt with in the debris removal, the cleanup of the schools, the cleanup of debris along the roads, at the hospital and everywhere. That is what has been happening. It seems that the Member from East End and the Second Elected Member from George Town is unaware of that. They have been doing their usual dance and talking about Government's policies and how they have changed since Hurricane Ivan. Well, any person, even if there were no brain in their cranium, would have to understand that the Government would have to reprioritise! How could the Government that started out in July of last year see the same things that were priorities then as priorities now? It is moronic to think that a government would. Everything has changed! Every single thing has changed! What are we aiming for? We are aiming to get back to where we were. We cannot begin to think about what it will be futuristically!

They talk nonsense about this poor woman needs her house fixed, and this poor man needs his house fixed and all the rest of it. My God, don't we all know that is the case everywhere? They say I am the Minister of Works and I sent Public Works into West Bay to fix West Bay and it is totally cleaned up and I did not do anything in Bodden Town. Do those idiotic people know that the most of our tourism product is largely between George Town and West Bay? These are hard decisions to make but what we had to look at and do was try to get back as quickly as possible those businesses that could generate some revenue and keep people working to stop unemployment.

Where are their brains? Are they thinking? I doubt it because they are not capable of it.

If West Bay is all cleaned up as they say, and there is nothing left to be done there, that is not what I saw last Sunday when I drove in various areas of West Bay. A lot of it has been cleaned up but there is still a lot to be done. I looked at condominiums and see roofs that are gone, they have not been fixed. The Minister of Tourism says he only has six hundred rooms to sell where there were a couple of thousands before. It is moronic. One must figure that the hotels and condominiums had insurance and are waiting for that because the people who own their timeshares are not about to dig in their pockets to rebuild those places.

I did not hear any of them talking about the insurance situation! Not one! The Government has to deal with that though and we have been dealing with it and it is a sad tale to tell because our regulatory body which offers a certain amount of regulation does not have the extent of legislation to really give it the bite it needs and everybody in this country has been played like an organ by the insurance companies. I have a concern about it. My concern is that I think we need to come down like a sledgehammer on these people who for decades have been taking money for property, cars and everything else and are now letting out a whimper and cry and saying why it was not insured or how long it is going to take! Why did they not tell us that when they were taking our money? What did this Government do? This Cabinet has directly requested the Cayman Islands Monetary Authority to set up an investigation. We will hire experts to look at the entire insurance situation and do something about it. Again, if the Opposition has a magic wand let them waive it because that way I am sure they would gain a lot of votes by getting the insurance for all of these people, condominiums, hotels and everything else. If they are so great waive your wands.

This Opposition does not talk about those things— that is Government's to fix. Is it any less theirs to fix particularly some are lawyers and all the rest of it? Why don't they fix it? Why don't they go to the assistance of the poor and offer their services to go to these big, bad insurance companies and get their money for them? People like the Second Elected Member for George Town. They talk and whine.

What we as government have to bear in mind and ever live with is that never before in the history of the Cayman Islands has a government had to work under such stringent laws as we do now under the Public Management and Finance Law, you cannot breathe under it. I have personally criticised it because I think some areas of it are ludicrous! Some areas totally take away sound, practical flexibility from the executive where an amount of money once it is not increasing the budget could be used in times of disaster and moved to areas of priority, but we live and work under that. The reason we are here is because they want to be involved and it says they have

to be involved. Of course, the Second Elected Member from George Town is claiming that he has no information and he need information and all the rest of it. All the information I have is what the Financial Secretary distributed to everybody else because it was him and his Budget Office and Finance staff that prepared it and I saw it, like everyone else, and I have to answer for what I am responsible for.

*[Inaudible comment]*

**Hon. Gilbert A. McLean:** No, none of those little birds do not sing in my ear like they sing in the ear of the Second Elected Member from George Town but I think that they are off-key.

The Second Elected Member for George Town made the statement that nothing was said as to why the Government needs to borrow \$25 million. How ridiculous! If we could we should borrow \$150 million but we cannot because the British Government says you cannot have any more debt than 10 per cent of recurrent revenue. Every now and then we have trot off through email to send and say that this is where are now, we are \$5.6 or \$6.2, we have not reached that 10 per cent yet, bless us Mother so that we can proceed. We are in a stranglehold. So, the Financial Secretary and the Ministers of Cabinet and other Official Members had to sit down and see if we could get a few dollars eked out from the insurance company in the vast amount that we hope to recover. We hope to recover! In the main time we have to do the impossible of utilising what was in the reserves or waiting, in fact, to see how much revenue would be collected through Customs and how much we would have to work with. I think we are doing a splendid job; I know we are.

The Second Elected Member for George Town went on about Health Services and he wanted to know this and that and I saw in today's edition of one of his newspapers, the *Caymanian Compass* of Wednesday, 16<sup>th</sup> with an editorial which says, "George Town Alden McLaughlin has cracked the door open to questions that have been asked but unanswered about the conditions of the Cayman Islands Health Services Authority. Many throughout the Cayman Islands have tried to get information from the HSA about the goings on at the Cayman Islands Hospital" I find that fascinating because I do not know about any goings on up there but I am definitely going to enquire about it. "Specific questions have been asked about the status of some doctors." I personally recommended to Cabinet, status for many of them and Cabinet approved it so they have that, and what their status has been since that I am not aware that there were any changes in it. Cabinet did not revoke it and I have not heard of any of them denouncing it.

It goes on to say, "Even this newspaper has attempted to get answers only to be told that the information is none of our business." They must have asked very awkward questions if they were told that

and it does have a right to tell them that if they think that it is matters which would be sensitive that they are asking, so again, I cannot speak to that. It also says, "It should not take a public forum like the LA to get answers." They went on further to say, "Mr. McLaughlin's request for answers came during his debate on the proposed Supplementary Appropriation Bill tabled in the House. He wants to know why there is an additional expenditure of nearly \$10 million for the HSA." I cannot help Mr. McLaughlin or the *Compass* until we go into Finance Committee and if they want to hear the answers then they can stick around because that is what Finance Committee is all about, to get all the details; that is where we do it. It further states that Mr. McLaughlin is wondering why the need to further subsidise the hospital and that I needed to get out of the black box mentality. Well, I have long been out of the box, long before they coined the phrase of 'think outside the box' and the information which they claim is needed will be given at the appropriate time.

This Member also said that CINICO was touted as the 'be all and end all'. That is not true, but CINICO is the first entity, organisation or, as I understand it now, like the financial world likes to talk about, vehicle for the management of health insurance for and on behalf of the people of the Cayman Islands.

It is just one year old this month and what it is attempting to do is for the first time in our history to create clinical information on services rendered on ailments, accurately calculating how much it costs, where the costs are, whether it is with civil servants, pensioners, prisoners, veterans or seamen and they are doing a very good job to date. There have been hitches, there will continue to be hitches and any sensible person would understand that! If you are not sensible, it goes without saying that you would not understand.

The Member from George Town claims that Government is long on promises and short on delivery. Again, I do not know where he is living because if there is a Government that has ever delivered, it has been this one and more is demanded of it to be delivered. To the disadvantage of some of us it becomes more impossible and more difficult by the day.

One of the things that disgust me is to hear what some Members of this House are saying about schools, as they believe that will be damaging to my colleague, the Minister of Education. To the best of my knowledge he did not send or bring Hurricane Ivan here and to the best of my knowledge he did not build the buildings that are there, he came along and found them. Some of the poorer construction that has shown to exist since Hurricane Ivan, he was not the architect, engineer, nor the builders and many of those schools have been absolutely devastated. How do we fix all of the schools one time?

I need to ask, where does all the money come from that does not exist in the country to fix

them all one time? Where do all of the construction companies come from to build them all one time, including the labour, although I hear there are more than 7,000 temporary work permits? How is it possible even if we have the money and people to build the schools and have the children inside the schools at the same time? Do we build new ones while we are building those? It is sick mentalities that ask these idiotic questions. The only way that one could try to keep a semblance of schooling going is to find somewhere else to temporarily put the children and that was done! Do the sick minds understand that Government has not even collected half of the monies that it believes is owed to it from the insurance companies? Where does the money come from? Does the Opposition have some link somewhere, some generous benefactor, a country that wants to give us that money? Not really. We talk to much foolishness that we are so rich, so they say, "you are so rich, well stay rich and do it yourselves because we are not helping you".

Mr. Speaker, what the sick minds do not understand is some children have gone back to their countries of origin because they were here with their parents who are professionals and brought them, even some Caymanian children are overseas with relatives and friends but all the children who are left here are going to school. I wonder if they can comprehend that to understand what a good job it is that is taking place? The one that has to be the joke of 2005 is the split system where children are going to school in the morning and some later in the day. To them this seems to be an offence against mankind. What pathetic people! What pathetic fools! That is done in countries of the world all around. It is the preferred way. It helps parents in planning their work schedules. It gives flex time and we cannot understand that here after a hurricane that virtually blasted us off the map.

Talk about the 'goings on' in the hospital, there was quite a bit of 'goings on' there the Monday following the hurricane. It was estimated that there were eleven hundred people sheltering inside of it with patients, doctors and nurses, and the same staff that was manning the kitchen was feeding everybody! I wonder if the Opposition figured that anyone was giving the hospital food to cook. I wonder if they believe that the HSA had planned to turn itself into a hotel for about three weeks and they had made all the arrangements to handle that. Maybe they did; it would seem that way because if it was not, then they could never ask the questions that they ask. The hospital was mashed up, the eye clinic is mashed up and equipment is shoved into different corners of it and is not usable! The dental clinic is mashed up! When you sit in the chair and open your mouth you look into the ceiling you are seeing the sky or tarpaulin! Should we leave it that way? It seems so because the brilliance of the Second Elected Member from George Town and the Member from East End seems to think that

we are not supposed to spend money there to get the hospital back the way it was. If one of us has a heart attack or some other condition right now I wonder where is the most likely place we would be taken from here if we are lucky. When the Member from East End is grading people he is grading "F". Were I him, I would not undertake the process of grading unless it was first done personally.

The Hospital lost equipment, salt water washed into the back of the Hospital where the Morgue et cetera was and destroyed that, which again, would prove the lie that was going around internationally about the 80 persons in the morgue and it can only hold 6. Those are the type of things that has happened since Hurricane Ivan and they just continue going. Major things were destroyed, computers were needed and all sorts of different equipment are needed. We need virtually to rebuild an eye clinic.

They asked about some of the doctors. Here is my suggestion to the Second Elected Member from George Town and to the Member from East End; go and ask the doctors since they hear that they are not there, why they are not there. I do not have answers to give them, ask them! Let them go and ask them, "is it true you are not here?" Let them tell them yes or no and see if they will want them to pry into their business, maybe they do, but I do not have any doubt for any doctors that are there or not there that there are no answers to be given by the management of the Hospital.

I fail to see why a matter relating to a member of staff in the Health Services Authority becomes a national issue. Then again, I understand because these people see themselves as geniuses and fighting the cause of the people. I have been wondering about the leaks and they are more like down-pourings that come out of there, and there are certain times that if a situation is right in your face you do not see it. In fact I have heard it said over the years that if you want to hide something put it right before the person's eyes, but now my eyes are open. Because there are certain people here, in this House, that have the closest family connections in that hospital.

In another instance, mighty mouse wants to be in Bodden Town, he has a sister there and now it is all beginning to add up. So, I am convinced that at least I have gotten an insight into some of the leaks because it is always those individuals who know so much about it! As the story of that famous British detective says, "it is all a process of elimination—elementary dear Watson, elementary".

Mr. Speaker, that is the reason why the Hospital and a doctor, a nurse or whatever becomes a national issue, because these people believe that they can get their cohorts to call in to the Government's radio station, Radio Cayman, to raise scandal or rumour. I heard both the Second Elected Member for George Town and the Member for East End talk about the rumours that is going around. Does it not speak highly of them that they come to this Honour-



able House to pass on rumours, promoting rumours from the Floor of the House?

Mr. Speaker, I think I have gotten a bit closer to some of the leaks and I will be passing it on to the management of the hospital. I have said here, and will say it one thousand times, those people who are taking the files and passing information out of files on how much this one makes or what this one's ailment might be, or whatever the case may be, I will go to any extent to see that they are removed from that organisation and sent somewhere else to leak its information. I need not say that if there is one place that needs confidentiality, it is a hospital because the most private things that an individual has in matters to their health should be kept private and confidential!

If it is proven— and there are clearly two targets, because the Member for East End and the Second Elected Member from George Town are always the two who knows these rumours and so on about the Hospital. Let them tell their leaks the world is beginning to close in on them.

The Member from East End was railing about the East End School. Criticisms directed at me, the Minister for Works and Public Works is not doing anything there. That is not true! I enquired of the project manager who told me that three different contractors have left doing work at the East End School, I was astonished. I then asked him, 'how was that, are we not paying them or what?' he said that was not the case, it was because they were being offered much more money elsewhere and they are simply leaving the job to go do it. That is what is happening why houses cannot be fixed. Everyone is taking nothing but the attitude of 'wherever I get the most money; forget about it I am going to it'. That is what is happening!

The East End School is perhaps the smallest school in the country, one hundred and nine students, and six classes if you divide it; it is not a bad ratio for teacher to pupil. I have been to that school also, not recently but I have been there and I do not see all of the horrors I hear about there. I say, Mr. Speaker, that any well thinking person, if they went to that school or any school (although I do not know why they would be prying into the cupboards of the cafeteria) and they found droppings of any kind that they would not have passed that on to the Education Department, for that matter to the Ministry, and the Ministry in turn ask that it be investigated by Public Health to see if that was the case, and indeed to take steps to control the pest population.

When that type of thing gets on the radio and indeed now it is in the House, but what does that say to the public? What does that say to parents who would be concerned? Is it more important to correct that situation as sensibly as it should be done or is it more important to get on the National Radio and use that as a criticism of the Minister of Education? Is he supposed to go there with his mop bucket and mop it up also? Or go with the vacuum cleaner or do you

hire people to do that? The Member from East End is a man of all trades.

I am not going to stand here and try to defend the Minister of Education because he is a most eloquent man but it cuts across what the Public Works has been working at like Trojans. Parts of the staff are deployed in all different areas trying to make all sorts of repairs throughout Government's ninety seven buildings that need repairs. The school is but one.

I believe that if the Government says today we are going to let construction companies in here, large scale to assist with the rebuilding process the first people that would begin to yell and holler would be the Opposition. We are taking work away from Caymanians would be the cry! What do they want? They may fool some of the people some of the time but I do not believe that they are going to fool all the people all of the time.

The Member from East End also worried about the Frank Sound School and why there was a reduction in the amount that was originally approved; it is simple, it is March, April, May and June, one hundred and twenty days. Is it likely that we can spend \$3.5 million in that time? I do not think so unless you are going to give it away. You can afford to reduce it but you are going to have to put it into the next year's budget. Realistically, why drag this one over into a deficit position when you know you cannot spend the money?

**Hon. Roy Bodden:** I hope they come to the ground-breaking when they get their invitation.

**Hon. Gilbert A. McLean:** The Member for East End talks about the Fire Station in Bodden Town and my non performance and why has it been taken out and so on. When last have you heard of a house fire? Is it better to spend \$1 million for a fire station now or use that money elsewhere? I think using it elsewhere is the thing to do. The Member for East End should never worry about the two fifths of the Cabinet that he says the Minister for Education and I represents, which is a fact, because we are two fifths but are able to look at the one fifth and the three fifths and understand where priorities are greatest, where the greatest needs are.

I would never want to assume that I could take on the representation that he, the Member from East End so ably gives because he has declared himself such a mighty man. He surely does not need my help but I guess that Member does not know that that district gets service by the Fire Service when necessary, if there is an accident or whatever. They seem to be more deployed in that area because there is ambulance service, health service, roads and schools.

Mr. Speaker, I resent the fact that the Member for East End would stand in here and falsely state that they are not doing anything for East End. One minute he is trying to praise an individual that works

in the Public Works about how hard he works and the next minute he is saying that nothing is being done. Almost every piece of equipment in the Public Works was lost; almost every piece of heavy equipment was lost. Every piece that I know about I saw along the East End road just above Half Moon Bay on Sunday where they are working on the roads.

The Member for East End called me about the issue of the roads but I had seen it long before that. I went to East End on the Monday following the hurricane strike, when the bodies and what not was washed up there. I spoke to the Managing Director of the National Roads Authority who has imported special devices that are going to be placed on the sides where it sheers off, they are specially made and designed to bulk-head in those roads. However, he says we are doing nothing in East End. How can he truthfully criticise the Public Works Department falsely when he knows how hard they have worked over the past several weeks? How could he?

*[Background comments]*

**The Speaker:** Order.

**Hon. Gilbert A. McLean:** Going towards Colliers the road was completely washed out and so on. Different people drove different pieces of heavy equipment but it was the National Roads Authority (Public Works Department) that was in charge of getting these roads cleared and they were virtually cleared within two weeks to the extent of their original width, although major parts were broken up and so on. However, Members like the Member from East End would come here to make those types of statements. I hope that Mr. Dixon who he was praising hears the story and deals with him accordingly. I will certainly speak to the Managing Director of the National Roads Authority (NRA) and tell him the type of flattery that he was giving him here.

There is another thing I think we should avoid. I see all sorts of incredible posturing going on in this place—Honourable House. I am even terming it by wrong nomenclature, Mr. Speaker, and forgive me because I do not think of it as 'this place'. It is a place that I have the highest regard for. I want to read something from *Erskine May* on page 381 of the 22nd Edition and it says; "**References to the Queen in debate. Disloyal or disrespectful reference to Queen. Treasonable or seditious language or a disrespectful use of Her Majesty's name are not permitted. Members have not only been called to order for such offences, but have been reprimanded, committed to the custody of the Serjeant or even sent to the Tower.**" Those were the real drastic days.

In *Erskine May* it also speaks of the use of the Queen's name to influence debate. I do not mind hearing the Member from East End laud the "good lady" who came to the rescue of East End and to the

best of my knowledge still is, but I think it would be better if he gave here the credit instead of simply talking about "I". I do not know that he has access to the funds that he speaks of and if he does I am envious of him but I think that credit should go where it is due. I am not here promoting any particular position but in the conduct of the business of this Legislative Assembly certain regard is given to the use of the Sovereign's name and he trespassed greatly into that area. Maybe he thought that was funny, as he said that it was cute about the stray dogs and the fact that there was a shelter for them, maybe he thought that was cute.

I am not here to go into details of MC Restoration or the money which was allocated for that. It has been investigated by the Auditor General as to the various complaints that were brought regarding it. Mr. Speaker, by the amount of debris that I see in Cayman, I think, that whenever or however and whoever came up with the amounts they seriously miscalculated the amount of debris that is on this Island. The more you look the more you see. You take some away and there is still more to go. So, I think it is going to be much more than 300,000 cubic yards. I think it is going to be three times that and whether or not it is this MC Restoration that will be allowed to continue its work beyond what it is contracted for, I do not know, but certainly the debris needs to be cleaned up whether it is done through another entity or through the Government's Public Works Department. If it is going to be done through that I can say that we will be going into millions of dollars trying to buy or lease the equipment and it would seem more practicable if there is equipment here, and there is a company here that can do the job, that it should continue.

To say that there is any attempt to leave East End out is ludicrous just like how mighty mouse wants to be about Bodden Town; Bodden Town was not left out. Maybe he cannot see or maybe he is one of those that the aftermath of the hurricane has affected him to the extent that he cannot see that Manse Road and various areas in Bodden Town has been considerably cleaned up even by hand and rake. There is still much more to be done but without the magic wand the Government is not in the position to so it overnight.

The two Bodden Town Ministers have to be conscious of their duty to the people and the district because we see it every day and it is a depressing sight. Even when the Government have made monies available to help, the process is still not as fast as we would like to see it for numerous reasons including the one of not having people to do the work.

The Member for North Side wondered why there should be \$400,000 to finish the abattoir. Mr. Speaker, that is something which is extremely necessary and I will recall when the Member from East End thought that in this day and age we should simply continue slaughtering under the trees because that is our culture. There are certain things in our culture that

we had to modify and this is one. I am sure that supermarkets are not going to purchase a caucus to be served in their supermarket that has been handled thus and that is the reason why there is the need for an abattoir. The fact is also that almost three quarters of one million dollars was lost in the last Budget, it was not spent in time and it fell away so this is a replacement to be able to complete it to its fullest extent. The Island is going to be better off because we will have removed the excuse from the supermarkets who do not want to buy the local beef because they say they cannot be sure of how it is handled. We will remove that excuse from them and hopefully the livestock farmers will be able to sell the carcasses in the supermarkets.

The Member from East End said he thought it was cute that the animal rescue centre was open. Well the world he lives in and perhaps he did not know that hundreds of dogs were airlifted out of Cayman to Texas where people adopted them. I understand they call them the Cayman Castaways and there are kids and adults that are interested in adopting cats and dogs that came from Cayman. Many of those animals were seriously damaged and we were fortunate that there were people in the outside world who brought medicines and vets here and helped with the animals. They say if you want to find the true spirit of a society look at how they treat its animals. They are dumb, do we let them die or do we try to help them? Do we try to find a place where they can be treated medically and fed? I think so, Mr. Speaker, and moreover, the Animal Rescue Shelter was built before Hurricane Ivan. It sustained just a little damage because it was strongly built and so it is ready to be used and needs to be used because the place near the airport was totally destroyed and that was why it was open. I do not know that it was cute; it was something that was necessary.

There is nothing cute about the many stray animals here on the Island including cattle that the fences fell down and owners could not replace them and buy food for them. There were about sixteen cows that had to be taken in and fed at the Agriculture Department or they would have starved to death.

I think that the mind of the Member from East does not take him into the broader perspective. The only thing that he does real well is to scream and holler about what is not done on this school in an attempt to embarrass the Minister of Education, or he screams and hollers and makes statements which are untrue about nothing being done in East End by the Public Works believing he is embarrassing me. As I said, he has really chosen the wrong one to try to do that with.

The roofs, for his information, are now going on schools because they have been strengthened and they can now be fixed.

If the Member for East End wants to know about the money that is going to CINICO or to the Health Services Authority he will get that if he ask

questions about it in Finance Committee because I do not intend to say more than what I have said in the debate. As for the rumours which he takes this hallowed hall to spread about the Health Services Authority, I wish he would stop but as I have said, some of his information is going to be chocked off because the fact that one, two, three or ten doctors may not be working at the Hospital it cannot be a national issue because the nation did not hire them, it was the Health Services Authority, and for every instance there is a reason whether they are there or not or whatever the case may be. However, if he wants to know the thing for him to do is chase them down and ask them why they are not there and then he can come back to this Honourable House and spread some rumours.

He went on about someone there who is supposedly running the Hospital and doing what he wants to do, namely a legal person. I will not try to explain to him that it is wise and necessary, in the type of times which we live in now; that there is a legal advisor to the Board of Directors at the HSA. It is necessary because the business that goes on in the hospital is critical business. There were many instances of unfinished legal matters relating to the HSA and many that will occur of things that have to be done. It was thought necessary by the Board and such a person was hired. That individual is one of the hardest working persons that I know and for him to be mocked or for rumours to be spread in here hopefully, I guess, by the Member from East End when he is playing dominoes, somebody will bring it up and talk about it and he will get his pictures in the papers at the picnic playing dominoes with his constituents.

Mr. Speaker, we are dealing with a supplementary budget to fund certain areas of Government that need to be funded. Money that was allocated in the Budget in July 2004 has been spent, like the money for roads maintenance; all of it has been spent to get the roads back to where they are now and that is not complete by any means. It was all spent so either we keep the roads this way indefinitely or we seek money to pave, improve and repair them again, which is necessary.

The restoration of homes is money which we seek and need to have allocated. All of these things come down to what is called extraordinary items and the Financial Secretary took the time to place in his address the definition of an extraordinary item, being, and I quote, **"Income or expenses that arise from events or transactions that are clearly distinct from the ordinary activities of the enterprise and are therefore not expected to recur frequently or regularly"**. Just about all of the money that is being requested in this Supplementary Budget is for extraordinary items. Approval was given prior to now when the first Budget came. Approval was given for \$37 million to be borrowed and additionally now, it is found necessary to secure \$25 million from borrowing from banks in the Island.

Mr. Speaker, this Government does not have a magic wand, the Cabinet does not and I am sure that critics from the Opposition and those out there writing letters does not have any magic wands because if they did they would waive it and they would think that they are gaining more favour with the people they hope will vote for them. Anyone that attempts to use people misfortune or their hurt and agony to intensify it to try to ingratiate themselves to them, I think are abhorrent. That is my opinion.

Mr. Speaker, I have covered a number of areas in this Budget and replied to some of the statements made by the Second Elected Member from George Town and the Member from East End, and further details of this Budget request should be correctly dealt with in Finance Committee. I will answer questions and give details there if I am asked.

Thank you and the House for your indulgence.

**The Speaker:** Does any other Member wish to speak? The Fourth Elected Member for West Bay.

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

Mr. Speaker, as I rise to make a short contribution on a Bill for a Law to appropriate certain additional expenditures for the financial year ending 30 June 2005 I am thankful to be in the position of being able to get up here a few short months after the devastation of Hurricane Ivan and to be a part of a Government and Legislative Assembly who has been able to assist with the recovery of our beautiful Islands so quickly to get to this position that I am sure a few months ago none of us expected to be at.

I am happy to make mention in this contribution (which will be the final contribution on the Budget until the General Elections), and to have reached a point in time where this Honourable House has gotten to a point of some semblance of unity that has been referred to if that has been caused by Hurricane Ivan then I guess it is true that there is a silver lining in every cloud. I would like to believe that even in the absence of Hurricane Ivan after having worked together across the isles for the past four years that the Government has finally been able to convince the Opposition to at least some sort of agreement to disagree that will be the most mutually beneficial position for the country.

My colleague, the Minister of Community Affairs made the point today that he would hope the Opposition would now go out and campaign for the continuation for the Government. I know some of the Opposition Members took an issue with that but I think it goes a long way to say how we have all come to recognise that together we can make much more of a difference and that during these difficult times and the times that are ahead that the country will benefit much more from a togetherness instead of an adversarial and contentious relationship.

I think the Leader of the Opposition, in his debate, started a trend to say that this was indeed extraordinary times. His debate was what I would term a very short debate in comparison to previous contributions, and the expectation from him was that we would get into Finance Committee and the questions would be asked at that time.

In general I think that the Opposition has, for the most part, especially the Third Elected Member for Bodden Town and the Lady Member for North Side, has stuck to the position of making some poignant points on their respective districts, but in general looking forward and saying this is an extraordinary time, there is great difficulty and there is a need to be working together and going forward for the best interest of the people.

As usual the Second Elected Member from George Town tends to criticise and there was some criticism by the Member from East End, but what struck me was the Third Elected Member from Bodden Town when he said that whatever was necessary to help the people which we represent should be done instead of making a wish list saying that this and that should be done and making promises. He also made the point that by whatever means was necessary to receive funding, whether it was by borrowing or some other means, he felt that the important thing should be in looking out and addressing the significant needs that we all recognise are prevalent in all of the districts. That is one of the main issues which has been a shortcoming and evident in previous contributions.

There are always criticisms as to what is not being done and how enough is not being spent and we all agree that there is always more that could be done. The example was used with education that there should be possibly \$100 million spent. When we talked about the garbage situation which we all know is of a critical nature and someone said that the supplementary that is in the Budget is only a token amount and it is not enough, but it is very important that we recognise that there is a price to pay for all of the increases. There is a price that goes along with the wish list because we are not living in that fairy tale world where we just waive a magic wand and we get everything that we want. It is my feeling that all of us in here wants what is best for our people here, but we have to strike a balance as to what the country can afford and do some prioritisation as to what can be given at this time and what will have to wait.

I am proud to be a part of a Government that through all the criticisms (you would remember, Mr. Speaker, because you were a part of this Government at that time, as well) that when decisions were taken to try to increase revenue or to try to balance the Budget there were always criticisms laid at the Government at those times. Even a few short months ago, during our last Budget in May there was a criticism as to the fact that it was borrowed money being put into the reserves. No one could have known at

that time that the money which was going into general reserves would be so important and needed by the Government but now the wisdom of those decisions have come to be obvious.

What was ironic is, today I heard the Elected Member of East End who was one of those criticising the borrowing at that time now saying that because we are under the cap of the 10 per cent of recurring revenue, he was proposing that we go ahead and borrow more to build up those reserves. It seems like a short time ago when the criticism was being laid for borrowing at the time to build up the reserves. He is right in saying that the Public Finance Law is calling for ninety days of reserves. In an ideal situation we could agree that would be the thing for us to do to build up the reserves as quick as possible. Again, we need a balanced approach and that is where we were at before Hurricane Ivan in trying to get it to a decent position, not getting it to the full ninety days but getting it to a reasonable position, but now, with times being as difficult as they are and everyone agreeing that this is an extraordinary situation, now is really not the time to worry about trying to get the ninety days reserve. In time I am sure that is a policy of the Government to stick with the policies as were laid out and in time hopefully things will go back to normal.

We are getting ready to go into a hurricane season again and no one knows what could happen at that time. So, it would not be prudent for the Government to go out, at this stage, and borrow up to the maximum and be tempted to use that for all the needs at this time— get into June and a new hurricane season and, God forbid, have another disaster and be already at the limit of our borrowing capacity. That would not be the good Government and the good fiscal responsibility that is the cornerstone of the United Democratic Party Government.

Mr. Speaker, there is much criticism that has been directed toward the Government for the decisions that were made shortly after Hurricane Ivan. One of those that have proven to be the right decision was the awarding of the contract for the clean up of the debris. That decision has received much criticism about having to get an outside foreign company to come and help with the clean up. I think the benefits achieved from getting a clean environment are obvious at this point. I know that there were concerns about the amount of the contract. Surprisingly now it appears that the amount which was questioned at that time may be much less than what it is going to actually require to do the clean up. While that initial amount may seem like a lot to some people, it is like what my colleague from West Bay said: "I have seen other proposals that were higher than that". As far as the estimation at that time as to the 300,000 cubic yards of debris, there was no way anyone can criticise the fact that is all it was at that time, a guesstimate, and as time progresses obviously those numbers could increase. No one will know. In the same way the criticism that has been laid as far as the con-

tributions Government has given to help the people that were homeless and did not have insurance, both of those issues are going to have to be reconsidered and adjusted accordingly.

I agree with the Member from East End, I do not think that because the contracted clean up company has gotten to the eastern districts last and the 300,000 cubic yards has been reached then it would not be fair for the eastern districts to suffer in not being adequately cleaned up. So, whether the Government has to use Public Works Department or whatever it may be, I think the commitment should be made to that Member that his district and the entire Island would be treated in the same way.

It is the same when it comes to housing. I know that the Government has given \$5 million so far, they have just given another \$2 million to be distributed amongst the districts. I know the National Recovery Fund has, at least my last information was somewhere around \$4 million. I know that some of the other organisations have stepped forward and they have been assisting. I think that if the money is spent and the need is still there the Government would have to reassess at that point and, if necessary, allocate additional funds. This is not something that is a proven science that we can sit down and say it is \$5 million and that is what it is going to cost to fix all the houses that have been damaged. The other point having a bearing on that is we have some of the private sectors that have come forward and are assisting significantly.

The Member from East End made a bit of reference to the assistance that has been given by a resident of the district of East End, Mrs. Susan Olde. I think that is great! I happened to be in East End on Saturday and the Member was showing me the contributions, 12 containers of supplies and that ranged from refrigerators, windows, nails, plywood and assistance as far as labour was concerned. I can honestly say that after the struggle we were having in West Bay I was a bit envious of the assistance and the help that that Member has received. I agree with him that residents like Mrs. Olde should be recognised by the country. What I find significant with her assistance is that she gave \$3 million to a fund in East End. She also gave a significant donation to the National Recovery Fund. She has also helped out significantly in Grenada and Dominica. Not only from an Island standpoint but from a regional standpoint recognition should be given to individuals who feel that much a part of the community and in this case specifically, a Caymanian.

I am glad that as a Government we played a part in making certain new Caymanians feel like they are welcomed here and have a stake in our community prior to the storm. I only wish that more of our residents were making significant contributions to Cayman as people like Mrs. Olde.

The Minister of Community Affairs the Dart family. They have been assisting prior to and during

the hurricane, and since the hurricane and I fully support his decision to give them some recognition with the naming of the park.

Mr. Speaker, my main concern about this particular Budget or our financial position at this time as a country, is the difficulties that we are seeing that are being experienced by our residents and the effect that is going to have on our standards of living. The one that first comes to mind is the cost of insurance and the effect the insurance and the increases in policies is going to have on people living in Cayman.

So many of my constituents have come to me since the storm, in a helpless position, not knowing and wondering how they are going to survive. I know that the Government has started an investigation, as was mentioned by the Minister, but in speaking to Dr. Moorwood at the Fidelity Outlook Forum, who is one of the individuals who have done recommendations on a policy paper on the outcomes and increases of insurance in the region. He had suggestions that can benefit the population on insurance. I know that the Government is looking at organising a forum in the region with the re-insurers along with Dr Moorwood to look at possibilities of trying to mitigate against the increases and of the risks that re-insurers would have.

Mr. Speaker, I know you were at the conference so you would remember but for the benefit of the people who were not there he explained simple procedures that can assist with reducing that risk in allowing for relief on insurance. There was a provision that stuck in my mind, and I think he said this was being incorporated in the Bahamas, and that was a provision which calls for exemption of cars, which is one of the big complaints by insurance companies, the significant loss of cars. Therefore he said that in the Bahamas there is an exemption for cars. So, basically if a hurricane is threatening you would not leave your car in a flood prone area. If you can prove that you have tried to reduce the risk by not putting the car in a flood prone area, for example leaving it at the airport, then the car would be covered in the case of a flood. If you run off and leave the car anywhere and make no attempt to secure the car then the car would not be insured. We would assume if that exemption is agreed to, since the risk was reduced, that the premiums would be reduced as well. The other example he used was that in upstairs homes the contents could be insured but again, there was an exemption to show that you have try to move the contents to the upper floor prior to the hurricane so that they would not receive flood damage.

Mr. Speaker, these are unusual times and I think it is important that we find some way to mitigate the costs. We are going into a hurricane season and God forbid that if we are hit by another devastating hurricane what we do not want is for people to give up and become totally uninsured because they feel that they cannot afford any insurance. If we are able to find a way that you are able to get insurance even at

a reduced amount and even if your risks are increased, I think people would be more conscious and get insurance and look at some of the ways that they can reduce the damage that would be caused. So, Mr. Speaker, insurance costs is a concern and something that the Government is going to have to seriously address.

Another cost that is being touted is the increased costs with out utilities, namely the power cost. Shortly after the storm there was a representative from CUC who made the point that we can expect increases on our electricity bills. As you know that is a topic that is near and dear to our hearts and I have every confidence that this Government will do whatever is necessary to ensure that the increases be minimised as much as possible. We all recognise the valuable part and the sterling job that CUC did in our reconstruction and recovery efforts to get us to this point but once again there is the issue of cost. How much more can the people of Cayman afford to pay?

We will be faced with increased insurance, increased utility bills and that has the knock on effect of increases in other critical components of life in the Cayman Islands. That is a challenge that the Government will have to face and I hope that at the time when those decisions have to be made that there is unity in this House as far as those difficult decisions. I happen to know that we were in negotiations with our utility company; we were close to having an agreement then along came Hurricane Ivan. So, while it is not known and no one refers to that as one of the devastating effects of Hurricane Ivan, but it has derailed the negotiations with CUC which were intended to reduce the overall costs of electricity in Cayman and thereby reducing the cost of living in Cayman.

CUC has chosen to break off those negotiations and the Government will now have to decide how best to deal with going forward. The negotiations are also a casualty of Hurricane Ivan and hopefully we can come to an agreed position to the benefit of the Cayman Islands. Thankfully we can see that the completed negotiations from the telecom standpoint have also benefited pre and post Hurricane Ivan. Even with the destruction to the entire infrastructure of the telecommunications companies we have not heard any of those companies talking about raising prices. Even though all of the networks were down, the towers had to be redone, they had to bring in generators at the time; we saw planes flying in here with the parts and we know there was an increased cost in doing business, thankfully we still hear of price reductions in that industry. If there was a question as to what the benefits were of the liberalisation of that market, if we do a quick comparison we can see that the Island post Hurricane Ivan is much better off because of the liberalisation of telecoms. I dread to think of what we would have been faced with as far as telecommunications costs if we were still in a monopoly situation.

So, Mr. Speaker, I am happy to be part of a Government that under the capable leadership of the Leader of Government Business and the rest of Cabinet has been able to move the country forward in light of all the criticism at such a quick pace. I am happy to support this Supplementary Appropriation Bill. There is only one aspect of that Bill that I have difficulty supporting and that is the amount that is in there for the General Election because I do not think that the country is best served by having a General Election at this time. We know that decision was made by powers outside of our control and so we have to go forward since Her Majesty's Government has decided that the people of the Cayman Islands need to have an election at this time in light of the turmoil, devastation, and destruction.

I am not sure how people can be so callous to get into a campaign mode at this time but it is obvious that campaigning has started. In the district of West Bay our Opposition who was quiet for the last four years has now all of a sudden decided to come forward and their way of assisting the wonderful people in that district is by getting on the radio station and having a show every Monday night. When we talk about the callousness and insensitivity of people—with all of the needs that we have in the district and in the Island they cannot find anything else to spend their money on than to get on and have a radio show and talk about each other. Someone was telling that they were on there saying to the other one, "tell us a little about yourself".

Mr. Speaker, it is hard to believe but I guess Her Majesty's Government knew that there would be some individuals that even in these times would want to get up and try to take advantage and see this as an opportunity for them to make a grab of power. We have confidence in the smart people from West Bay and even though we do not see ourselves getting out there and campaigning, our plan is to continue doing what we have been doing and that is working hard to better the lives of the people of West Bay and the people of Cayman on a whole.

Based on the fact that this Government has been able to bring forward consecutive balanced budgets and even in this extraordinary time, come forward and bring a budget that is practical and affordable for the country, some of those critics have also been telling people that the country is recovering but it is at such great expense and the country cannot afford it and that the Government is going to break the country, and when the Supplementary Bill comes there is going to be so much debt that the county is not going to be able to afford it.

The United Democratic Party has proven that even in a time when there could have been the distraction or the temptation of an election year of putting forward a budget that was unreasonable and when there was justification to do such because of extraordinary times, we have been real careful, prudent and prioritised. One of the criticisms from the Member for

Bodden Town was that in the last Budget there was an amount for a fire station and now that amount is not in there. Instead of that being a criticism I think it is an endorsement to the competence and consideration of the Government in recognising that there is no way that a fire station can be built between now and the end of June and that the money could be better spent to help the people in the district with their homes, and when the next budget is done, if the country can afford it at that time, it will be the time to do the fire station.

The United Democratic Party Government has brought the country through its not so good times prior to Hurricane Ivan when it had inherited significant problems, got the economy back to being a robust and strong economy where business was thriving and doing good then came Hurricane Ivan. Now the Government has had to again prove itself by bringing the country through the recovery process.

If we could forget about the election and work together as a Government and the Opposition, for the next couple of months, I think the future is bright for the Cayman Islands. I still have the confidence that the attitude which I saw immediately following Hurricane Ivan is one of togetherness. I think that if at any time the people of Cayman need a Parliament that is working together in their best interest—the signs are there and there is still some dissension but the signs are there to say that we all need to come together and do what is best for the good people of Cayman.

I look forward to continuing to the best of my ability, playing that part; working with the Government and together with whomever else is willing to work together. Let us put aside those differences and come together and continue to work for the betterment of the beautiful Cayman Islands. Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker. I too want to offer my support for the funds asked for in the Supplementary Annual Plan and Estimates.

I know that the Opposition has been ranting and raving about a change in Government's policy, well Hurricane Ivan has changed, in one way or the other, everybody's way of living and thinking in these beautiful Islands. So, when we needed to reprioritise our expenditure we had no choice because of Hurricane Ivan.

When we did our last Budget no one anticipated that we would be spending \$10 million on just the cleanup of a disaster but it has become a reality and so we have to deal with it. The one thing that Members of this Honourable House should realise is that had it not been for the outstanding corporate and private citizens of these Islands the requested amount could have been considerably greater. People like Mrs. Susan Olde and it is well worthy of mention that

Mr. Bill Horan who also have a home in North Side was one of the first to respond to our aid when we needed it. On the Monday when I called Bill Horan from my cell phone, I said, "we are hit hard and we need help" and he said, "As we speak Cayman Airways is loading". It was the first flight of Cayman Airways to come into Cayman and on that flight there were generators, 6,300 ready to eat meals that did not need to be cooked, 25,900 16 oz bottles of Snapple. In the days following Hurricane Ivan there were 43,000 lbs of Quaker products, 45,000 lbs of mixed food, drink and supplies, baby food, medical supplies and chain saws.

Mr. Horan heads up an operation, Operation Blessing, which is a non-profit charitable organisation. In addition to that he sent by Thompson Shipping six – forty foot containers of mixed foods, five – forty foot containers of water, 784 sheets of plywood, 1260 rolls of tar paper and that is just to name some of the stuff. Received also from various churches and non-profit organisations \$117,000 in cash. These are some of the recipients of Cayman status who have truly put their heart in this country and we are proud that people like this could be a part of us.

Mr. Speaker, a lot of these supplies were given to the National Hurricane Committee and to the Red Cross and all of it has been distributed throughout Grand Cayman. We received instructions that it had to be distributed evenly and we did the best we could, depending on the size of the population.

The Member from North Side said that—

*[Inaudible crosstalk]*

**The Speaker:** Order! Order!

**Capt. A. Eugene Ebanks:** —there was none, but I can assure you if you check with Mr. Jerry Whittaker he will verify what I am saying is true. I did not necessarily give it to the candidates and I am sure the Member from East End will be happy to verify that a lot of the material went to East End. For the information of the Member from North Side, two pallets of the plywood, 106 sheets went to North Side. It was distributed to Mr. Jerry Whittaker, who I was instructed to give it to for that district. So, that is where it went. However, containers are still at the Port which were caught up in the backlog of shipping and have not been delivered yet. So, there is still some to go. I think it is four forty foot containers of tar paper, sheet-rock and water to be distributed.

This Bill, Mr. Speaker, is a bill that because of abnormal circumstances we were required to come back and ask for additional funds. Under normal circumstances and as I am sure you are aware, for the last three years we have done a good Budget and maintained it, and it is no reason for us not to continue with that if we were under normal circumstances.

It should also be mentioned that corporate citizens like Thompson Shipping brought in eleven containers free of charge of relief supplies and I think they should be commended for their generosity and these are the kinds of corporate and private citizens that we appreciate and we want to thank in this forum.

As far as the clean up funds are concerned there is still a lot to be done on the clean up side, however, I think it is time for the people of this Island to take more civic pride. Government cannot continue indefinitely, there are lots of things that the private citizens can do to help clean up their area. If you clean a street today tomorrow if you come back it is more that there was yesterday. Where will it end? There was an estimate for 300,000 cubic yards of debris, well that is a small estimate so I am asking the general public to step up to the plate, put their shoulder to the wheel and take some civic pride in their surroundings as well.

There are many other issues that have been covered that I can deal with but for the sake of repetition I will not go that way. However, I want to offer my support for this Bill and I thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Communications.

**Hon. Juliana O'Connor-Connolly:** Thank you, Mr. Speaker. Right off the bat I should inform you that perhaps you may not even have the pick up your pen as I shall make my contribution the briefest in the history of this House.

I thought it was necessary to rise and quote a friend of mine from West Bay, Mr. Leonard Dilbert, a Cayman poet, when he said in May 2004 that as a Caymanian people we are a people culturally encoded to watch the weather, to eek a living from rocky ground and an uncertainty to endure and seek peace. If I may be so bold to say that I would like to change the words "watch the weather" and say we should "watch the clock". I believe as a Minister I have an obligation to prioritise. The country is at a time where discretion is necessary and I have taken the liberty to exercise my discretion. I think at this particular time it behoves us to move to Finance Committee. Action does speak louder than words. I can now take my seat. Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? I believe that all elected Members have spoken. If not, would the Honourable Third Official Member wish to exercise his right of reply?

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I wish to make concluding remarks on the Bill now before the House, Sir.



Earlier in the debate there was a request for greater level of detail on the items appearing on the Schedule to the Bill. There was also a request for Government to state whether its policy ideas in formulating the Supplementary Bill was different from the policy ideas that shaped the initial Budget for 2004/2005. I think with all the discussions that have taken place since we began the debate, we can safely put those two particular items to rest. The greater level of detail has been provided in the Supplementary Annual Plan and Estimates and the purpose of Finance Committee is to afford Members an opportunity to ask an even greater level of detail.

As stated before, we all have agreed, including yourself, that you were satisfied that there has not been a substantial or fundamental change in Government policy from the May position when Government formulated the initial Budget for this current fiscal year.

It is also important to remember that this Bill before the House is a tidy up Bill in the sense that it includes expenditures that have already been approved by Finance Committee on 6 September; this was done under Section 12A of the Public Management and Finance Law. The value of such approvals granted by Finance Committee in September sums to an approximate total of \$16.3 million and that amount of money is now included in this Appropriation Bill for a tidy up exercise.

I should point out that the Supplementary Annual Plan and Estimates, at the bottom of each output table, provides a very convenient explanation or reconciliation between the initial budget figures and the final budget figures that would arise if Parliament approves this Bill. We saw that at the bottom of each output table by showing the original appropriation granted by the Appropriation Law, showing a separate item for Section 12A change that was approved by Finance Committee in September; showing a separate figure for the post Hurricane Ivan change that is now requested and elements of permanent appropriations, the best example of which would be pension costs appropriated under the relevant Pensions Law, those are also shown separately in the Table. When we add these separate components that are explicitly stated in the table we arrive at the final Budget figures that would exist if this Bill is passed. I think that the level of detail is sufficient and if I may say so, Sir, I think it is an actual improvement on previous appropriation estimates.

We will also recall that a few short years ago we had the unfortunate situation where supplementary appropriations bills were brought to this House as a tidy up exercise many years after Finance Committee had actually approved the expenditures and the Legislative Assembly was in that instance faced with the situation where the Supplementary Appropriation Bills were brought to the House but the details of those Bills were not fresh in the minds of the Members. By the Government bringing this Supplementary

Appropriation Bill to the House now rather than going into another Section 12A process under Finance Committee, we would avoid that situation of having to approve a Supplementary Appropriation Bill after approval in Finance Committee. Obviously by bringing the Supplementary Appropriation Bill as opposed to going into Finance Committee under Section 12A and then attempting to have a supplementary bill before the end of the fiscal year in June, we have afforded Parliament an opportunity to debate the Bill and certainly that debate has taken place and all Elected Members of the House has spoken on the Bill.

It is also very important to note that the extraordinary items which was stated in the financial statements and appear in the schedules arise not because of a lack or presence of a policy but they arise simply because we have to account for them. Even without a policy we would have to account for the items.

Mr. Speaker, in concluding remarks on the Bill I would highlight to Members attention some of the key features that are shown in the financial statements in the Supplementary Annual Plan and Estimates. We have an operating statement that shows operating revenue is forecasted to be \$351.9 million. Operating expenses of \$343.9 million and when those expenses are subtracted from those revenues the resulting surplus from operating activities is \$8 million. It is very important to note that when the original Budget was passed the financial statements at that time showed an expected surplus of \$10 million. So, post Hurricane Ivan the forecast is only \$2 million worst than the results of the forecast in the initial budget. When we deduct the finance expenses of \$9.7 million arising as a result of proposed borrowing from the forecast surplus of \$8 million, the resulting small deficit is only \$1.7 million. This is the deficit before extraordinary items.

On 6 September when Finance Committee considered expenditure requests, the forecast at that time showed an expected surplus at the end of June 2005, of approximately \$77,000. So, Mr. Speaker, our current forecast deficit of \$1.7 million should be compared to 6 September surplus figure of \$77,000. That movement from \$77,000 surplus to a current projected deficit on normal operating activities of \$1.7 million is not a significant variation bearing in mind the size the Government's overall expenditure budget which was in the approximate amount of \$344 million.

Mr. Speaker, it is also important that all of the principles of responsible financial management, except one, have been met and a paper dealing with this particular aspect will be presented to the House fairly shortly.

I would honestly and truthfully like to thank all Honourable Members for their contributions to the Bill and I can honestly say that when the debate started it was started in a pleasant, relaxed and controlled tone, and I believe that members of the public listen-

ing would certainly appreciated the manner in which the debate occurred.

I would like to share with Members a favourite thought of mine and it occurs to me many times. It goes something like this— 'We can close our eyes and instantly we can take ourselves back to our primary school days. We can open our eyes again and we find ourselves in our thirties, forties, fifties and sixties. We will blink again and we will be in our sixties, seventies, and eighties with God's will'. Time is precious and short, let us pull together as Caymanians and do our best for the Cayman Islands.

The advert for Patek Philippe, which is an advert that is undoubtedly about one of the best watches in the world, often shown with a father and his son; it says words to the effect that one never actually owns a Patek Philippe, one merely looks after it for the next generation. Likewise, we are only here to make things better for the next generation of Caymanians. Thank you, Sir.

*[Applause]*

**The Speaker:** A wonderful winding up Honourable Third Official Member.

I will now put the question on the second reading debate. The question is that a Bill shortly entitled the Supplementary Appropriation (July 2004 to June 2005 Bill) 2005 be given a second reading. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed: The Supplementary Appropriation (July 2004 to June 2005) Bill 2005 given a second reading.**

**The Speaker:** Honourable Members in accordance with Standing Orders 63(3) and 67(1), the Supplementary Appropriation Bill and the Supplementary Annual Plan and Estimates shall stand referred to Finance Committee, which I am informed will commence its deliberation following today's adjournment. The House will resume its proceedings following the conclusion of the proceedings in the Standing Finance Committee.

Before calling on the Honourable Leader of Government Business for the adjournment, I have been asked by the Assistant Clerk, Miss Nana Bothwell, to remind all Honourable Members to let her have the names of their guests for the Parliamentary Prayer Breakfast no later than tomorrow, 17 February, as was previously requested by her.

Honourable Leader of Government Business, would you please move the motion for the adjournment.

## ADJOURNMENT

**Hon. W. McKeever Bush:** Mr. Speaker, I move the adjournment of this Honourable House until Finance Committee rises.

**The Speaker:** The question is that this House do now adjourn until the conclusions of the proceedings in the Standing Finance Committee. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**At 9.14 pm the House stood adjourned until the conclusion of proceedings in the Standing Finance Committee.**

**Hon. W. McKeever Bush:** Mr. Speaker.

**The Speaker:** Honourable Members please sit for a minute.

Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** I should say that we are moving into Finance Committee and hopefully we will finish one or two Portfolios before we adjourn.

**The Speaker:** Thank you, Honourable Leader of Government Business.



**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**18 FEBRUARY 2005**  
**2.37 PM**  
*Fifth Sitting*

**The Speaker:** I would invite the Third Elected Member for Bodden Town to lead us in 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 Cabinet 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 are resumed.

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

**Apologies for delay in commencement of Sitting**

**The Speaker:** Honourable Members, the press and the listening public, I wish to give reasons for the delay in resuming proceedings this morning. The House was scheduled to resume at 11 am which was later than normal because Honourable Members were in

Finance Committee until 11.30 pm last night. Moreover, the Chairman of the Standing Finance Committee and officers of the Legislative Assembly were involved to ensure that the Finance Committee's Report was accurate, this morning. This took some time due to the large number of items to be reviewed. This accounts for the delay in commencing proceedings as was planned.

**Misleading Points of Order**

Honourable Members, following discussions in the House on Wednesday, 16 February 2005, pertaining to the question of Members of our Legislature "Misleading the House" during Parliamentary proceedings, I felt that it would be helpful if I prepared a short note on this subject for the information of all Members.

Standing Order 88 (1) states and I quote: "**In any matter not herein provided for, resort shall be had to the usage and practice of the Commons House of Parliament of Great Britain and Northern Ireland, which shall be followed as far as the same may be applicable to this House, and not inconsistent with these Standing Orders nor with the practice of this House.**"

Honourable Members the question of "Misleading the House" is one such matter on which our Standing Orders are silent. Accordingly, recourse was had by me to the precedents set by the House of Commons, through reference to *Erskine May Parliamentary Practice*, Twenty-third edition, page 132 under the caption "Members Deliberately Misleading the House". However, it can be seen from this section of Erskine May that the contempt of "Deliberately Misleading the House" is not dealt with in any vast detail. The section reads, and I quote: "**The Commons may treat the making of a deliberately misleading statement as contempt. In 1963 the House resolved that in making a personal statement which contained words which he later admitted not to be true, a former Member had been guilty of a grave contempt.**"

The incident referred to in May's is actually the well-known Profumo case. Mr. Profumo made a personal statement to the House of Commons to deny the truth of allegations being made against him in the press, but he later admitted his deception. In summary, there are two elements to be established where it is alleged that a Member has committed the contempt of deliberately misleading the House, on which a point of order can properly be raised: Firstly, the statement must, in fact, have been misleading; and secondly, it must be established that the Member making the statement knew at the time that it was in-

correct and that in making it, the Member intended to mislead the House.

Because of the limited information provided in Erskine May on the question of "Deliberately Misleading the House", my office contacted the CPA Headquarters in late 2003 and requested them to provide any available information on precedents established in any other Commonwealth country on the question of "Deliberately Misleading the House." On 6<sup>th</sup> January 2004, my office received information from the CPA on the matter. I am satisfied from the information received from CPA Headquarters that the element of deliberateness is an essential ingredient implicit in the offence of "Deliberately Misleading the House".

It follows therefore that if any statement is made on the Floor of the House by a Member or Minister, which another Member believes to be untrue, incomplete or incorrect, it does not necessarily constitute a breach of privilege on which a point of order may be validly raised. In order to constitute a breach of privilege or Contempt of the House, it has to be proved that the statement was not only wrong or misleading, but it was made deliberately to mislead the House. Such a breach can arise only when the Member or Minister makes a false statement or an incorrect statement wilfully, deliberately and knowingly.

When rising on a point of order, a Member or Minister must be able to prove:

- (i) **that the Member or Minister made a statement which he knew was false, or**
- (ii) **that he made a statement which he did not himself believe to be true, or**
- (iii) **that he made a statement without due care and attention; with gross negligence asserted something as true which turned out to be false.**

In essence, Honourable Members, the question of "Deliberately Misleading the House" must be found to be wilfully and knowingly made with a view to deliberately misleading the House. There may therefore be many statements made before the House which may in the end be found to be based on wrong information given to those who made them. Such statements were found by the Commons Members Ethics and Parliamentary Privileges Committee to not constitute a contempt upon which a point of order could validly be brought, if the persons had made them in the belief that the information contained in the statements was true. The question of a Member or Minister misleading the house must be deliberately and knowingly done in order for it to constitute a valid point of order. Thank you, Honourable Members.

I have asked the Serjeant to distribute this statement to Members so that they may also review it.

### **STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET**

#### **Port Authority of the Cayman Islands – Container Loads following Hurricane Ivan**

**The Speaker:** I call on the Honourable Leader of Government Business for his statement.

**Hon. W. McKeever Bush:** Thank you very much, Mr. Speaker.

This statement is in connection with the Port Authority. In recent times the Port has been into some controversy, simply because of the conditions of the Islands and the amount of cargo that had to be imported into the country. Recently on the radio one importer took the Port to task and I think the country needs to know the exact situation.

The Port Authority of the Cayman Islands has handled 861 Less than Container Loads (LCL) in its warehouse since November 2004. As you will remember, Mr. Speaker, those are containers that are less than full, but for the House and the listening public those are 861 Less than Container Loads, plus those loaded containers.

Containers are discharged on a first in, first out, basis. However, there are certain exceptions: Refrigerated containers are discharged on arrival to the warehouse or as soon as is possible. Medical supplies are also given priority. Lastly, there are occasions, be it on a rather limited basis, that critical items for businesses are moved forward for discharge. This is only done for businesses (two examples would be hotel suppliers or critical rebuilding materials). The Port Authority assists entrepreneurs, and rightly so. More importantly, this has only been done on a limited basis and does not negatively affect the overall cargo discharge process.

The Port Authority of the Cayman Islands continues to provide reliable and efficient service to importers and shippers. The volume of cargo has more than doubled since November 2004 and the Authority has had to take many important measures to deal with this volume. Some of the initiatives taken are:-

- (1) Additional land has been opened up and land owned by the Port Authority has been cleared and filled;
- (2) Additional land has been leased to store containers and vehicles;
- (3) Container handling equipment has been purchased to the tune of some \$2 million;
- (4) The Authority is now operating a 24 hour a day service;
- (5) An additional 100 young Caymanians have been employed to meet the demands;
- (6) Cargo containers for the big importers, again businesses, are segregated for easy collection;
- (7) Cargo dispatchers inform customers by phone on the status of their goods;

- (8) The Port Authority's web-site has been upgraded to allow the public access to the status of their cargo;
- (9) Billing office hours have been extended from 5 pm to 8 pm Monday through Thursday;
- (10) Storage periods without charges have been extended to assist the consignees.

These are some of the steps that have been taken, and the Port Authority will continue to implement measures to improve its service to the public.

The Port Authority of the Cayman Islands has performed well as we continue to rebuild from the effects of Hurricane Ivan. The Port Authority also received damage to its buildings and equipment. Presently the offices at the Cargo Distribution Center (CDC) warehouse are still under construction and equipment breakdowns are still occurring. People ought to know this as it prohibits efficiency.

The Port Authority of the Cayman Islands opened for shipping, the life line to these Islands, on 16 September, 2004 and worked every day until the Christmas Holidays when it closed for a few days to give the employees a needed rest. Since the beginning of 2005 the Authority has worked every day. Our achievements have been great. The Authority since 1 October, 2004 has handled 143,000 tons of cargo. This translates in to some 29,000 containers, 4,634 cars, aggregate equipment and bulk cement. This may not sound impressive, but one has to consider that it was not long ago this would have been the statistics for an entire year, not just four months. All of this has been achieved with a minimal of delays to shipping and importers. We must never forget that these are still not normal times.

The Port Authority in these Islands, prior to Hurricane Ivan was extremely efficient and often forgotten by the public as it ran so smoothly. Indeed, we were and may well still be, one of the most efficient ports in the Caribbean region and the southern USA despite all of our setbacks. The shipping aspect of our operations has been brought back to par, but our warehousing facility and container yard continue to experience the strain of this extra cargo. Why is this so? Simply put, the Port Authority has total control over the dock operations, but the Cargo Distribution Center operations to a large extent depends on the public's cooperation in collecting goods or containers in a timely manner. This has been the single, greatest problem coupled along with insufficient trucking services to pull the containers. Again, we appeal to the public to do their part and collect their goods without delay.

The fact remains, that in general the amount of goods and containers being delivered to customers in any one day are less than what is offloaded from the ships. This leads to a situation of congestion at the CDC where goods and containers compete for limited space. Similarly, the warehouse is at capacity most of the time, as again, the customer's rate of collection is less than the rate of our discharge process. There are

a number of factors contributing to these situations, such as the capacity of private trucking companies or customers ordering goods and are not ready for them. The movement of cargo can also be negatively compounded when the Port Authority experiences equipment down time.

While some of our operations are not what they were, it is most important to note that all customers are receiving their cargo, though in some cases it now takes a bit longer. The majority of the public understands this, I believe, and supports our efforts, appreciating the strides made. However, the Port Authority has been under constant attack from a small number of detractors who appear to have an agenda to destroy all that has been achieved. They have been on the radio recently. Some have questioned the number of Board meetings being held, saying what the problem is. As Chairman of the Port Authority I have had to use a hands-on approach and work directly with the Port Director and staff to achieve these impressive results. It has worked well during this emergency mode of operation.

The importer under the name of Caytrans (Mr. Billy Adams) and their clients have perhaps been the most vocal, spreading false innuendoes to the public. Suggestions are being made of corruption at the Port Authority because of the reason previously outlined, of having to give some emergency clients first preference. For example, refrigerated food: milk has to go to the stores immediately; medical supplies and small business which perhaps had an emergency situation. Some containers are moved up in line to be discharged, due to the strategic nature of their cargo. It appears that Caytrans wants the Port Authority to seek their permission to do so.

The procedure for importers similar to Caytrans is that once their goods arrive at the Port they have nothing to do with the goods as to when they are discharged by the Port Authority. In other words, they import the containers and leave them with the Port Authority for their clients. However, Caytrans takes this a step further and after their goods arrive they continue to be, or want to be, involved in all aspects of the Port Authority discharge processes, more often that not in a confrontational way. No other similar importer does this. None!

Perhaps Caytrans should make the public aware of the following facts:-

1. The majority of LCL containers are palletized and properly documented by the importers for ease of discharge;
2. Caytrans containers are not usually palletized or properly documented;
3. Caytrans containers have to a large extent to be unloaded by hand which is very time consuming;
4. Caytrans containers often contain items that would normally not be shipped in containers but on Flat-racks such as steel and lumber. This is very difficult and time-consuming to unload;

5. Caytrans containers have to be de-consolidated by the Port Authority as they are loaded randomly. This means that individual cargo has to be collated, palletized and shrink-wrapped by the Port Authority, not by the importing company, not Mr. Adams but the Port Authority. This is not done, and I repeat, 'this is not done for any other shipper'.

6. It takes the Port Authority on average 5 hours to discharge a Caytrans container. Five hours! That is the Port Authority again, not Mr. Adams, paying for this. In the worse cases it takes the whole day to discharge a Caytrans container. Other shippers LCL containers take less than two hours to discharge;

7. Since Hurricane Ivan the Port Authority has discharged 861 LCLs of which 121 were Caytrans. Caytrans business translated into 14 percent of all LCL but the discharge process took 40 percent of all the time spent by Port Authority discharging all LCLs;

8. There are no additional charges to Caytrans or its customers for the additional resources the Authority expends here; they have not been charged all these many years.

9. It costs the Port Authority around 600 percent more to handle a Caytrans; that is Mr. Billy Adams, LCL container against other LCL containers.

10. It costs the Port Authority about \$430.00 extra to handle one of Caytrans container. Figure that amount 121 times, in the last 14 months.

The Port Authority has provided this service to Caytrans for many, many years and has always borne, without complaint, their criticism; as it appears we could never please them. We have asked Caytrans to assist the Port Authority by packing their containers better, but they never cooperate. So, why is it that Caytrans has continued to use the services of the Port Authority and not discharge their container as they once did? It is perhaps simply the matter of economics; the Port Authority was being used to do this extra work, and it has been done free of charge these many, many years.

Things have changed since Hurricane Ivan and the Port Authority has had to change its business plan. We can no longer dedicate a disproportionate amount of resources to a specific customer, at the expense of the other 86 percent of our customers. Moreover, Caytrans continues to publicly make false accusations with the result that the Port Authority has to deal with them. Thus, the Port Authority's Board on 26 January, 2005, decided that we will no longer handle Caytrans LCL containers. This will make Caytrans totally accountable to their customers and hopefully will eliminate the need for them and their customers to ridicule the Port Authority. The Board has also placed guidelines on all importers of LCL containers handled by the Port Authority; that means everyone!

The performance of the Port Authority under my chairmanship has, and continues to be, excellent. Just three days after Ivan the Port was open for business. The Port Authority has played a key role in the successful rebuilding of these Islands. It has ensured that

supermarkets receive goods in a timely manner and has as much as possible under the situation, and will continue, to assist businesses to function. The Port Authority has assisted the electrical and communication sectors by giving priority to their supplies so that the islands could rapidly regain some degree of normalcy and businesses could reopen.

I can remember when CUC ships were out there with the poles and equipment. Other ships were there and I had to step in to allow them to come in because we had to allow that sort of situation to happen. We had to give them preference so that they could quickly restore the electricity to businesses and homes, even though some people did not like it. We have assisted the Government's efforts to clean up hurricane debris and in providing temporary housing and class rooms to educate our children. However, most importantly, we have never forgotten the needs of individuals as they import supplies in the rebuilding of their homes.

This has all been achieved at a time when the cargo business at the Port Authority literally doubled overnight. How many businesses would have been able to achieve all of this if it had not been for good leadership? In addition, the Port Authority rebuilt the cruise industry and just seven weeks after having to close it, on 1 November 2004 cruise ships were welcomed back to our shores. Today, the cruise sector is stronger than ever and we are on the road to exceed pre-Ivan levels.

The Port Authority, under my leadership continues to strive to do better and we are making good progress. However, it is those individuals who have only their self interest at heart, such as Caytrans, which continue to make this progress difficult to achieve. The Port Authority of the Cayman Islands will continue to serve the needs of all the people of these Islands and I want to thank each and every board member because we do not make decisions without the Board's knowledge. We have had to make some decisions during this emergency but then we alerted board members even though we could not get to meet. I want to thank the Director who is a young director, and also the Deputy Director. I would like to thank members of the public who continue to work with us, for their understanding.

Mr. Speaker, I have never expected to please Billy Adams, but I thought it necessary to publicly explain to this country the situation that the Port has had to deal with in regards to Caytrans. We have expended thousands and probably hundreds and thousands of dollars on his company, free of charge which he has not been paying.

**The Speaker:** I now call on the Third Official Member. I think he has two statements that he would like to make.

#### **Statement on the Exceptional Circumstance as a Result of Hurricane Ivan**

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. This is a statement on the exceptional circumstance as a result of Hurricane Ivan.

Members will recall that in October 2004, this Honourable House passed an amendment to the Public Management and Finance Law to allow the Governor in Cabinet to authorise certain expenditures without prior approval of the Legislative Assembly in an "exceptional circumstance". The limit on that authorisation was set at 5 per cent of the budgeted revenue, which is equivalent to \$14,615,150.

An "exceptional circumstance" is defined in the Law as an event which is beyond the control of Cabinet, could not have been anticipated, has a significant economic or social impact and it is impractical to go through procedures to obtain approval from the Legislative Assembly for an appropriation.

Section 12(6) of the Public Management and Finance Law requires a statement to be made to the next sitting of the Legislative Assembly which should include an explanation of the nature of "the exceptional circumstance", the type and amount of financial transaction authorised and the effect of the authorisations on the principles of responsible financial management. This statement now presented before this House is in compliance with section 12(6) of the Law.

There is no doubt that Hurricane Ivan was an "exceptional circumstance", and complies with the definition in the Law. It was obviously beyond the control of Cabinet; it could not have been anticipated and it had a significant social and economic impact on the Cayman Islands. To ensure a timely recovery from the effects of Hurricane Ivan, it was not practical to obtain prior approval from the Legislative Assembly for all the different expenditures required.

The type and amount of transactions authorised under section 12(5) of The Public Management and Finance Law are within the limit set by the Law and are as follows:

- Equity Injection – Equipment Environmental Health - \$1,466,500.
- Equity Injection into Radio Cayman - \$385,330.
- Donation to Cayman Islands National Recovery Fund - \$1,000,000.
- Housing Recovery Grants - \$3,550,000 – I

should perhaps interject a little clarification in respect of this item. Although under this facility allowed by the Public Management and Finance Law, Cabinet approved the figure of \$3,550,000 in the Supplementary Annual Bill presented to the Legislative Assembly recently, the figure contained therein in respect of this item was \$5.5 million, a much larger figure.

However, Cabinet itself had approved a smaller figure because of the limitations imposed by the Law. Interest payments in respect of Civil Servant loans - \$259,294; recovery operations co-ordination - \$2,351,700; and debris removal - \$4,861,620. Again, this is quite a bit less than the amount of \$8,530,300 that appeared in the Supplementary Appropriation Bill considered by the Legislative Assembly recently.

Travel Trailers - \$740,000, a total of \$14,614,444. This total is within the limit set by the definition in the Law which turned out to be \$14,615,150. Mr. Speaker, the effect of these extraordinary authorisations on the principles of responsible financial management were detailed in the Supplementary Annual Plan and Estimates for the year ending 30 June, 2005.

The Law also requires that these transactions be brought to the next meeting of the Legislative Assembly in the form of a Supplementary Appropriations Bill; this has already occurred.

### **Paper on the Departure from the Principles of Responsible Financial Management**

**Hon. G. Kenneth Jefferson:** Mr. Speaker, with your permission I would go on to the second matter.

**The Speaker:** Please continue.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. This is a statement in respect of a Paper on the Departure from the Principles of Responsible Financial Management.

In September, 2004 the Standing Finance Committee of the Legislative Assembly approved certain appropriation changes under section 12(a) of the Public Management and Finance Law. The September 2004 financial statements that were presented to Finance Committee indicated that there was compliance with the limits specified for all principles of responsible financial management. These limits and principles are stated in section 14(3) of the Public Management and Finance Law. Those principles pertain to the surplus or deficit position of Government at the end of the fiscal year, and involves Government's net worth, debt service ratio, net debt ratio and cash reserves levels. It is worth repeating that in September, 2004, Government's forecast financial statements indicated that, at 30 June, 2005 there would be compliance with the limits specified for all principles of responsible financial management.

The Supplementary Annual Plan and Estimates for the fiscal year ending 30 June, 2005 which were recently laid on the Table of the Legislative Assembly, indicate that there is non-compliance with one of those principles of responsible financial management.

In the event of non-compliance with any of the principles of responsible financial management, section 14(4) of the Public Management and Finance Law requires the Governor in Cabinet to lay a paper before the Legislative Assembly explaining the reasons for the non-compliance and the approach and time-period for returning to the principles. This statement is therefore made in order to comply with the requirement of Section 14(4) of the Public Management and Finance Law.

A review of the Supplementary Annual Plan and Estimates for the fiscal year ending 30 June, 2005 will indicate that the limits specified for four of the five



principles of responsible financial management have been satisfied. Compliance with the limits specified for the principles pertaining to Government's net worth, debt service ratio, net debt ratio and cash reserves have been achieved. The Supplementary Annual Plan and Estimates for the fiscal year ending 30 June, 2005 indicate that Government's operating result for the year then-ending is expected to show a small Operating Deficit of \$1.718 million. This small deficit is stated before extraordinary items. When account is taken of extraordinary items, the overall deficit is expected to be approximately \$31 million for the year to 30 June, 2005. This result reflects the damage caused by Hurricane Ivan in September, 2004. Before Hurricane Ivan, Government's expected financial result for the year to 30 June, 2005, was an overall surplus of \$77,000.

Therefore, there is expected non-compliance with the principle of responsible financial management that requires the combined revenues of Government, its Statutory Authorities and Government-Owned Companies to exceed their combined expenses. Thus, the overall deficit expected at 30 June, 2005 reflects not just the performance of central Government itself but, also that of its Statutory Authorities and Government-owned Companies. Moreover the overall deficit is fully attributable to the effects of Hurricane Ivan as, before that event, there was an expected surplus at 30 June, 2005.

The expected overall deficit is mostly attributable to extraordinary items. Extraordinary items can be defined as those items of revenue and expenditure that are one-off and, are not expected to recur in other financial years. All the items in the Supplementary Annual Plan and Estimates for the fiscal year ending 30 June, 2005 that are classified as extraordinary, are directly caused by Hurricane Ivan. Government is committed to returning to a positive surplus within two fiscal years.

Compliance with the limits for the responsible financial management principle that pertains to revenues and expenses, within two fiscal years is reasonable when account is taken of the fact that the damage caused by Hurricane Ivan amounts to approximately 183 per cent of the Cayman Islands' Gross Domestic Product. Gross Domestic Product is the value of goods and services produced by an economy in one year. These findings were taken from a report that was produced by a United National ECLAC team who visited the Islands after Hurricane Ivan. This Report was tabled in the Legislative Assembly on 13 December, 2004. It underlines the enormous task of recovery and reconstruction which still lies ahead.

In conclusion, Government is committed to returning to a positive operating surplus within two fiscal years by continuing to be fiscally prudent, reducing expenditure where appropriated and by continuing to monitor the collection of revenue and the performance of its Statutory Authorities and Government-Owned Companies. Thank you, Mr. Speaker.

**The Speaker:** Honourable Member do you wish to lay those statements on the Table of the House?

**Hon. G. Kenneth Jefferson:** Mr. Speaker, yes I do. I do not have the relevant copies immediately at hand, but I have an officer from the Portfolio of Finance who can make them available before the close of today's business.

**The Speaker:** Thank you.

## GOVERNMENT BUSINESS

### MOTION

#### Standing Public Accounts Committee

**The Speaker:** Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Speaker, I seek leave of the House in accordance with the provisions of Standing Orders 72(8) to allow the Standing Public Accounts Committee to meet during a Sitting of the current meeting of the House.

**The Speaker:** Honourable Members the question is that leave is sought of the House in accordance with the provisions of Standing Orders 72(8) to allow the Standing Public Accounts Committee to meet during a Sitting of the current meeting of the House. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed: Leave of the House granted (in accordance with the provisions of Standing Orders 72(8)) to allow the Standing Public Accounts Committee to meet during a Sitting of the current meeting of the House.**

## GOVERNMENT BUSINESS

### BILLS

#### REPORT ON BILLS

#### The Supplementary Appropriation (July 2004 to June 2005) Bill 2005

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. On Wednesday, 16 February, 2005 the Supplementary Appropriation (July 2004 to Jun 2005) Bill 2005 stood committed to the Standing Finance

Committee upon the Second Reading of the Bill. The Committee held two Sittings to consider the Bill and these occurred on Wednesday, 16 February, 2005 and Thursday 17 February, 2005. The Committee considered the Schedule to the Bill and agreed that without amendment to the Supplementary Appropriations for output groups, transfer payments, financing expenses, other executive expenses, equity investments, executive assets and appropriations for loans and borrowings that were set out in the Schedule to the Bill.

The Committee agreed that the Schedule without amendment should stand part of the Bill. The Committee agreed that clauses 1 and 2 of the Bill should stand part of the Bill.

Mr. Speaker, your Committee agreed that I do report the Bill to this Honourable House. The Committee approved two resolutions and resolved that the Financial Secretary be authorised to disburse up to \$2.5 million from the National Disaster Fund to the general operating account of the Government. These funds being disbursed are in order to help cover expenses to be incurred under the Appropriation DVD4, Provision of Repairs and Essential Restoration to Damaged Houses caused by Hurricane Ivan.

The Committee also resolved that expenditure to be incurred under CBO4, Hurricane Debris Removal, be recognised as being in the interest of protecting and preserving the environment of the Islands. It was further resolved by the Committee that the Financial Secretary be authorised to disburse up to \$8,534,500 from the Environmental Protection Fund to cover expenses to be incurred under the output CBO4, Hurricane Debris Removal.

I therefore, beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee on the Supplementary Appropriation (July 2004 – June 2005) Bill, 2005. Thank you, Mr. Speaker.

**The Speaker:** So ordered.

### THIRD READING

#### **The Supplementary Appropriation (July 2004 – June 2005) Bill, 2005**

**The Speaker:** The Honourable Third Official Member.

**Hon G Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to move that a Bill entitled The Supplementary Appropriation (July 2004 – June 2005) Bill, 2005 be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Supplementary Appropriation (July 2004 – June 2005) Bill, 2005 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 Supplementary Appropriation (July 2004 – June 2005) Bill, 2005 has been read a third time and is passed.**

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### **Private Member's Motion No 6/04 – 05**

##### **Cayman Brac and Little Cayman Distance Learning**

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, I beg to move Private Member's Motion No. 6/04-05—Cayman Brac and Little Cayman Distance Learning.

**The Speaker:** Is there a seconder?

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

**The Speaker:** The question is: Be it resolved that the Government consider undertaking a feasibility study on the offering of classes by the University College of the Cayman Islands to students in Cayman Brac and Little Cayman through distance learning.

The Motion is now open for debate does the Member moving the Motion wish to speak thereto?

**Mr. Lyndon L. Martin:** Certainly, Mr. Speaker.

I consider the Motion before the House very simple and straightforward; one that I anticipate and hope for the support of this Honourable Legislative Assembly. Improvements and advancements in technology have created virtual classrooms within private residences. Distance learning proves to be an avenue through which most of our educational delivery can be achieved. Four years ago I undertook a distance learning program through the University of Phoenix Online, and four years later I truly can say that the experience has been a very effective manner to pursue tertiary education without having to leave my residence.

The students in Cayman Brac are not afforded an opportunity to do A Level studies available here in Grand Cayman. It has never been available, so once a student graduates from the Cayman Brac High School, his only option is to go back to re-sit classes in which they were not successful at the ordinary level. The ordinary avenues to advance students be-

yond high school are not available. Students who did not, for whatever reason, successfully complete high school have no way of sitting the GED or other programs to create high school equivalency diplomas.

We have recently learned of the re-introduction of the GED programme which is available to the community here in Grand Cayman. For that I am very grateful and anxious to see the great results that will come from this very much needed programme to prepare and offer an opportunity to test people. These programmes are not available in the Cayman Brac or Little Cayman community. Many of our young people, as well as others, would like to pursue a new avenue as an adult, a new area, a new career and a new opportunity. This Government has demonstrated over and over its commitment to lifetime learning and with the absence of these facilities on Cayman Brac and Little Cayman distance learning offers a great opportunity to open avenues to students who will be able to pursue tertiary education or to sit some form of high school equivalency programme.

The University College of the Cayman Islands has made great advancements. In fact, the name itself, from a community college to a full-fledged University now offering four year degree programs is a great, great achievement.

I am a member of the Education Council and I am aware of numerous students from the Cayman Brac and Little Cayman Community who seek to pursue tertiary education, but as we all know the funding of tertiary education is normally done by the first two years locally and the latter two years overseas.

The students from Grand Cayman get an extra year or two in order to mature at home with their parents before they go overseas. However, in the absence of a dormitory facility at the University College, my students come into an uncontrolled environment such as privately rented apartments and having to seek their own transportation. Perhaps they could be afforded an opportunity to do the first year, the first core classes through some form of distance learning module with the Community College. For a very long time the Community College has had a teacher who acts as their representative and as their moderator at the Cayman Brac High School, that same teacher could be the counsellor, the coordinator, and the avenue for inquiries of how to pursue this.

This distance learning opportunity would be one that would be greatly welcomed by the community as a whole and I am sure one that will be heavily utilized if made available. Not only would our young people have a chance to do more than just their ordinary level course but they could pursue Associate programs, vocational courses and certificate programs in the full array of course that are now offered by the University College.

In addition our adults would have a chance to take the opportunity to pursue a degree that they do not have but due to local commitments locally they are unable to leave. However, they could pursue a certifi-

cate program via distance learning as the Community College courses continue to grow.

Mr. Speaker, I truly believe that it is physically possible. I believe that the quality of education that can be made available through a distance learning module format to the community of Cayman Brac is very close if not equal to a live classroom. We know that most distance learning programs have a period of residency and that could also be built into the programme, where the students from the Brac might have to come over and spend a weekend each month or every six weeks attending class. I am here presenting a case that I think is worth looking into and I am sure that the Government will see fit to consider this as an avenue. With those few comments I must only add that it is Friday evening and I know that all Honourable Members have been taxed heavily this week working until 1:30 am, so I will not delay this debate any further. I will also inform the House that I have a commitment in Cayman Brac this evening and I will have to leave. However, I do anticipate that the Honourable Members will find it fit to support this Motion and I will await the end results. I do ask all Honourable Members to give favourable consideration and to loan their support to this Motion. Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Education.

**Hon. Roy Bodden:** Thank you, Mr. Speaker.

As the Minister with responsibility for education, I have listened keenly to the Honourable Member and I think that his request is indeed a good one. One that I shall advise, recommend and encourage the Government to comply with. However, I am going to say something and hope that it will be understood by the Honourable Member and by all other Honourable Members of this House. It was my plan from the very beginning to include a distance learning module for the Brac which would have been sited either at the Brac High School or at a training centre which we would build. It is easy to resuscitate such plans.

During the course of the evolution of the reform of secondary education under Grand Cayman I also took the opportunity to factor in the Brac High School and secondary and post secondary education at the Brac. Again distance learning factored heavily into those thoughts. However, as I said last evening and in my debate it would be most impolitic of us and certainly also most unwise if we do not attempt to take in the lessons that we are supposed to learn from the Ivan experience.

As an educator I have always held the principle that there are two types of learning. There is learning and then there is applied learning. In all of my formal schooling I tried to apply the educational principles that I learnt in the classroom to the practicalities of life. To that extent I have come to realize that the Brac High School itself is vulnerable to an Ivan experience.

It is right on the sea coast, therefore I believe that the time has come to look to relocating the Brac High School. As the Bluff seems to be the most ideal place, I will encourage the Government to begin to look about relocating the Cayman Brac High School to the Bluff, thereby, moving it out of the direct danger of a hurricane of the calibre of Ivan. In doing so, it might also make sense to do some due diligence on the establishment of a distance learning module. In those circumstances it may be wiser to put the distance learning module at the new site, that is, if a lot of expense will be incurred in the establishment of such a site.

However, I give the Honourable Member and this Honourable House my undertaking that I will investigate into the establishment of a distance learning module in the interim, with the ultimate objective of having it set up at the site of the new High School on the Bluff, if that is what the Government decides to do. I believe we will be most unwise if we do not take into account the lessons learnt from Ivan in future construction, educational and other planning. That is what I talk about good leadership, good policy and good forward planning. Those are the kinds of principles that public administrators and policy planners learn.

When I came to the Ministry, I invited the University of the West Indies to improve their distance learning module in the Cayman Islands because I saw it as an opportunity for more Caymanians to use the facilities to learn while they were earning and to have the convenience of staying at home while they studied. Particularly, mature students and especially for women who have among other responsibilities, the responsibility of a young family, or developing a career simultaneously while trying to improve their formal qualifications. I insisted that the University not only improve the facilities but that they send a representative who could not only manage the distant learning unit but could also serve as a lecturer. Today I am happy to say that the distance learning unit of the University of the West Indies, which is sited on the University College Campus, is an effective functioning unit, a vibrant academic community and with some people pursuing post-graduate studies, in some cases.

I was happy to hear the Honourable Member of this House saying that he is a proponent of distance learning because it is an increasingly attractive option, even in developing countries, for the promotion of education. The Commonwealth of Learning has set up a virtual university designed especially for the smaller countries of the Commonwealth whose access is exclusively online. Some of the best programs in the world are offered through distance learning. For example, Syracuse University is famous for offering excellent distance learning programs.

There are also other universities. I heard the Honourable Member who moved the Motion speak about the University of Phoenix Online. While the University of Phoenix Online is an excellent university, the fees

in my opinion, are disproportionately high and excludes a great number of persons who would like to access this kind of education. The kind of system that we would like to set up would not be so exclusive and we were thinking of offering courses in the technical and vocational field as well as courses in the academic areas.

I want to amplify on the issue of A Level studies otherwise detractors may believe that because A Level studies are not available to Cayman Brackers on Cayman Brac, that Cayman Brackers do not have the opportunity to pursue post-secondary education.

The Government system does not offer A Level studies either, however those students from the public school system, who wish to pursue A Level studies, are given scholarships to those institutions on Grand Cayman which offer A Level studies, namely St. Ignatius Catholic School and the Cayman Prep School.

Our students, to a man, attend the University College where they opt for the Associates Degree System. The students in Cayman Brac have the same options except they are more generously treated than those on Grand Cayman. Students in Cayman Brac wishing to pursue post-secondary studies, not only get their tuitions paid but they are also given money for lodging and food.

That is the reason why one of the first moves of the University College of the Cayman Islands is to construct a dormitory when we have cleared the hurdle left us by Ivan. This will be done almost exclusively for the use of students coming over from the Brac. Many of the students, if not all of them, who came over from the Brac and have returned since Ivan, have had to postpone their university studies because of the shortage of accommodation. So, they have had to return to the Brac which is an inconvenience.

We realise and recognise the peculiar problems of the Brac and we are doing our best to cater to them and ensure that there is no disparity or difference in the educational opportunities of the students from Cayman Brac and Little Cayman vis-à-vis the students from Grand Cayman.

Wise policymakers will realise that distance learning is an avenue that should be pursued in education. Our University College of the Cayman Islands was imminently equipped to open this option, not only to residents of Cayman Brac and Little Cayman, but also to the residents of the outlying districts. This is one of the things the Minister for Health, and I, wanted to develop in the Center at Bodden Town.

I believe that I vaguely discussed with the Member from East End that we could do the same thing with his facilities and his Center in East End. Therefore for two or three evenings a week we could have online classes originating from the University College of the Cayman Islands. Also, if necessary, to bolster their studies one or two days per week the people from East End or outlying districts could come to the University College. That is the ultimate idea so that we

can bring learning right to the homes and if not literally to the homes, then to the districts of those people interested.

Eventually, I hope to promote centres in every district, North Side, West Bay, and even in George Town if there was the need for it. East End and Bodden Town were going to be set up as pilot projects, but our facility got wiped out in the hurricane. Thankfully we have all the equipment and I hope to be able to sit with the Member for East End before this House is dissolved to find out what is needed to get his Centre up again, in order to continue with this project. Hopefully the project may live even if I become a casualty of the election and politics. In spite of how I sound sometimes, this is about more than my persona; this is about the beneficial advancement of the Cayman Islands. I would be happy to be associated with these efforts and that is the reason why I am going to try so hard and fight so convincingly to return so that I can see my dream and my vision come to fruition.

I have said that when my obituary is read it will be an obituary which I write myself. I have even told that to my good friend - whom should I unfortunately pass before him - I have deemed him the man to read such an obituary. It will not be read by any detractors and in that I shall have a line or two which would have penned my ambitions or my achievements in education.

I am happy to encourage the Government to support this move, bearing in mind, as I have said, that I think it will be in the long term best interest to look at the relocation of the Cayman Brac High School to the Bluff. I deem this to be a safer place in the event of a hurricane of the strength of Ivan. Thank you, Sir.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, since the Mover of the Motion had to leave a lot quicker than he anticipated, I was wondering whether, with the leave of the House, I could simply be allowed to wind up for him.

**The Speaker:** Since you are the Seconder of the Motion I would have no objection to you winding up on the Motion, please continue.

**Mr. Rolston M. Anglin:** Before he left he asked me to do so in the event that he did not get back. I think he anticipated some other Members to speak.

Mr. Speaker, given the critical importance that education is to the development of any country and society, and indeed the proven track record of this Government in that regard in having education as its key plank to the development and continued advancement of these Islands – this Motion is timely. I wish to thank the Honourable Minister for accepting it

on behalf of the Government. We simply must now look forward to the study to be done but also, more importantly to the implementation of this very important request which will greatly enhance opportunity for the residents of Cayman Brac and Little Cayman. Again, I would like thank all Members for their silent support. Thank you.

**The Speaker:** The question is BE IT RESOLVED that the Government consider undertaking a feasibility study on the offering of classes, by the University College of the Cayman Islands, to students in Cayman Brac and Little Cayman through distance learning. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Private Member's Motion No. 6/04-05 passed.**

### **Private Member's Motion No 7/04 – 05**

#### **Change of Location of 'Government House'**

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

**Mr. Cline A. Glidden, Jr.:** Thank you, Mr. Speaker. I beg to move Private Member's Motion No. 7/04-05 which is standing in my name and the Motion reads:

**WHEREAS in light of the recent natural disaster; BE IT RESOLVED THAT the Government consider changing the location of the Governor's Residence to a more suitable one.**

**The Speaker:** Is there a seconder?

**Mr. Rolston M. Anglin:** Mr. Speaker, I beg to second this Motion.

**The Speaker:** The question is: BE IT RESOLVED THAT the Government considers changing the location of the Governor's Residence to a more suitable one. The Motion is open for debate; does the Mover wish to speak thereto?

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

As my colleague, the Second Elected Member from Cayman Brac said earlier, Members of this Honourable House have been here quite late in the last two nights and I will try my best to keep the debate on this Motion quite short.

As the Minister of Education said, it is important that we learn some lessons from Hurricane Ivan. One of those lessons which came to my mind is: the Government should start reducing, if possible, its risk. One of those risks is the risk from a financial perspective and otherwise, of its properties.

Living in the wonderful district of West Bay, growing up on the ocean, I know firsthand, and even more so now, how devastating the sea can be. While it is tranquil and beautiful for the majority of times, on those occasions when we have the fury of the ocean we know that significant damage can occur. During Hurricane Ivan the Governor's House sustained damage from the sea. I went back there to a function a few months afterwards and the repairs had been taken care of, but I know the Governor was not able to live at his residence for quite some time.

Having looked at the feasibility and comparing what we know now to what we would have known when the Governors House was built in that location, I think that now would be the opportune time for the Government to consider finding a more suitable location. I must add, for quite a long time I have felt that particular piece of beach could be better utilized by the good people of the Cayman Islands by providing more beach access for recreational use. However, having weighed that against the situation that existed with the Governors House being there, I think that the balance was that it was easier to leave it there and try to make as many accommodations as much as possible.

I know we have all witnessed the problems in relation to the privacy of the Governors residence. At one stage there was an issue where one Governor wanted to own horses and have them on the beach. There were also issues with members of the public wanting or having access to the area directly behind the Governors House and signs were posted by the police to respect the privacy of the Governor, which is a reasonable request.

Prior to Hurricane Ivan, I would not have felt as strongly as I do. However, if we combine factors such as privacy and beach use with the obvious threat of natural disasters I think there are more ample reasons to look at the feasibility of finding another location. I know that when we think of natural disasters our minds tend to run to hurricanes. However, I remember, and I am sure we all remember, right after the hurricane we had an earthquake which caused so much concern. I received a call shortly thereafter, notifying me that because of the potential threat of a tsunami the Governor was being moved from the Government House to a safer and higher location.

Again, world events have shown us that time is not necessarily going to be available for preparations to be made in these types of disasters. Therefore, I think that looking and learning from all the lessons in the past few months about some of the dangers associated with living so close to the sea, it is only prudent for the Government, knowing that we live on an island and the possibilities are a bit limited, to start looking at what would be a safer location. The Government should look at the possibility of moving the Governors residence to a safer and more secure location. Somewhere more inland, with less worry about natural

disasters, where an estate could be built and with nicer grounds using our natural vegetation.

We could also have a purpose built facility which could be more secured and hopefully would reduce some of the security costs that are now incurred by having a police more or less stationed to keep people from coming too far up the beach.

The Motion is asking for the Government to consider, as we recognise that this would incur some costs and in mitigation, I think, that when this issue is being considered it should be taken into consideration that it is a valuable piece of property which has many possibilities for public use. There has been talk about it becoming a tourist attraction or a museum. The grounds could be kept for official functions and there could be a small restaurant with local food and bathroom facilities. There is a growing population of locals and tourists who use that area of the beach. We also recognise that use of our beaches, which is one of the pastimes previously enjoyed by Caymanians, has been limited due to lack of beach access.

The idea is that while a hurricane may cause damage to the facilities, there would be less worry about loss of life. We also experienced with Ivan that buildings are much easier to replace than lives. The Lady Member makes the point that it will also hopefully reduce Government's insurance risks and thereby create an increased saving because I am sure that the risk is increased since the Governor actually lives there.

While there is potential for this Motion to be seen as contentious, with some thoughtfulness I am sure that this Honourable House will see the merits in Government considering changing the location of the Governors House and I look forward to support. I know that the Honourable Member from East End, on the Opposition side, told me prior to him leaving, that this was something he had actually campaigned on and felt strongly about. I know he had to leave but he had given his support. I look forward to the support of this Honourable House. Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, there are those who may not see this Motion as worthy of consideration. I eagerly seconded this Motion because I firmly believe that this country, especially given recent events, has come to the stage where we have to look holistically at ourselves, our resources and the best use of those resources. There are many things that could be said in regards to other uses for the Government House.

Perhaps there are those who feel as though this valuable piece of property should be more accessible to the people of this country especially given the development on Seven Mile Beach and the lack of beach access. Those arguments could be taken even

further but I am not going to go down that road because I know that we are in the season of misinterpretation. One such fear I have in regard to the Motion (it may be far fetched but in this season where everything is misinterpreted people will stretch things as far as they can) and that is that people would perhaps see this as some sort of slight toward Her Majesty's representative here in the Cayman Islands, the Governor, and may even stretch it further.

I truly believe that this is something that should be considered and done. We all get up in here and other places and talk about all the things that should be done and should not be done by our Mother Country in regards to the people of this country. I think that as this country develops we need to understand that at every point in time we should look at ourselves in ensuring that we are better preparing ourselves for the future and making full utilization of every natural resource we have.

When you travel to many other countries and you go on tours and see their historic sites, many of which tourists love to see, and when you start thinking about what do we have on offer in Cayman we quickly see why we have challenges with our tourism product. I believe, if this particular request comes to fruition, tour buses will not have to then simply pull up outside the Government House on the West Bay road and look in from a distance. This could provide venue for a very good stop on the tour that these tour companies offer on their way to the Turtle Farm, Hell and other sites in the district of West Bay. That is just one example of an alternate use.

Getting back to the point made by the Mover of the Motion which has to do with the security of his Excellency the Governor, this Motion speaks directly to enhancing that position. I believe we have a responsibility and a duty to ensure that her Majesty's Government representative is afforded the best possible security when it comes to his personal residence. Privacy is a real issue, being on Seven Mile Beach. It is right next door to a major hotel. In fact at one point the tennis court for that major hotel was just feet away from a part of the garden. We know that we have had controversy in the past in regards to horses on the beach and people on the beach.

So, this Motion deserves the serious consideration that it was moved and intended with of this Honourable House. I lend the Motion my support. I believe that the quicker we look at this the better the situation will be. So, with those few brief remarks I thank you and I also anticipate thanking other Honourable Members in this House for their support.

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

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

I too would like to offer my support for this request. When we travel around the other jurisdictions, throughout the Caribbean especially, we always seem to find that the Governors or the Prime Ministers residences are on the higher elevations of that particular island and I am sure it is primarily for safety reasons.

When we consider that our population is growing fairly rapidly and the local people are having a difficult time especially on long holidays or weekends to find a place where they can enjoy the beach, I think the beach areas could be a lot more appreciated and should be more accessible to the public. I know that it is going to create some difficulty in regards to the relocation. However, I think the people of this Island would certainly appreciate having better and more access to our beautiful beaches.

Mr. Speaker with those few words, I thank you.

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

The Second Elected Member for George Town.

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

I was expecting that the Government would have said something about its disposition to this Motion before someone on this side was asked to offer our view.

This is surreal! It really is! We have just laboured through hours and hours of a very difficult Finance Committee. The Government is in a difficult financial position as a result of the hurricane. We have been asked to approve \$25 million in loans just to get us through the end of June, 2005. The Government has acknowledged a projected deficit position at the end of June. The Health Services Authority is in dire financial straits. We have an education plant that has been devastated as a result of the hurricane and which, in my view, is going to require the best part of \$100 million to put it where it needs to be. At a time like this, in troops the Three Musketeers from West Bay and proposes a motion to remove the Governor's residence to some higher ground. Where are they living? If it is in Cayman, it is in Cayman pre-Ivan.

There are lots of things that I would like the Government to consider at this stage, but one of them is not building a new mansion for the Governor. There are lots of good reasons why the Governor's residence ought to be located elsewhere and most of them were articulated by the three Members from West Bay. However, at this point, when Cayman is labouring, when they themselves have acknowledged and when the Government that they support have acknowledged that they are in dire financial straits, how can they shamelessly come here and ask the Government to accept a motion to consider giving the Governor a new mansion which is bound to be another huge outlay of money.

I know that we are in the silly season. I know it is 11 weeks before the elections and some Members may feel that they are struggling and they need to do something to be in the limelight and get some press. However, this is bordering on the ridiculous. Mr. Speaker, it is difficult to keep a straight face when you are looking at this Motion. What do they expect it will cost to build suitable accommodation for the Governor elsewhere? I do not believe it can be a shade under \$10 million. We cannot propose to simply rebuild what we have there now. These are very different times, that place was built in the 50s.

What is this really about? It would be wonderful, and ultimately I believe it is something that will happen, and we can regain the beach property on which the Governors residence currently stands for public use. That would be wonderful, but really, to talk about that now, when we are in such dire financial straits, five months after the hurricane, when all of our schools need to be rebuilt and the Minister is proposing new schools.

Mr. Speaker, I ask them, even at this late time to withdraw this Motion and let us get on with some serious business in this Honourable House. Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable First Official Member.

**Hon George A. McCarthy:** Mr. Speaker, in the absence of the Honourable Minister for Planning who has got responsibility for Government lands and such assets, I rise on behalf of the Government to say based on the reasons as articulated by the Honourable Mover and Seconder of this Motion, with emphasis on security, safety and privacy for Her Majesty's representative, the Governor, that this Motion be considered.

Mr. Speaker, you will recall that this is an issue that has been thought of in times past. I would say the Motion in front of this Honourable House is a reasonable one and I would be quite willing on behalf of the Government and the Honourable Minister to say that the Government is quite willing to consider this Motion. 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 not does the Mover wish to exercise his right of reply?

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

I first of all would like to thank the Government for recognising the value in this Motion. I was quite saddened to hear the Second Elected Member for George Town, who feels threatened and not so secure in his position, giving such a negative representation from the Opposition. It is obvious that we recognise the problems. He has been referred to as the

Leader of the Opposition and we recognise the problems with the Opposition where they have a difficulty with any form of multitasking.

As the Member rightly said, there are other significant considerations that the country has to face at this time. However, in a prudent fashion like the United Democratic Party Government, in comparison to the PPM Government— if one of those ever exists—this Government recognises that the country does plan to recover. We are recovering from Hurricane Ivan, life has to go on and plans have to be made. That is the danger of putting a Government together that has no vision or foresight, which has been demonstrated by the Second Elected Member for George Town.

It is sad to see that even on a Motion such as this there is so obvious lack of vision and foresight. Something as significant as moving the Governor's residence would be something that would take a significant period of planning and time. Land would have to be acquired, plans would have to be designed, and it would not be done without Her Majesty's Government involvement. It is not something that can happen immediately, but that shows the lack of foresight and planning by the Opposition. Let us hope that they continue to be Opposition and never be the Government.

Obviously this is a consideration that would be a future consideration; something that could happen in the future when the Government is looking at its rebuilding plans and consider what the cost of renovations would be. I remember being in Finance Committee and hearing that some of the doors down there were in the price region of approximately \$18,000. When the Member speaks about the expense associated with making a decent Governor's residence on the beach, it is a significant expense. The maintenance is a continuing ongoing significant expense. Those are things that any future thinking Government with any sort of vision would be looking at. However, the Member has gotten up and expressed very clearly that he and the government, of which he wants to be a part, lack that foresight and ability to plan. I am happy again, to be a part of a government that does have the ability to look at what the future may hold and to say that Cayman is not dead, and to say that things are happening and possibilities still have to exist.

I wish that I was able to thank all Members for their contributions, but I cannot honestly do that, therefore, I will thank those Members who made a serious contribution and the Government for their acceptance.

The Member also made the point of some \$10 million. That again is a scary thought because it shows that a government of which he may be a part will not only lack vision but they will be very extravagant with Government funds. Hopefully the weakness exercised by the Member in finding the need to speak will come back and he will achieve what he was looking to achieve by propping himself a bit, but not prop-



ping himself up so much that they would become the Government.

Mr. Speaker, I thank all the Honourable Members for their contributions and for those Members who did not contribute, for their tacit support for this Motion. Thank you.

**The Speaker:** The question is: BE IT RESOLVED THAT the Government consider changing the location of the Governor's Residence to a more suitable one. All those in favour, please say Aye. Those against, No.

#### Ayes and Noes.

**The Speaker:** The Ayes have it. Madam Clerk, would you call a division please.

**Hon D. Kurt Tibbetts:** Mr. Speaker, could we have a thankless and inexpensive division please.

#### Division No. 12/04-05

##### Ayes: 8

Hon. W McKeeva Bush  
Hon. Gilbert A McLean  
Hon. George A. McCarthy  
Hon. Cheryl Richards  
Hon. G. Kenneth Jefferson  
Mr. Rolston M. Anglin  
Capt. Eugene Ebanks  
Mr. Cline Glidden

##### Noes: 3

Hon. D. Kurt Tibbetts  
Mr. Alden M. McLaughlin Jr.  
Ms. Edna M. Moyle

##### Absent: 6

Hon. Roy Bodden  
Hon. Juliana Y O'Connor-Connolly  
Dr. the Hon. Frank S McField  
Mr. Lyndon L. Martin  
Mr. Anthony S. Eden  
Mr. V. Arden Mclean

**The Speaker:** The result of the Division: 8 Ayes, 3 Noes and 6 Absent. Accordingly Private Member's Motion No. 7/04-05 is duly passed.

**Agreed by Majority: Private Member's Motion No. 7/05-05 passed.**

#### Private Member's Motion No 8/04 – 05

##### Biography of National Heroes

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

**Rolston M. Anglin:** Mr. Speaker, I beg to move Private Member's Motion No. 8/04-05 titled "Biography of National Heroes" and it reads:

**BE IT RESOLVED THAT the Government consider commissioning an official biography of all National Heroes of the Cayman Islands.**

**The Speaker:** Is there a seconder?

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker. I beg to second the Motion.

**The Speaker:** The question is: BE IT RESOLVED THAT the Government consider commissioning an official biography of all National Heroes of the Cayman Islands. The Motion is open for debate. Does the Honourable Mover wish to speak thereto?

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker: I will try to end before the normal hour of interruptions therefore, I will be extremely brief.

I think that this Motion is a simple one, which is straightforward and should elicit the support of all Honourable Members of this Legislative Assembly and indeed the wider public. The naming of national heroes is one of the most significant acts that a society undertakes. At no point in time should a society have national heroes and have visitors or residents, especially younger people, question or wonder why a person was so named and so honoured.

Before the argument is possibly made, I apologise to those who may be offended that at a time like this I would move this Motion causing valuable resources of this country to be expended. However, having considered all those things I still was pressed enough to move this Motion because I do believe that it is important work that could get started before the dissolution of the Legislative Assembly on 15 March, 2005.

Mr. Speaker, I anticipate the support of all Honourable Members because as I said earlier, in my view this is a rather simple Motion and it is something that I think is due now for us as a society to undertake. Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? Before calling on the Honourable Minister for Education I would ask the Honourable Leader of Government Business for the suspension of Standing Order 10(2) to allow for the remaining business on the Order Paper to be completed.

**Hon W. McKeeva Bush:** Mr. Speaker, I move the suspension of Standing Order 10(2) so that business may continue, hopefully a brief time after 4:30pm.

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow for proceedings to continue. 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 for Education.

**Hon. Roy Bodden:** Thank you, Mr. Speaker.

In most jurisdictions of the world there is a clearly understood rationale of why people are made national heroes. When they are made national heroes there is readily available biographies or histories of their lives, so that people can read and understand that indeed to achieve the designation of a national hero one has to be an extraordinary person. I have to say it is a remarkable coincidence that this Motion has come at a time when, for some weeks previously, I had been discussing with a local historian his availability to prepare what could be accepted as official biographies of the two declared national heroes of the Cayman Islands. This information could be, as I believe it should be, bound in a high class attractive compendium or book for all to see. It is also important for it to be made available to school children especially in the educational system of these Islands.

As the Minister of Culture, I would certainly consider it my sensible responsibility to inform the Government that this is an exercise worth pursuing. I travel frequently to the other islands of the Caribbean and Barbados, for example, has clearly laid out the history of all of their national heroes, and in Jamaica it goes beyond normal celebrations; it is somewhat of a kind of serious that borders akin to religious celebrations. I was following, most recently, the debate to make the Honourable Robert Nesta Marley a national hero. These people put emotion, some, their very souls into this kind of debate.

Because the Cayman Islands is not a country which is a sovereign self-determinate entity, as a political sociologist, I say that the Cayman Islands is a society that could never advance itself because we lack the knowledge of these kinds of things. We lack the kind of commitment to identify people and to develop a respect and the qualities in ourselves so that we can take pride in being a Caymanian and moving on to higher heights.

I believe that we should have national heroes. I believe that the populace and those others who are interested should know about our national heroes, not the least of which is why we as a people have chosen to declare them national heroes. I certainly would like my children to know and to understand because these are the things we talked about and I encourage them to compare the lives of our national heroes with the lives of national heroes in other jurisdictions.

So, this is a Motion worthy of the Government's support because it is only by doing these kinds of things and developing pride in our own people, our own institutions, our own ability and our own accomplishments are we going to get that kind of sense; breathe that kind of spirit that Sir Walter Scott, that bard of the Highlands spoke about when he penned the line: "**Breathes every man with souls so dead**

**who never to himself have said this is my own, my native land"**

Me? I am an unapologetic Caymanian Nationalist and I would like for many more of us to be like that because eventually one of these days we are going to have to face the world on our own volition. It is in the natural order of things and it is by developing biographies of national heroes that we prepare ourselves for those days.

Allow me to say that in my assessment of the development of culture in Cayman, were I to be returned I would like to see that we create a Caymanian Order of Merit, an Order of Distinction for those in our society who have done worthy deeds worth public note; an Order of Merit and a higher Order, an Order of Distinction—our own Order.

I have nothing against colonial trappings except that for me the Empire is a historical artefact because it no longer exists. That does not mean that I do not respect and reverence those who have received such awards, but I say there is nothing wrong with us beginning now to create our own. I give my full support to this. I shall encourage the Government to support it and I am calling forth all blue-blooded Caymanians who have these kinds of thoughts, because it is time to move our society culturally and pride-fully forward. Thank you.

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

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

As the Secunder of this Motion, I would like to offer a short contribution. Being named a national hero is one of the highest forms of recognition anyone could get. Many persons on our Island who have made major contributions to the development of these Islands and communities deserve to be national heroes. However, unless there is a biography to outline why they have been named national heroes, the true appreciation for that individual cannot be derived by someone who is not aware of why they were named a national hero. For that reason I give this Motion my full support, and encourage all Honourable Members in this Honourable Legislative Assembly to give it their support. 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 would the Mover wish to exercise his right of reply?

**Mr. Rolston M. Anglin:** Mr. Speaker, just to thank all who have contributed, especially the Secunder of the Motion and the Honourable Minister responsible for culture. Indeed, I believe that his contribution brings to mind and encapsulates the very spirit of the Motion and the essence of why having biographies of distin-

guished people within our society is important. I do believe that his other suggestion of creating Orders or Merit and Distinction is one that needs to be established speedily.

In every society there are many men and women who contribute greatly, perhaps not to the level that would be considered national hero status but who contribute greatly and it is good for them to be honoured by their own. It is very, very important for you to develop as a country, to have the ability and the willingness, the courage to honour your own fellow man.

I would like to thank all Honourable Members who have indicated that they will support this Motion and I thank you, Mr. Speaker.

**The Speaker:** The question is: BE IT RESOLVED THAT the Government consider commissioning an official biography of all National Heroes of the Cayman Islands. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Private Member's Motion No. 8/04-05 passed.**

**The Speaker:** I call on the Honourable Leader of Government Business for the motion for the adjournment.

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Mr. Speaker, I move the adjournment of this Honourable House until Monday, 21 February, 2005 at 10 am.

**The Speaker:** The question is that this House do now adjourn until 10 am on Monday, 21 February, 2005. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**At 4.42 pm the House stood adjourned until 10 am Monday, 21 February 2005.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**21 FEBRUARY 2005**  
**10.40 AM**  
*Sixth Sitting*

**The Speaker:** I invite the Fourth Elected Member from the district of West Bay to lead us with prayers.

**PRAYERS**

**Mr. Cline A. Glidden, 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 Cabinet 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 have received apologies for absence from the Third Elected Member of West Bay.

**PRESENTATION OF PAPERS  
AND OF REPORTS**

**The Building Code (Amendment) Regulations, 2005**

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Building Code (Amendment) Regulations 2005

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Juliana O'Connor-Connolly:** No, Mr. Speaker. There will be a subsequent Motion and I will reserve my comments, thereon.

**The Speaker:** Thank you.

**STATEMENTS BY HONOURABLE  
MINISTERS/MEMBERS  
OF THE CABINET**

**Letter from FCO to all Overseas Territories Dealing with the Stages for Independence and Caymanian Compass Report**

**The Speaker:** I call on the Honourable Leader of Government Business for his two statements.

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker.

I first wish to set the record straight on the statement attributed to the Leader of the Opposition and Leader of the People's Progressive Movement which was reported in the 18 - 20 February 2005 issue of the *Caymanian Compass*. First of all, allow me to say that any matter spoken about by a reporter, to any Member, I believe, while in the precincts of this House, means that it is protected. I think if you search *Erskine May* you would find that to be so.

The article in the *Caymanian Compass* written by my friend – that front page coverage of the letter I am referring to – did not do me any justice, nor the Leader of the Opposition, for that matter, in the 'Independence' issue. It says that the People's Progressive Movement (PPM) and the United Democratic Party (UDP) agree on independence. While the Leader of the Opposition took a deliberate and ill-informed swipe at me in saying what he said, the headlines will give him as much grief as it gave me.

This is because people who go off half-cocked, reading only what they want to read in the headlines and not the substance of the article, would have thought the same about me as they did the Leader of the Opposition.

Mr. Tibbetts, the First Elected Member from George Town, is reported to have said that the letter from Mr. Rammell of the Foreign and Commonwealth Office (FCO) to all Overseas Territories dealing with the stages for independence was instigated by me. The statement is very far removed from the truth and has no factual basis. I have always said publicly in the Cayman Islands that neither the UDP nor I, have any desire to see Cayman go independent. I have always publicly said this. I have said so to the United Nation, the Foreign and Commonwealth Offices, the European Union in Brussels and to other international bodies.

Mr. Speaker, all the documents tabled in this Honourable House dealing with constitutional reform (from the Party which I am a leader of) have clearly indicated that there is no desire or intention to move to independence. I have said that in the very last document that I tabled in this Honourable House.

The fact is that the letter from Mr. Rammell of the FCO was sent to all Overseas Territories and resulted from discussions which were held on various matters in the United Kingdom, at the Foreign and Commonwealth Office between the 21<sup>st</sup> and 22<sup>nd</sup> September 2004. Overseas Territory Leaders were in attendance from Gibraltar, St Helena, the Falklands and the Caribbean. The Cayman Islands was represented by Mrs. Jennifer Dilbert. I could not attend, as it was right after Hurricane Ivan. So, I was not at that meeting. I would like to say here that that is what I have been saying all along when I was accused of going to conferences and meetings. If the Cayman Islands are not at the Table anything may go on and we do not have an opportunity to register our position. So, when we are called to meetings we should go.

The statement by the Leader of the Opposition is not only inaccurate; it is calculated to be deliberately misleading to the public. Mr. Speaker, the Leader of the Opposition and the People's Progressive Movement cannot point to any document in which the UDP ever indicated that we wish to move to independence. The opposite is true. The Member is in his seat and I would like to pose the question for him to answer. Where does the Leader of the Opposition get this information if it was not concocted by him? Let him produce the public record now! Or else it is a blatant lie!

A good credible leader, will not seek to lead the public astray by making public statements which he is well aware bear no resemblance to the truth and cannot be substantiated, just for the sake of trying to gain a few votes.

Mr. Speaker, I did not include in the written statement to you any verbiage from the records of that meeting but I have evidence of that meeting. I

was not there but the picture of who attended is there, and it carries the list of the Overseas Territories delegation. It also has the subject matters of who is speaking, not a verbatim but close to verbatim record of what goes on in the Overseas Territories. It is there that Mr. Bill Rammell has said that he would send this out to the various territories. I will table the document but I want to quote from it. In paragraph 26, and I quote: **“On independence, Bill Rammell said current policy did not spell out how a territory should move to independence. His gut feeling in the modern world was that this should be through a referendum. This has been the method chosen for such important decisions as devolution for Scotland and Wales. He believed the outcome of an election was not enough, as too many other factors came into play in elections. He agreed to provide further clarity, in writing, on this issue by Christmas.”**

We know that the letter did not come until this year. I wanted to quote that into this record because here in this document, under the subject “The Overseas Territories Relationship with the UK” Bill Rammell; Peter Carona, the Chief Minister from Gibraltar; Orlando Smith, the Chief Minister from British Virgin Islands; Kathy Hopkins, the Counsellor from St Helena; John Osborne, the Chief Minister of Montserrat; Alex Scott, the Premier of Bermuda; Jan Creek, the Counsellor from the Falkland Islands; Osborne Flemings, from Anguilla territory; Lesley Jacks, the Commissioner from Pitcairn Islands; and Michael Mesick, Chief Minister of the Turks and Caicos were debating this matter. McKeeva Bush was not there. Had I been there, I would have said what I have always said and that is that the United Democratic Party does not have a mandate and does not wish to go the independent route.

For the Leader of the Opposition to continue with this rot is absolutely unfair dirty, dirty politics. However, as I said, while he slammed me, he got a slamming in the headlines as well.

#### **Report of the Proceedings of the Sixth Overseas Territories Consultative Council 21-22 September 2004**

**Hon. W. McKeeva Bush:** Mr. Speaker, I would like to lay the records of the 21<sup>st</sup> and 22<sup>nd</sup> September 2004, The Sixth Overseas Territories Consultative Council Report of the Proceedings, on the Table of this Honourable House.

**The Speaker:** So ordered. Please continue, Honourable Leader of Government Business.

#### **European Union Savings Directive**

**Hon. W. McKeeva Bush:** Thank you very much.

Mr. Speaker, the next statement is a bit longer, but I crave your indulgence and also the

Members of this Honourable House, as it is most important that I clear the air on this matter.

It is a statement on the European Union Savings Directive. I have a Bill to lay on the Table of the House for public consumption and feedback again, because we have discussed the matter with the public already. I have not yet received that Bill and I hope I will have it before I complete this statement.

Mr. Speaker and Honourable Members, I wish to update you about the implementation of the European Union Savings Directive in the Cayman Islands. First, Cabinet shall be instructing the Financial Secretary to sign and return the bilateral agreements that are part of the directive. These technical agreements are part of the framework that gives force to the sharing of information under the directive.

Second, Government will table before this Honourable House the legislation to implement the directive in these Islands before the House rises. This timetable is important, as the legislation must be in place some time before the date when the Directive goes live on the 1<sup>st</sup> July 2005.

Let me set the current issue of the Directive in context. Members of the Legislative Assembly will be well aware of the less than satisfactory manner in which the matter was initially handled by the British Government. Nevertheless, the current constitutional standards of the Cayman Islands, presents us with a clear framework in which to operate. This is a framework the Government tested by raising the directive in the European Court of First Instance. Members will remember the clarification made by the Court that the United Kingdom was under no obligation to impose the directive on its Overseas Territories, yet Her Majesty's Government took the decision that it was desirable to do so. It was on this basis that we engaged in long and complex negotiations with the British Government on a range of matters. The undertakings that were agreed as a consequence of these negotiations persuaded the Government to sign up to the Directive last year.

First, the latest evidence suggests that the Directive's impact on the Cayman Islands will be limited. I believe that the European Union has misunderstood the nature of business in the Cayman Islands. We are not a haven for tax-evading Europeans. The transactional flow to our Islands is institutional, not personal. I welcome further transparency. It will help integrate further the Cayman Islands into the global financial market place.

Second, my Government, unlike any other Overseas Territory, has successfully negotiated what has been described by the Chairman of the Cayman Islands Stock Exchange as meaningful concessions or undertakings from the British Government. I will set these out in more detail in this speech.

Third, we have a track record of improved international co-operation and cross-border transparency. Over the last three years, transactional flows to

Cayman have increased significantly. The private sector has made it clear that transparency is good for business.

Fourth, the financial community—the part of our economy that will be affected by this legislation is aware of our commitment to enact the Directive. It has begun to prepare for its implementation. We need to press on to give them time to plan ahead.

My over-riding objective, as Leader of Government Business and all Members of the Cabinet, is to safeguard the interests of the people of the Cayman Islands. I certainly can say this for all persons of the United Democratic Party. We play an important role on the international stage, being the fifth largest financial centre in the world. The benefits we will acquire as a consequence of progressing this matter with the concessions agreed by the UK, will help us to further protect, enhance and promote our financial services sector.

### **Impact of the Directive is Expected to be Limited**

The impact of the Directive is expected to be limited. I want to make it clear to Honourable Members that the Directive has a limited scope. There are two important points to note.

First, the Directive only applies in relation to an interest payment made by an economic operator, (for example, a bank or a mutual fund) to a European Union resident individual. It is important for Honourable Members to remember that the Directive does not apply to an interest payment made to any corporate entity in the European Union.

Second, if a Cayman Islands economic operator appoints a "paying agent" (a term defined in the Directive) outside of the Cayman Islands, for example, in New York or in any other place outside of the European Union, then the Directive does not apply to the paying agent, nor would it apply to the Cayman Islands' economic operator. For example: If a Cayman Islands bank were to appoint a paying agent in an European Union country or in any jurisdiction to which the Directive applies, then the issue is one for the paying agent, not the Cayman Islands bank. There is no regulatory burden, therefore, imposed on the Cayman Islands, in that respect. The burden rests on the European Union paying agents who are already having to prepare for the Directive, in terms of updating software systems.

The Directive will only apply to a Cayman Islands bank and fund if it acts as its own paying agent and makes the interest payments from the Cayman Islands directly to a European Union resident individual. There are other hurdles that must be cleared before the Directive applies.

An interest payment for these purposes means only a payment on a "money debt" - this clearly covers interest payments on bonds, but would not normally catch a payment made by a mutual fund at

all, unless a dividend is paid, or redemption proceeds are paid, by a mutual fund, subject to certain rules.

In the case where a Cayman Islands bank, for example, were caught by the terms of the Directive, then it would be obliged not to apply a withholding tax but to provide information to the Revenue Authority of the jurisdiction of residence of the individual receiving the income payment. The details it would pass would be similar to those maintained for the purposes of "know your client" due diligence.

Consequently, for a number of reasons: not least that most of our business is institutional and not personal, and that paying agents could well be located outside of the EU and the Cayman Islands, I expect the regulatory impact of the Directive to be mitigated.

### **Undertakings Negotiated by Cayman Islands Government**

I now wish to address my second substantive and the most significant point.

Before Hurricane Ivan hit, the Cayman Islands Government consulted with the financial services sector about a number of undertakings which the Government negotiated with the UK Paymaster General last year. I adopted a tough and robust, but constructive, negotiating position. We have delivered the best possible result for these Islands. We have received significant undertakings, which help safeguard the interests of these Islands, our economy, our people and our businesses.

My view is taken as a whole that these opportunities will bring some benefit to the business community. We can deliver more jobs, new business, a growing financial services sector and an enhanced reputation. Last year I was told by leading practitioners from the private-sector that it is very easy to pick holes, but that they were totally supportive of the government and its strategy.

Another said that he gives credit to the Government for standing firm and getting us to the position we are in today. Another said that the Government should be congratulated for the remarkable list of undertakings, representing a sea change in Britain's attitude. The consultation exercise enabled the Government to evaluate and prioritise the opportunities, and to decide how best to work towards maximising the benefits negotiated for implementing the Directive.

The Consultation Paper protecting, enhancing and promoting the Cayman Islands was published in 2004. We encouraged responses through a number of different channels, including over the internet, by email, by letter or in person. The Government also arranged meetings with members of the financial services community drawn from the mutual and hedge funds environment, banking, law and accountancy sectors. These meetings helped the Government identify the views of the wider policy network since traditional

consultation exercises do not always reflect this broader opinion.

### **Recognition of Cayman Islands Stock Exchange**

As a consequence of our agreement to implement the Directive, on 4 March 2004 the Board of the UK Inland Revenue granted the Cayman Islands Stock Exchange status as a 'recognised stock exchange' under section 841 of the Income and Corporation Taxes Act 1988, that is a Law of the United Kingdom.

This places our Stock Exchange on the same footing as Dublin and Luxembourg, which are respected and successful jurisdictions. This is where our Stock Exchange belongs. It has over \$46 billion in listings, and recently received a positive review from the International Monetary Fund.

This recognition enables companies whose securities are listed on Cayman Islands Stock Exchange to take advantage of the Eurobond exemption. As a result, interest on securities listed on Cayman Islands Stock Exchange can be paid without deduction of the UK tax. A further potential benefit of recognised status is that securities listed on Cayman Islands Stock Exchange are now regarded as 'qualifying investments'. If we are to proceed to explore retail funds opportunities, then recognised status will assist us, in that most of the securities held directly in Personal Equity Plans (PEPs) and Individual Saving Accounts (ISAs) must be 'qualifying investments'.

Interest from law firms, accountancy firms and listing agents arising from the recent Inland Revenue recognition has been positive. This interest will lead to additional growth as investment managers list new funds on the Cayman Islands Stock Exchange and increase their use of their existing listed funds.

### **Other Benefits**

This is the first of several real and tangible benefits that we shall deliver for the Cayman Islands over the coming months and years. These opportunities will not come quickly – they will require hard, detailed and technical work to deliver them – but come they will. We hope that the United Kingdom will adhere to their undertakings.

I want today to talk about the following five opportunities:

1. Securing access to potential new markets for the funds sector;
2. An application by the Stock Exchange to become a Designated Investment Exchange;
3. The enhancement of the reputation of the Cayman Islands;
4. Progressing Cayman Islands Monetary Authority's IOSCO application; and

5. Secondments to the UK for Cayman practitioners in the financial services and regulatory sectors.

### **Widening access to new markets for the funds industry**

The major opportunity that has been negotiated relates to developing new markets for the funds industry. We have almost half of the total world mutual and hedge fund market; almost 6,000 funds are supervised in Cayman. The funds sector is currently driven almost entirely by institutional business (around 99 per cent) with little direct or indirect access to the retail market.

This concentration represents a potential issue for the industry. The Government is determined to protect the future of the Cayman Islands economy and believe that this objective could be achieved by seeking additional opportunities. At the present time, our legislation does not make a formal distinction between sophisticated or institutional and retail funds.

We have the opportunity to create the necessary regulatory framework to attract retail fund business. Making such a change would, over time, more closely align the Cayman Islands to fund regimes in competing jurisdictions, such as Jersey, Dublin and Luxembourg, where the split between sophisticated or institutional and retail business is formalised. This would place the Cayman Islands in direct competition with these jurisdictions for the retail funds market.

At present, Cayman Islands' funds are 'unregulated collective investment schemes' for UK purposes and, as such, they may not be marketed to retail investors other than in very limited circumstances. The Cayman funds have not been able to gain access to these markets because regulatory rules in the UK have been very strict. I recognise that the Cayman Islands is popular for its lack of regulation on the investment strategies on the activities of funds, which allows a number of strategies to be pursued that appeals to the institutional investor.

Respondents to our consultation exercise also believe, however, that we should make ourselves more attractive by enacting 'user friendly' legislation to enhance the structures used by institutional investors, as well as exploring and developing new 'spin off' markets.

We have the necessary skills and resources to provide further funds products and services. Respondents to the consultation exercise felt that the increased opportunity of new work and flows of business would outweigh any limited restrictions on investment strategies and increased regulation on this new class of funds.

I recognise that it will be important to ring-fence the current funds business which is extremely successful. The opportunities, however, for Cayman Islands funds to form constituent parts of major retails

funds in Europe is very attractive. Policy proposals, which our officials are working on, will take account fully of the need to protect the current mutual fund business.

The Chamber of Commerce, whilst highlighting the need to generate employment opportunities said that "the funds opportunity would appear to have little downside and would be very attractive."

The Cayman Islands Monetary Authority (CIMA) has also confirmed that it would be "very foolish" not to explore this opportunity further.

The Compliance Association regarded this opportunity as, "potentially very big indeed and absolutely critical for the future." The Compliance Association also said that "it would lead to more registration and license fees paid to Government. A possible cascade effect through the whole economy and there would also be reputation benefits. The legislation would need to be ring-fenced, as was done with the Japanese funds law. One of the benefits of this recognition of 'equivalency' with Dublin would lead to more administrators coming to the Cayman Islands which would have an immediate and positive impact on the economy."

The overwhelming majority of consultation respondents believed that the opportunity we have negotiated could be very significant for the Cayman Islands. I have some detailed notes which I may table later on. These detailed notes are provided at Appendix A.

### **Cayman Islands Stock Exchange**

Part of the undertakings given by the UK is for the Cayman Islands Stock Exchange to become a 'Designated Investment Exchange' (DIE). Designated Exchanges do not submit themselves to UK regulation and the UK Financial Services Authority does not supervise them. Instead the Financial Services Authority (FSA) determines whether the exchange provides an appropriate degree of protection for market users.

In February 2004, the Channel Islands Stock Exchange was designated by the FSA as a Designated Investment Exchange. The Channel Islands believed this designation further enhanced the exchange's competitive position, improved its international standing and was an endorsement of the jurisdiction as a reputable financial centre. The same would be true for us. We are already a good regulated jurisdiction. Other examples of DIEs are the Chicago Stock Exchange, Singapore Stock Exchange, the New York Futures Exchange and the Tokyo Stock Exchange.

Obtaining DIE recognition would remove some barriers to conducting business in the Cayman Islands; increase the capacity of Cayman Islands Stock Exchange for growth; and increase the work undertaken by the Cayman Islands law firms, accountancy firms, listing agents and fund administrators.



Another benefit of obtaining DIE status is that, subject to certain regulatory requirements, UK broking firms may take advantage of the exemptions granted under the US Commodity Futures Trading Commission (CFTC) rules; thus allowing them to sell investments listed on a Designated Investment Exchange to customers in the USA.

If Cayman Islands Stock Exchange obtains DIE status, it will allow certain firms located in the UK to conduct brokerage activities for US customers on Cayman Islands Stock Exchange without having to register with the CFTC as a futures or commission merchant, or otherwise comply with certain other CFTC regulatory requirements.

Almost all respondents who were consulted felt that DIE status would be advantageous. The Government is committed to increasing the international standing and additional long term growth in the Cayman Islands financial sector. It believes that a successful application by the Cayman Islands Stock Exchange to become a designated investment exchange will add to the opportunities available to the Cayman Islands.

Our Government will now begin a dialogue with the UK Financial Services Authority to establish what type of regime they will require, in order to meet their concerns going forward and will then implement if reasonable, the necessary steps to achieve this.

### Reputation Benefits

The Cayman Islands financial services sector already has an excellent regulatory regime. However, there remains some negative media comment about our Islands, which does not reflect reality. Beyond this, the private sector often encounters obstacles from some jurisdictions which operate a de facto 'blacklist' against doing business in or with the Cayman Islands. There are a number of examples, such as:

- Private trust business that previously came to the Cayman Islands from various jurisdictions in Central and South America, appears to have been diverted to European jurisdictions; and
- A European country allegedly having a punitive tax regime to prevent its investment banks establishing investment funds in the Cayman Islands. There is also some circumstantial evidence that its central banking authorities do not favour the Cayman Islands.

Our Government is determined to challenge such discrimination and will attempt to secure the removal of the Cayman Islands from 'blacklists' which act as a barrier to further growth in the financial services sector.

The key areas where respondents have expressed concerns appear to relate to South and Central America, other offshore centres, and European jurisdictions, such as France and Italy. The majority of respondents reported anecdotal evidence of black-

lists, although there was little substantive evidence of formal and statutory prohibitions against business with the Cayman Islands.

Our Government is now moving forward to meet with the UK Government as a priority to press them to assist in challenging this discrimination, and in ensuring the removal of the Cayman Islands from these blacklists where appropriate. The Government will also work to ensure that appropriate emphasis is given to promoting our successes and will press the UK Government to give positive publicity to the Cayman Islands anti-money laundering legislation and, more generally, financial regulation in the Cayman Islands. Our Government will ensure that Her Majesty's Treasury is encouraged to publicly acknowledge where international standards are met.

### IOSCO

As Honourable Members will be aware, CIMA has applied to become a full member of the International Organisation of Securities Commissions (IOSCO).

Membership of IOSCO would confirm by giving recognition to the international standing of the Cayman Islands as a jurisdiction recognised for having high standards of regulation and integrity. It would reinforce the already existing confidence in the Cayman Islands financial services sector, and would allow the Cayman Islands to take a more active role in the international regulatory community.

Almost all respondents consulted last year felt that IOSCO recognition would benefit CIMA, and CIMA has also expressed the view that this is a critical development.

The Government is keen to promote the positive measures which have already been undertaken to create a highly successful and transparent environment for the financial services sector. Applications for recognition by international organisations such as IOSCO are a part of this process of promoting and developing a more positive global image.

CIMA opened detailed discussions with IOSCO in 2004. To date, the focus of the discussions has been on the legal issues surrounding cross-border exchange of information and the perceived deficiencies in the Cayman Islands regime in the view of some IOSCO members. CIMA is working to resolve these issues and to secure membership in the organisation.

### Secondments

The Government is determined to ensure there is a sufficient supply of properly trained and motivated professionals in the Cayman Islands. Given the sophisticated nature of the financial services industry, new entrants at high school level need to be properly equipped with the necessary levels of profi-

ciency, in order to contribute to and subsequently benefit from the industry.

In addition, the relatively small size of the Cayman Islands population requires us to think innovatively about supplying the necessary numbers of university-qualified Caymanians required to keep pace with the development of the financial services industry.

The Cayman Islands needs to build its capacity in the financial services area and is confident of securing the assistance of the UK Government to promote exchanges and secondments between the UK and the Cayman Islands in order to provide training and experience for key officials. The Government also expects that HM Treasury will be receptive to the possibility of a skills transfer programme.

There has been a history of successful secondments into the UK regulatory system from the Cayman Islands. The Government is keen to formalise this opportunity in order to develop a skills transfer programme which would maximise the opportunities for Caymanians in the future. There was strong evidence of support from consultants for the idea of seconding public and private sector practitioners to be seconded to the UK for educational and training purposes.

The Government is committed to the resource of a secondment programme between the Cayman Islands and the UK. We will begin talks with the UK Government in order to start this programme.

### **Other Opportunities**

Consultants were also asked whether there were any specific requests they would desire the Cayman Government make of the UK Government concerning the financial services sector, and a number of issues were raised. Our Government is now investigating opportunities in a number of areas. Let me give you just two examples:

#### **Investment Protection Treaties**

Respondents were generally supportive of the idea of investigating investment protection treaties. The Cayman Islands, as we all know, plays a significant role in the structuring and financing of some of the world's major infrastructure projects. Cayman-domiciled companies and funds are often used as the preferred vehicles for these projects. Such projects may be at risk of confiscation or damage by the authorities of the state in which they are based.

Many developed and developing states have entered into investment protection treaties. Over 140 states are party to at least one such treaty. The treaties provide protection to investors. Investments covered by the treaties often include: property, stocks, shares and debt instruments; intellectual property rights; and business concessions.

The Government believes it could be in the interests of the Cayman Islands to explore the possibility of joining the UK's Investment Protection Treaty network, if possible. We intend, therefore, to raise this issue with HM Treasury.

### **International Engagement**

We have had good international relations at most times in our history. The reason we have thrived as an international financial centre is because over the years government regulators and the private sector have worked closely together to balance sound regulation and flexibility. We as a government have continued this approach.

We have seen improved regulator-to-regulator disclosure; ensuring cross-border transparency; improved application of corporate governance rules; more rigorous auditing requirements; and increased resources to prosecute wrongdoers. These are developments we should all welcome.

However, Mr. Speaker, I note that the Alliance in George Town made a statement in the media recently, to the effect that our relations with the United Kingdom was at its lowest, and that they would remedy this perceived status. The United Democratic Party Government has always maintained a very healthy relationship with the United Kingdom, which has been based on respect and one which seeks to preserve the right of our people to enjoy a reasonable standard of living.

The UK from time to time in the past, particularly with its enthusiasm or ill-founded and misguided European Union initiatives, for example, tax harmonisation have sought to place its interests above the people of the Cayman Islands. When this occurs, your UDP Government has found it necessary to put forward its views, all of which were based upon accepted international principles and norms. We have refused to allow the interests of our people and that of their children to be negatively impacted.

Mr. Speaker, you will recall the United Democratic Party Government took a very principled decision in relation to what had been done to us in the Eurobank fiasco. Our position turned out to be 100 per cent correct. The UDP Government took the internationally recognised position in opposition to the tax harmonisation initiative - the same position as the United States of America. This proved to be correct and the OECD abandoned its tax harmonisation initiative, all of which were extremely detrimental to the free market economy of the Cayman Islands.

On the European Union Savings Directive, the UDP Government would not sign on without ensuring that we were in the same position as Switzerland and other international business centres. We insisted in our negotiations with the United Kingdom that we must get some benefits. The UK has promised to give us benefits and our negotiated position places us in

the same position as others, and perhaps better than some.

Mr. Speaker, the UDP Government will always stand for the interests of our people. We will not ride around in Bentleys in the United Kingdom and sign on to every initiative just to enjoy good relations. If this is what the Alliance intends to do, our people will not be well served by them.

Good international relations with any country, including the governing country of this territory, the United Kingdom, is a two way street. As long as I am the Leader, the interests of the Cayman Islands come first and foremost and I will continue to protect our Islands and our people.

We take our international obligations on regulatory and law enforcement matters seriously. We enjoy excellent relationships with the United States Justice Department. We are active members of most international regulatory bodies and we are applying to others.

Furthermore, in November 2001, the Cayman Islands concluded a Tax Information Exchange Agreement with the US. The agreement provides for exchange of information, upon request, for criminal and civil matters relating to US federal law. The US Treasury Secretary praised the Cayman Islands for, "demonstrating that those who seek to engage in tax evasion or other financial crimes are not welcome within its jurisdiction."

The history of the last three years is most encouraging as far as the growth of business is concerned. Cayman bank deposits and inter-bank bookings have increased over that period to \$1 Trillion and mutual and hedge funds now number around 6,000. We are the fastest growing insurance (captive insurance) domicile and we are also favoured for structured finance. We are growing and will continue to do that under our leadership. Investors like transparency and regulation of the sort we have engaged in.

### **Business is Preparing**

The fourth reason that necessitates signing the Bilateral Agreements and tabling the legislation now, and then dealing with it after the General Elections, is that local businesses and their branches overseas, especially those in Europe, have already factored the European Union Savings Directive into their forward planning.

We need to publicise this law now, so as to give the financial sector as much time as possible to plan and prepare.

### **Conclusion**

In conclusion I wish to end by clarifying that the next three months is the appropriate time to implement this legislation. The requirements begin on the 1 July 2005, and we are now working to a time-

scale to meet this start date. We need to give the private sector time to prepare for implementation.

Furthermore, our record of international engagement and cooperation has coincided with increased business. What regulatory burden we may shoulder, will, in my view, be outweighed by the tangible undertakings the Government has negotiated from the British Government, through the talks I had with the UK.

I am pleased that there is a significant consensus of opinion across the private sector in support of efforts to be made by the Government to enhance, protect and promote the Cayman Islands. The Government and the private sector agree that maintaining the hard earned sterling reputation of the Islands is absolutely vital.

Against this background and building on our enviable position as a jurisdiction of choice, the implementation of the Directive should favourably impact our reputation as a country that honours its international obligations.

### **Draft Bill**

#### **The Reporting of Savings Income Information (European Union) Bill 2005**

Mr. Speaker, Thank you for your indulgence and that of the House for this long statement. I lay on the Table of this Honourable House, the Draft Bill, a Bill for a Law to make provisions for the reporting of savings income information; and for incidental and connected purposes.

**The Speaker:** So ordered.

#### **APPENDIX A – Further Detail on the Funds Industry Opportunity**

The opportunity my Government negotiated - essentially focused on the retail market - represents a new opportunity for the Cayman Islands.

Regulated collective investment schemes, which have been approved by the UK Financial Services Authority, can be marketed to all retail investors in the UK.

These funds have historically taken two forms:

- Undertakings for Collective Investments in Transferable Securities (UCITS for short) - essentially the EU standard for funds. UCITS funds can be marketed to all UK investors and 'passport' into other EU countries; and
- Non-UCITS funds. Non-UCITS funds can be marketed to all UK investors.

These regulated collective investment schemes must comply with rules concerning issues such as concentration and spread, short-selling and borrowing powers.

This regulatory environment has made it impractical for funds based in the Cayman Islands, which have benefited from sophisticated fund man-

agement techniques, to seek regulated collective investment scheme status in the UK.

At present Cayman funds may also only be held as a very limited proportion of the assets of a scheme which may be marketed to retail investors. Unregulated schemes - Cayman schemes - may, together with unapproved securities, form up to 20 per cent of the assets of non-UCITS retail funds and may not form any part of the assets of a UCITS fund. Basically, Cayman funds are excluded from significant investor opportunities.

There are moves in the UK to liberalise the marketing of hedge funds, and I want to ensure that the Cayman Islands is in a position to exploit this opportunity.

In March 2004, the FSA stated that hedge funds should not be available for the retail market, but they did provide for a new type of regulated fund - the Qualifying Investor Scheme ('QIS').

QIS funds could form 20 per cent of the assets of a UCITS, or 35 per cent of the assets of a non-UCITS retail fund. QIS funds would be granted significantly wider investment and borrowing powers than has previously been allowed in a regulated fund. They allow for some features of hedge fund management to be employed, such as short-selling and higher levels of gearing than for regulated retail schemes. The restrictions on concentration and spread of risk that apply to regulated retail schemes do not apply to a QIS. The FSA continues to monitor the outcome of work that the European Commission is undertaking on hedge funds.

A QIS may invest up to 15 per cent of its value in a second scheme which is either a regulated collective investment scheme or an unregulated scheme managed by an authorised fund manager where the fund manager takes reasonable care in a number of areas. Cayman unregulated collective investment schemes may also, therefore, get indirect access to the retail market through being a component part of the assets of a QIS which then, in turn, may form a component part of a UCITS or non-UCITS retail fund.

The developments in the UK provide the following opportunities for the Cayman Islands' hedge fund business:

First, there is the opportunity for Cayman funds to be constructed to mirror the requirements of the new QIS scheme in order to be permitted investments for UCITS (up to 20 per cent) and, in a larger proportion than is currently permitted, non-UCITS retail funds (up to 35 per cent).

Second, there is the possibility for unregulated Cayman Islands funds to get indirect access to the retail market in the UK and Europe as a component part of a QIS;

Third, there is the longer-term possibility of hedge funds being permitted in the UK and Europe as regulated collective investment schemes for marketing to

the public. The Cayman Islands could position its regulatory regime so that it would be the natural domicile of choice for retail hedge funds if and when the FSA and other European jurisdictions take the next evolutionary step in opening up hedge funds to retail markets.

In order for funds domiciled in the Cayman Islands to become a regulated collective investment scheme it is necessary for the scheme to apply to be recognised on an individual basis by the FSA under Section 272 of the Financial Services and Markets Act. This is simply impractical and prohibitive on a case-by-case basis.

The Channel Islands and the Isle of Man have obtained 'designated territory' status under Section 270 of the UK Financial Services and Markets Act. This means that a scheme authorised under the domestic laws of those territories will be a 'recognised scheme' unless the FSA specifically objects. Designated territory status would therefore make it far easier for a Cayman Islands domiciled fund to become a regulated collective scheme.

In order to obtain Section 270 designated territory status the Cayman Islands will need to make an application to the FSA. My Government is confident that HM Treasury will provide technical assistance with respect to the application process if the Cayman Islands determined that it wished to pursue such an application.

The Government recognises the high level of expertise within the financial services sector and the wide array of service providers which have been the foundation for the thriving mutual funds business. Any policy proposals will take account fully of the need to protect the current mutual fund business of Cayman and ensure that it is not made less attractive.

We believe that, in the interests of the jurisdiction and in the interests of achieving additional growth, jobs, prosperity and long term benefits, pursuit of this opportunity is absolutely critical. It is clear that the next two points I will address - IOSCO and the Designated Investment Exchange applications would form the building blocks for any subsequent application by the Cayman Islands for Designated Territory Status under Section 270 of the Financial Services and Markets Act 2000.

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Order 46(1) and (2)

**The Speaker:** The Honourable Leader of Government Business to move the suspension of Standing Orders 46(1) and (2) to allow the Bill to be read a first time.

**Hon. W. McKeeva Bush:** Mr. Speaker, I move the suspension of Standing Orders 46(1) and (2) to allow the Bill to be read a first time.

**The Speaker:** The question is that Standing Orders 46(1) and (2) be suspended in order to allow the Bill to be read a first time. 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 READINGS

### The Law Reform Commission Bill, 2005

**The Speaker:** The Bill has been deemed to have been read a first time and set down for second reading.

### The Traffic (Amendment) Bill, 2005

**The Speaker:** The Bill has been deemed to have been read a first time and set down for second reading.

### Suspension of Standing Order 46(4)

**The Speaker:** The Honourable Second Official Member would you move that Standing Order suspension, please.

**Hon. Samuel W. Bulgin:** Mr. Speaker, I move for the suspension of Standing Order 46(4) to allow for the Bill on the Order Paper to be read a second 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 Law Reform Commission Bill, 2005

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Mr. Speaker, I move for the Second Reading of a Bill entitled the Law Reform Commission Bill, 2005.

**The Speaker:** The Bill has been duly moved, does the Honourable Mover wish to speak thereto?

**Hon. Samuel W. Bulgin:** Yes, briefly. Thank you, Mr. Speaker.

May I first offer an apology to Honourable Members of this House for the late submission of the Bill. I am conscious of the fact that the time allowed has been abridged and I do apologise for the abridged time. However, I am hoping that because of the relative shortness of the Bill and the self explanatory Memorandum of Objects that Honourable Members will find it possible to support this Bill.

Mr. Speaker, the reform of the Laws of the Cayman Islands is currently undertaken in an ad hoc fashion, with laws being amended and modernised from time to time as legal loopholes and anomalies arise. However, there is no single individual or group of individuals vested with the responsibility or the authority for keeping our statutes under constant review.

There is a great need for the statutes of the Cayman Islands to be consistently reviewed so that obsolete provisions can be repealed, international obligations honoured, and the Law modernised and simplified thereby keeping the Cayman Islands competitive and contemporary. It is felt that the time has come for the establishment of a unit with responsibility for keeping the Laws under constant review with a view to their systematic modernisation development and reform.

With this in mind, the proposal is for the Law Reform Unit to be comprised of persons appearing to be suitably qualified by the holding of or having held judicial office or by experience of attorneys at law or indeed other relevant disciplines.

The members of the Law Reform Unit would be remunerated for their services, and their functions would include considering suggestions forwarded by any person or authority for the reform of the Law; Undertaking pursuant to any recommendations approved by the Attorney General the examination of particular branches of the Law with a view to their reform. It would also include undertaking pursuant to any recommendations approved, the preparation of bills relating to proposals for reform.

It would involve instances where providing at the instance of the Attorney General, advice to portfolios and ministries in respect of proposal for the amendment or reform of any branch of the Law. Where necessary, obtain such information in regards to the laws and legal systems of other countries, as is likely to facilitate the performance of the unit's functions.

Most countries have such a structure in place and I recall that the British Virgin Islands Legal Reform Unit was established by legislation back in 2000. It provides for collective wisdom to be used in the drafting consideration of legislation. Oftentimes it is not uncommon for something to happen. What seems to be a knee-jerk reaction results in legislation being

drafted and considerable committee stage amendments have to be made on the Floor of this Honourable House. We are trying to be a bit more proactive and structured in terms of dealing with our legislation.

Mr. Speaker, in summary it is proposed by this legislation, to begin to take a practical approach to the reform of legislation in this jurisdiction. I would go further to say that it is indeed a necessary step and one that would only serve to enhance the reputation of these Islands.

I therefore, commend this Bill to Honourable Members of this Legislative Assembly. I thank you.

**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.

This is an important and useful piece of proposed legislation and I can say at the outset that Members of the Opposition have no difficulty whatsoever in supporting it. However, I believe that I would be failing if I did not indicate our lack of satisfaction with the shortness of time we have had to consider such an important Bill.

This worrying habit adopted by this Government almost from the outset, of not circulating legislation in order that not just Members of the Legislative Assembly, but the public at large has an opportunity to consider and comment on it, is very disturbing. It really does create a situation where it is felt by members of the public that their views do not matter very much in assisting with the shaping of Government policy and ultimately with legislation. That is most unfortunate because in this day and age it is critically important that the consultative process is utilized to the maximum. In a country which purports to have a democratic system, the views of those people who are most affected by proposed legislation are critically important if we are going to maintain something more than the semblance of democracy.

The establishment of a Law Reform Commission is an important step in the development of Cayman and a move towards maturity. We are all witnesses often to the many instances of having to react to situations which develop because legislation has not been under constant review, and we are not in a position to see where the situation is going that requires the legislation. Therefore, we are reactive rather than proactive. An establishment of such a commission, if properly operated and run ought to go a long way to address this issue.

I wonder if the Honourable Second Official Member can, when he is winding up, comment on what the interaction is going to be between the Law Review Commissioner and this Law Reform Commission, whether we are now proposing to do away with that office? The Law Review Commissioner, over the

past six to seven years has done a marvellous job at bringing legislation current. It is brought current by him only in the sense of amalgamating all of the various amendments into a revised piece of legislation, which is useful, but it is not meant to affect any policy reform or change. I see potential for great conflict if we have these two offices, the Law Reform Commissioner and the Law Review Commissioner, operating simultaneously. Perhaps he could offer us some comment on that and how it is intended to run.

One of the matters which I have some concern about in this proposed Bill is the reporting provisions stated in clause 14. This states that the Commission is under a duty within six months from the beginning of each year to submit to the Attorney General a report containing a summary of its activity in the proceeding year, and the Attorney General is required within three months of the receipt of that is to lay that document on the table of this Legislative Assembly.

We think that is simply too protracted. It could ultimately result in the Legislative Assembly not becoming aware of what it is that the Law Commission has done until nine months after the event of any given year, which in my view, in this day and age is not acceptable. The Law Commission needs to be accountable; the Attorney General needs to be accountable to this Legislative Assembly for their conduct and operations. This Commission is going to be funded with public funds; it is performing a critical important function, one that relates directly to the operation of the Legislative Assembly because among its other functions it is to draft legislation which will come here.

I do believe that we need to have greater oversight of the work of the Commission. So, I would propose that the initial period be reduced to three months. That is, the Commission should file a report with the Attorney General within three months at the end of any particular year, and the Attorney General then lay that Report on the Table of this House within the course of the following month, thirty days thereafter, bearing in mind sittings of the House or sessions of the Legislative Assembly. Members of the Legislative Assembly can then have sight of what it is the Commission has or has not done, relatively quickly after the end of any particular year.

Mr. Speaker, I think it would be remiss if we did not mention and pay credit to the large number of persons and originations who have assisted Government over the course of the development of the Cayman Islands in developing policy positions and assisting with drafting important pieces of legislation. I do not believe, and I am sure that the Honourable Second Official Member will acknowledge this, that it would have been possible for any government to perform and be able to produce pieces of cutting edge legislation as it has over the many years without a great deal of assistance, guidance and hard work

from members of the private sector. I think, now is as good a time as any, to pay credit to those many organizations and individuals who have assisted in crafting legislation over the years.

I do believe that even with the establishment of the Commission they will still be able to assist with the production of legislation and to offer useful input, guidance and assistance to the Commission with this important work.

With those few words I can say that Members of the Opposition are in support of this Bill, for a law to establish a commission for the reform of the law of the Cayman Islands and for incidental and connected purposes. Thank you, Sir.

**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, would the Honourable Second Official Member wish to exercise his right of reply?

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I appreciate the concerns of the Honourable Member and the short period within which to study the content of the Bill. I again reiterate my apology.

I must express my gratitude to him for his usual insightful observations on the contents of the Bill. At the appropriate stage I can take the liberty of saying that I seek the approval of this Honourable House to make certain amendments to the clause he spoke about to see if we can further bridge those periods stated therein.

I also wish to echo the remarks made by him of the assistance, over the years, of members of the private sector who have been instrumental in assisting Government in crafting cutting edge legislation. Their contribution has been invaluable and this Commission will preserve the opportunity for such assistance. It will only mean that it will be more structured, but we look forward to their continued involvement and helpful input in the drafting of our legislation.

On the issue of the co-existence of the Law Reform Commission and the Law Revision Commissioner, the two concepts are not mutually exclusive. There is a place for both entities and we are hoping that the establishment of the Law Reform Commission will result in a more cohesive operation between the Legislative Drafting Department, the Law Revision Commission and the Law Reform Unit. They will be clearly and understandably plugged into each other so as to avoid duplications, but at the same time to maximise output. So, I have had brief discussion with the existing Law Revision Commissioner and I have also had extensive discussions with Legislative Drafting as well as other members. We are confident that the units can be structured in such a way that they are joint but separate. There are certain aspects of it to be dealt with and in due course I will be taking a look at the Law Revision Law itself to see whether there are any necessary tweaking that needs to be

done in that regard. However, for now, there is a place for all three, the Law Reform Commission, Law Revision Commissioner and the Legislative Drafting Department.

I thank Honourable Members for their support of this Bill and I give an undertaking to revisit the clause at the Committee Stage Amendment. Thank you.

**The Speaker:** The question is that a Bill shortly entitled the Law Reform Commission Bill 2005 be given a second reading. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed. The Law Reform Commission Bill 2005 was given a second reading.**

### **The Traffic (Amendment) Bill, 2005**

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

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

I rise to move a bill for a Law to amend the Traffic Law 2003 Revision to revise the period of duration of driving licenses to further regulate the grant of licences to teenagers, to restructure to Public Transport Board and for incidental and connected purposes.

**The Speaker:** The Bill has been duly moved does the Honourable Leader wish to speak thereto?

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

Motor vehicle crashes worldwide are the leading cause of death and injury among teenagers. Last year World Health's Day observance was road safety, which was chosen by The World Health Organisation (WHO). This is a serious health crisis and statistics indicate that the situation will get worse. Worryingly the WHO has predicted that traffic accidents will rise to epidemic proportions in the Caribbean region before the end of this decade. If what is happening locally is any indication, we need to take WHO's warning seriously.

Here in the Cayman Islands we all know of young people who have died in motor vehicle related accidents than of disease. For a small community we have paid a high price in grief and lost potential.

Mr. Speaker, as a representative I have attended far too many funerals of good talented young people, due to dangerous driving. I have witnessed bereavement of far too many parents. It has torn my heart as I witness what parents face when they lose a child and I say '*but for the grace of God there go I*'. I have often said what should we do to bring some measure of sanity, to bring more safeguards and try

to stop the wanton destruction of life on the road. With these things in mind, and knowing there exists something that can help reduce the number of teen motor vehicle crashes, this Bill is moved today to amend the Traffic Law. Specifically, this Bill will provide the framework to introduce a graduated licensing scheme in the Cayman Islands mooted for some time now.

If we had had this Bill before, some of the young people who were so untimely cut down would be today realising their potential, lost potential that this country cannot afford. Parents would not have lost their best friend, sometimes their only child.

I think that it is most important for us to understand how graduated licensing works and how it came about. Graduated licensing was first introduced in New Zealand in 1987 because that country had one of the worst records of driving deaths worldwide. In less than 20 years it had spread to Canada where every province and territory, except two, has some form of graduated licensing. It has now spread to the United States where every state, except three, have adopted some form of graduated licensing. That is because graduated licensing saves lives, it saves the lives of drivers, passengers and pedestrians. It saves lives and reduces permanent injuries.

All countries with graduated licensing have reported major declines in teen deaths and injuries. For example, Ontario, which introduced graduated licensing in 1994, has reported a 31 per cent decline in teen accidents after the Graduated Licensing Scheme (GDL) was introduced. Fatality and injury rates among new drivers are down by 24 per cent. North Carolina which introduced the programme in 1997, reported a 27 per cent per capita decline in accidents. New Zealand which set the pace by introducing GDL in 1987, reported a 23 per cent reduction in road fatality and injuries for new drivers. The country reassessed its programme in 1999 and strengthened it with a penalty regime consisting of monetary fines and demerit points, which has yielded even more impressive results in the war to save lives. Mr. Speaker, I think we will agree that regardless of what we think of the statistics if we can save even one life it will be worth it.

Now that we have some background on its effectiveness, I want to describe what these schemes are typically about: Graduated Licensing Schemes, commonly called GDL, generally provide for a learner phase followed by a restricted driving phase before a young driver can become fully licensed. These phases are designed to mould safer teenage driving behaviour. The two preliminary phases also provide for experience to be gained under conditions which will reduce risks to the driver and other road users.

In the learner phase novice drivers acquire driving experience under the supervision of a licensed adult. Research has shown that a longer learning phase contributes to a greater reduction in crashes. Right now, teenage novice drivers can get their full

licence within six weeks of their learners licence. Most GDL's then proceed to allow teen drivers to move on a restricted phase. The restriction generally applies to night time driving from around 11 pm or midnight to 5 am in the morning. Some countries exempt teens that must work during these hours. It is known that teen at fault accidents do not generally occur while travelling to and from work.

Another common restriction is relative to the number of passengers. Research has shown that the combination of teenage drivers and passengers can increase the likelihood of accidents. Peer influence can lead to unsafe behaviours which puts them at higher risks for accidents. In addition to contributing to accidents we also end up with a larger number of persons vulnerable to permanent injury and death.

The Bill before us today proposes similar provisions for the learner phase and the Bill introduces a restricted phase for the first time in the Cayman Islands. I will now describe the new provisions for the learner phase: As currently required, before receiving a learner's permit teenage learners must pass a written exam, however, we will require a longer period of supervised driving with two options, each requiring specified periods of practical instruction. The required practical instruction will be specified in the regulations pertaining to the Bill. The proposed two ways of satisfying the minimally required practical experience are:

Option A – requires that over a period of three months the learner must obtain a total of twenty four hours of practical experience of which five hours must be with a qualified professional instructor, or

Option B – is over a period of six months by obtaining a total of forty hours of practical driving experience, with a driver who has held a valid drivers licence for a period of at least three years. The idea is that a parent, guardian or experienced driver can tutor the teenage learner however; a longer period is required when there is no professional instruction as these informal training sessions tends to be less vigorous and comprehensive.

Both options require about five hours of experience in operating a car in night time conditions and both require that learners be off the road between 10 pm and 5 am. Before graduating to the restrictive phase learners must pass a road test given by the Government's driving examiners.

The restricted phase last for a period of 12 months during which the teenage driver has very strict parameters. If the conditions of this phase are broken by committing a serious traffic offence or by breaking the conditions of the Law, the significant penalties can be applied, including the loss of a drivers licence for one year, a fine of \$1000 and imprisonment. Restricted drivers are not allowed to drive between 11 pm and 5 am. There are provisions, however, for the director of Vehicle Licensing to exempt restrictive drivers who present valid reasons for needing to drive during those hours for work related pur-



poses. Also, restricted drivers are not allowed to carry more than two passengers. This restriction on the number of drivers will be contained in regulations and may be amended as necessary.

Finally, restricted drivers must adhere to a strict zero alcohol policy. The rationale behind this provision is that it is challenging for adults to judge when they have exceeded the legal drinking limits when operating a car. Teenagers, who are novices at driving and drinking, should not have to battle these twin challenges at the same time. The message is very simple! Any alcoholic drink is too much and will break the law. In accordance with other jurisdictions, zero alcohol is defined as 30 milligrams per 100 millimetres of blood. It has been explained that this threshold will accommodate medications such as cold remedies but clearly rules out any form of alcoholic drink.

An important feature of both the learner and restricted phases is that novice drivers will not be able to transition the successive phases if they have had serious traffic offences that contravene the provisions of the Law during the twelve proceeding months. So, if they have committed a traffic offence in the restricted phase they are subject to losing their licence for a period of twelve months. This will act as an added motivator to our vulnerable teenagers to drive safely on our roads.

One of the things that the legislation proposes to do is provide for distinct labels for teenage learners and restricted drivers which must be displayed at all times when a new teenage driver is on the road. So, in addition to the "L" stickers, which are used now, we will require "TL" for teenage learner and "R" for restricted drivers. The Law has grandfather provisions for those teens who have already engaged in the process of obtaining their licenses; they will be exempt from these new provisions.

Other miscellaneous provisions are also made in the Bill, in respect of amending the Law to allow for drivers licenses to expire each third anniversary of the drivers birthday. This is already the practice but the Law needs to be amended to formalise the policy.

We will be restructuring the Public Transport Board to facilitate the appointment of a chairman by the Governor in Cabinet. We will also be normalising the role of the Director of Vehicle Licensing as the Secretary to the Public Transport Board. We are also seeking to amend the definition of a taxi and omni bus to expand their passenger carrying capacity to a maximum of fifteen persons. It is very difficult because some people have had much trouble with this. Since 1972 the van drivers have been allowed to carry up to fifteen persons, even though the limit is nine persons. So, while we allow it, we are outside the law and have been for the past thirty odd years, therefore we need to normalise it here today.

An additional amendment will be recommended during Committee stage. The amendment

proposes that persons who conduct themselves as a driving instructor and charge a fee must apply for and satisfy a practical test as administered by the Royal Cayman Islands Police Traffic Department. Currently, driving instructors are unregulated and any person holding a valid drivers licence may automatically charge money to give driving instructions. Of course this is not satisfactory as the Bill puts a premium on experience gained as a qualified professional driving instructor. The Bill also ensures that such persons are regulated. Existing driving schools will be grandfathered in, as will be approved driving instructors. Police men will be exempt.

New professional driving instructors must pass a practical examination administered by the Police Traffic Department. Everyone, including those who are grandfathered in will be required to successfully pass the practical examination every three years in order to be recertified as an approved driving instructor. Certain fees to be defined in the regulations will also be applicable.

I have not tabled this amendment because I want Members to muse on it and I do not propose to take the Committee Stage of this Bill until Wednesday.

For many years, people in this country have spoken about adults who get caught with over the limit alcohol. After getting caught, they then have to go to court and will probably end up with the loss of a driver's licence for a long time; sometimes with the loss of a job also. In some instances I have known that to happen because they needed their licence, or it just becomes unbearable. Well, they should learn a lesson and not go over the limit. A lot of people go over the limit but the Police do not get some of them.

I am asking this House if they would agree for an amendment to the Law to allow persons to be able to go to work and back home but no other place, not even to lunch. One Member is suggesting that they be made to attend counselling; that is one of the reasons why I did not put the amendment—I wanted to bounce it on Members to see what they would say. As I said, many people have asked for this. Persons would lose their license to do anything else except drive to work and home. They will not be able to drive to a restaurant to pick up lunch, they know they committed that offence, went over the limit, therefore, they must prepare for lunch at their workplace or have someone bring it. Perhaps this kind of provision will assist families. I have known backhoe drivers who have only that income. They have lost their license and the family ends up in a bad position. I know of cases where families were really in bad positions because the husbands lost their licence. I know people will say that someone can drive them to work, but many times that is not possible. As a matter of fact, a lot of times that is not possible.

I ask Members to muse and then speak on it. I do not intend to move to Committee Stage today but to come back on Wednesday and listen to what

Members have to say. Do not take it as a beating stick and beat me over the head, I am only asking how you feel about it.

I believe that the provisions I have talked about which are already contained in the amending Bill will have a major impact on the rate of accidents and road deaths. We cannot sit by and not make our best effort to protect our young drivers from such untimely deaths and horrible suffering from the injuries they and others can sustain.

Mr. Speaker, while we as legislators are doing our best, we appeal to everyone in the community to do their part. Government can only do so much to protect the citizens of these Islands. It is essential that teens and their parents become more conscious of what places teen drivers at risk and they must work together to minimise and eliminate risks. I want to appeal to others who intersect the path of teen driving: insurance companies, car sale companies, car racing associations among others, make it their mission to deflect teens from the path of destruction by the decisions they make and the advice they dispense.

Every one of us must become conscious of what places teens at risk. Among the key factors teen accidents are triggered by driving inexperience, driving too fast, powerful modified cars, and Mr. Speaker, I picked that up in a debate some time ago and I know that I have complained about at various times in the community. I have begged the community from various public meetings about these modified, suped-up cars— why do they need to do that; why do they have to follow every trend that is international held?

*[Background interjection]*

**Hon. W. McKeever Bush:** I do not understand why they have to have these cars. Some of the cars that you see on the road you do not know that they have wheels because they are lowered to the road itself. Then they have the boom boxes; they do not care if it is a funeral, church or what kind of event is going on. There is absolutely no need for that! Parents can talk all they want, complain, row, beg, and plead but if the child have that in their mind to go out and do, they will do so. As my mother use to tell me, "I cannot keep you around my skirt tail for ever so listen to what we have to say". Such as it be that does not seem to be happening. Far too many in their teens get their way and far too many parents succumb to the pleading of their children, "daddy I want this; mommy so and so got this; mommy go and ask daddy if I can do this." Sometimes they do not come and sometimes mommy will say, "yes, I asked your daddy and he said no." Sometimes this still happens.

I wonder whether we are going to have to go to legislation to stop the modification of the cars. We do not have the road system, and whether we had it or not, it cannot be safe for them to drive in the car

and you cannot see them. They have the front seat laid back and you cannot see them driving. If something happens I know they are not that alert to move quickly.

I see them coming down the road with one foot of the window, barefoot and sometimes I see young people out of the windows with the car moving.

We are passing this Law and I feel very deeply that it is going to help but what is going to remedy or stop some of these other things? I know it is this thing called follow fashion; they see it on television; they go to the United States and see it, and they go to university and see it happening. It is appalling and I am frightened out of my wits when some of those cars pass me. Sometimes it is not so much that they are going fast over the speed limit. We are driving at a slow pace and they are driving fast in the modified cars and doing some of the things I have just mentioned.

As a parent my two are over the teenage limit, they have children and I am a grandfather but it worries me what I see happening on the road. We do not know what parents suffer when they lose a child. We can only imagine and I have been to far too many funerals, as I said earlier, and saw beautiful children gone. We can only sympathise with the parents because we do not know, we only feel it and as someone says, it will last for life. I know it does because I know parents who have lost children thirty years ago still affected today. It hurts me as a person to know people in the community, and see how they react and have to live after the loss of a child.

We, as a Government must do everything. Again I wonder if the House should not look at something to stop the modification of these cars because we do not have the road system for it—we do not! I know that the General Elections are looming and teenagers can vote too—sure they can, but they are not fools and they know when you are doing something to help them. The only persons who can do that are politicians from inside of this House. They can go outside and beat up a storm, write letters and complain that McKeever did this or that to encourage the teenagers to vote against them—maybe! However, look at what they are doing! If we disagree in here, look at what we will be doing! I believe that we need to do something about these modified cars.

I understand that some of these modifications take place outside of the Islands and then they are imported. There is no need to have a car on this Island that you can just barely see the wheels. When it is coming front on it looks like it is rolling on something because it is so low down. That cannot be safe; I do not care what anybody says. Perhaps we should think of what we could do to stop it.

Some other causes are late night driving. Some young adults are out partying, and they are not necessarily out to a nightclub because some of them hang out at homes with their friends and they will take

a drink. Hopefully they are not doing anything else but when they are going home by themselves they can fall asleep.

I was away one night in 1995 and I had just bought a Lincoln and left it with my son. That night I could feel that something was not right and I was tempted to call home immediately but I said I would wait until the morning. My son's girlfriend was at our home and my son had left home, about 11 o'clock to take her home and coming back he said he saw a car and he swerved. It wrecked the car, costing \$10,000 in damages and just missed the pole. The Police told me he was a little over the limit in speed. I called home the next morning and found out and I have never forgotten that. I was away and I could have lost him just like that.

I am a parent and my wife and I have raised our children with good advice from our parents and what they taught us, but basically on our own. I know what other parents go through; I have been through it. I went through all the stress that you can think about.

Late night driving is a cause. A fascination with speed or racing and I have never watched any racing on television because it is not something that I enjoy. I think 40 miles per hour is quite enough. The shows they have on television; drag racing and NASCAR, I do not see the fun in it. I know it is a sport that lots of people like but what fun is there in seeing people going around and around in a circle and getting blown off the road, turning over or risking their life. I do not see the fun in it! I never did anything like that as a parent because I never wanted my son or daughter to get into the feeling that I drive fast and it must feel good to do that. I do not recommend it. I would rather sit down with my grandbaby and watch cartoons than to watch that sort of stuff. I do not see how it is educational either.

Mr. Speaker, as I said, it is a fascination with speed or racing when in the presence of teen passengers, or when driving in the company of other teen driven vehicles.

I sometimes say to my children, "Why are you going out?" They say "Daddy, it is alright because so and so is driving." Sometimes so and so is not a good driver and speed does all sorts of things. So, peer pressure is another reason why accidents happen. Parents of teen drivers who fit this profile should realise that their children are in danger and I want to warn that any of these factors will place them in danger. Even with this new legislation graduated licensing will minimise some of the risks, some more than others but it will not eliminate them.

I think I have said enough and I will allow others to speak to the Bill. However, before concluding, I want to commend the Committee who worked on this Bill including Pat Ebanks of Matt Safe who did a tremendous amount of work on this; the Police Department; the Youth Department; the Vehicle Licensing Department; representatives from Rotary and representatives from my Ministry.

I know all of us have this concern and I know all of you share my concern. Thank you, Mr. Speaker.

**The Speaker:** Honourable Members I propose to take the luncheon suspension at this time. We will return at 2.30 pm.

#### Proceedings suspended at 12.49 pm

#### Proceedings resumed at 2.47 pm

**The Speaker:** Please be seated. Proceedings are resumed. Continuation of the second reading debate on the Traffic Amendment Bill, 2005. Does any other Member wish to speak? Does any other Member wish to speak?

The First Elected Member for George Town, Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

The Honourable Minister who is piloting this Bill has delivered, what one might term as an impassioned plea for consideration of the Bill; the basis of which would appear to be the number of accidents and fatalities involving young drivers, perhaps more so in recent times than in times gone by.

I am one of those who have had the unwellcome experience of having to sit with parents and other family members who are grieving either the loss of a child or the near loss. At no point in time is it a situation that one would wish to ever have to encounter or experience again so, in that regard I think every Member of this Honourable House and most members of the public are of the view that the situation needs looking into.

Before I go into the specifics let me say that we on this side are in agreement in principle with having to look at what obtains presently by Law. We at the same time recognise and hold firm to the belief that while we look to one side of the coin we have to respect basic freedoms of individuals regardless of age. With that in mind we have to look at what obtains and what is being proposed and apply it to the age of an individual; the experience or lack thereof of that individual and then look at those aspects to decide what is best, not only for the society at large, but for young people of the age who we speak to.

Having said that, the Memorandum of Objects and Reasons of this Bill begins by stating that the Bill wishes to amend the Traffic Law (2003 Revision) for the purpose of further regulating the grant of driving licences to teenagers. So, from the onset we know the purpose of the Bill.

Looking into some of the specifics of the Bill, we understand the Bill defines a teenager as a person under the age of twenty. For all purposes and intentions the age group that we speak to in the Bill is between the ages of 17 and 20 years old, the twenty not being inclusive. As the Law obtains presently, once an individual has attained the age of 17 that person is

with the ability to obtain a learners licence, and after obtaining the learner licence the Law only requires for that person to set an appointment to do a written and road test. The results of those two tests will determine whether that individual is granted a drivers licence.

There are various categories of driver's licences but the same obtains for all of the various groups. It is very unlikely that a person who is seeking a driver's licence for the first time would opt to attempt to get a group four licence. More than likely they will get the group one licence and after a while with a little more experience and practice then they would get a group two, three, or group four. In any event what obtains from a practical circumstance by way of what is enshrined in the Law there is still one standard requirement for any one of these groups and for any individual once that individual has attained the age of 17 years, no qualifications or circumstances, so to speak.

This Bill goes to those individuals between the ages of 17 to 20, and as I said, 20 not inclusive; whereby it sets out a sequence of events which have to occur during that time period for that individual to be able to drive a vehicle depending on what group licence the individual applies for. It is obvious that the intent of the Bill is to put the individual through a certain level and number of paces to prepare that individual by way of a certain amount of experience, driver education and acquired responsibility. This is to ensure that at varying times during that age the person is less likely to either act in an irresponsible manner or find him or herself in a situation where they are not in control of the vehicle they are driving for various reasons.

The only thing, in my view, that truly has to be decided about the Bill is whether the amendments being proposed are rational, reasonable, sensible and practical. I do not think that there is any question about simply looking at it to see if one can improve the legislation which exists to enhance the ability of these individuals during this time period to be able to be safe drivers.

There are various clauses of the Bill: Clauses 3 and 4 which seek to amend sections 23 and 24 of the present Law are simply amendments to categorise this age group in both of the sections, showing the restrictions that they will have, whereby the sections as they are now do not categorise that age group. So, if these amendments are not made then anything else that follows would not obtain and be within the legislation so that they could be effective.

Clause 5 which speaks to section 25 of the Bill speaks to the various qualifications required and the specific conditions required for the individual to obtain a certain type of drivers licence, whether it is a learner's licence, a regular driver's licence or a restricted driver's licence. Some of the things obtained in the proposal are the times of the day during which such an individual may be able to drive a vehicle. I will

make a note here that in the Memorandum of Objects and Reasons, it refers to where Clause 8 is seeking to amend section 34. I quote: "**For the purpose of providing that a teenager who is a learner driver may drive a vehicle on the road if –**" and there are various conditions. But (b) says, "**(b) the teenager does not drive any motor vehicle other than an invalid carriage or motorcycle, between 10:00 p.m. and 5:00 a.m.**"

*[Background interjection]*

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I am being asked the question of whether it is invalid (not legal or official) or *invalid* (a disable person). Perhaps when it comes to a vehicle, either one of the two would be suitable. I am told by my legal luminary the correct terminology is *invalid* (a disable person). So, we are making sure that a carriage is only *invalid*.

I brought up the situation of the time being 10 am to 5 pm and that refers to clause 8. Clause 8 in the Bill itself speaks to the person holding a learner's licence driving between 10:00 p.m. and 5:00 a.m. The Bill speaks also to a restricted driver where it states: "**A restricted driver in respect of any group of motor vehicles may drive any vehicle of that group on any road where vehicles may lawfully be driven, subject to such conditions as may be prescribed in regulations, and if (b) the holder of a restricted drivers licence in respect of any motor vehicle other than an invalid carriage or motorcycle does not drive the motor vehicle between 11 pm and 5 am.**"

I understand that one is speaking to an individual holding a learners licence and one holding a restricted drivers licence, and I am wondering if there is a reason why the times are different. It seems that the person who is holding a restricted driver's licence is allowed to drive an hour later and I wonder what the rationale is behind that. Although, the conditions under which both parties could drive are very similar with regards to what is defined as an adult driver being present in the vehicle and a number of passengers et cetera. So, in the Minister's winding up we might wish to understand whether that is intentional or something that needs to be fixed; that is the one hour difference.

There is also in the Law some specific detail with regard to automatic disqualification. In section 2 of the proposed Bill, subsection (d) where it speaks to "prescribed limits", it says: "**in the case of a teenager who is the holder of a learner's licence or a restricted drivers licence – (i) three hundredths of one per cent weight/volume blood/alcohol concentration on a reading of an alcohol-in-breath measuring device.**" This is what we know as the breathalyzer test. So that we understand the comparison, as the Law obtains now, for persons who hold a valid driver's licence the requirement is that the individual should not register in excess of one tenth of one per

cent. That is .10 of a per cent of alcohol. What this is saying is that for a restricted driver that individual should not exceed .03 which is three hundredths of one per cent.

In practical terms the way the Law obtains now for anybody who has a driver's licence there is automatic disqualification if that person registers, on the breathalyzer, more than 1/10. However, what is being called for here for this category of persons known as teenagers, if they register beyond 3/100 there is automatic disqualification.

Blood alcohol level here is a little less than one third tolerant as to what obtains in the Law at present. It is obvious from what is being proposed that the message being sent is saying that there is no tolerance whatsoever. If you drink do not drive and if you drive do not drink. While I know individuals and the metabolism of individuals will vary, the fact is that more often than not, the consumption of one beer, not even one mixed drink, within a reasonable timeframe if one were to take the breathalyzer test it would certainly exceed three one hundredths of one per cent. I make that point not to say that what is being proposed should not be the case but I have to be honest in practical terms and say that anything shows beyond zero. I do not know how this is arrived at; whether there is a scientific formula which gives this.

The other thing that I am reminded of is that I am not one hundred per cent sure if there are not certain types of medicines which, whether by prescription or not, when consumed. . .

*[Background interjection]*

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if that is the case then it seems that there is some scientific evidence which says that this is where the tolerance level would be for medication. Having said that, I can respect why it is being done to allow for that, so that one would not be penalised if it is medication.

With the other two restrictions below, I think that they are on par with the first one. It is just a different way of gauging the measurements. The message, which is obvious, is there is no tolerance level for this age group; if you drive, absolutely do not drink. There is no argument about the point that is being made and I understand what is being done here to make certain allowances.

Mr. Speaker, the question of a person with a restricted driver's licence needing to have an adult in the vehicle, I am with absolute certainty that the average teenager finds this totally unacceptable. I think, that average teenager would believe that this is encroaching on privacy and everything else. I admit that I do not have the wonderful answer to this. I hear the reasoning behind what is being proposed but I wonder if there is some other way to deal with this.

While debating in this legislature most of us try to be as conscientious as possible. There are certain things you do not necessarily want to air publicly

because while people may think of it they are not thinking that it is very becoming. However, Mr. Speaker, there are many of us adults today who were courting at that age. Perhaps you were too. In all seriousness, one might want to say *'well! that is tough'*, but I am wondering if the times when responsible drivers have to be present in the vehicle cannot be looked at—although the counter to that argument would be that the later it is in the night the more you would want the responsible driver to be in the vehicle; on the other hand, if teenagers knew that when they were going to court their future spouse there was a fix time to do so . . . and even that is better than nothing . . . [laughter]

One may say that we need not address matters like that in the Law and the joke was passed earlier on about which of us use to like to drive fast. However, you want to create legislation which will serve the purpose that the Minister was talking about when he brought and presented the Bill. At the same time, we do not want to create a situation which is not practical. In the same vein which the Minister spoke about us thinking about some things in this proposed Bill, perhaps we need to think more about this and look at the various scenarios. Not many of us in here are that old whereas we are far removed from that age group and are unable to appreciate certain expectations, which are not unreasonable and do not necessarily lend to being irresponsible. At that age certain things seem to be natural. We can look at that to see if there is another way to deal with the situation.

While it is not in the Bill, I wish to make a few comments on what the Minister spoke about individuals who are disqualified from driving. The fact is there is a reason for the Law and I know of many people who I know personally and have listened to their problems after a disqualification, and understood the difficulties that such a disqualification would create, not only for the individual but within the entire family. In some instances that individual was the only one who drove in the family and it caused much hardship to even to go to the supermarket, and the Minister has put out some examples.

So, being disqualified, in a lot of instances can cause tremendous hardship for families, including loss of jobs and earning power and such delight. The difficulty when we look at that is, once an individual acquires a driver's licence then literally just about your whole life is built around being able to be independently mobile and on your own; whether you are going to meet a friend; whether you are going to work or wherever. Here in the Cayman Islands it is simply taken for granted that once you have your own transportation your vehicle is second nature. You may starve but make sure the vehicle has gas.

The point I make is that everyone, barring no one, if they lose their driver's licence by disqualification is going to believe in their minds, whether or not they can reasonably justify it to another party, that there are certain conditions which should apply to

their given circumstances; like going to work; taking the wife to work; or taking the children to school. So, I say that to say, that if disqualification is to serve a certain purpose it is going to be very difficult to set guidelines criteria or circumstances which would allow individuals to be able to drive at certain periods of time or during certain conditions. If it can be thought out practically and certain reasoning put to bear, whatever the benchmark is that is used, it is left there and it is not with a lot of grey area, perhaps then, Mr. Speaker, we could look at it.

I am saying this not to proffer the view that there should be no circumstances under which a disqualified driver is allowed to drive. I am only saying that I see difficulty in being able to create the circumstances under which you would allow a disqualified driver to be able to drive because everybody who has a licence and is disqualified will find reasons why, in their own opinion, they should be allowed to drive during certain circumstances. That is one that we indeed would have to think through because I am not so sure where we would use the benchmark and where we would level it.

Mr. Speaker, my colleagues will be going into certain specifics in the Bill and rather than duplicate the efforts I am not going into those specifics, I will leave those for my colleagues. In principle we support looking at this category to ensure that as responsible legislators we participate and propose the type of legislation that is rational but enhances safety for drivers, whether it is an individual of that age group or an ordinary driver on the road. All inclusive the statement is meant to be. While I understand how difficult it would have been for those preparing the Bill to find what would be an acceptable balance for all, that even after exhaustive thought process to put the Bill together in this manner there maybe just a couple of things that we would look at and hash out. We could look and see if there is possibility of coming up with something more palatable but still serves the purpose and intent of the Bill itself.

It is a very difficult one, and perhaps the truest of statements would be that no matter what you propose there will be unhappy campers. There are a couple of things that we want to look at before the Bill is passed. My colleagues will be discussing the other specifics. I say that the Government can rest assure that we support the Bill in principle. Thank you.

**The Speaker:** Does any other Member wish to speak? 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 short contribution to the amending Bill currently before us, which revises the period of duration of driving licence; to further regulate the grant of driving licences to teenagers; and to restructure the Public Transport Board.

Like any parent, I too live in fear of my teenager losing his life. I vividly recall the day he obtained his driver's licence and I loaned him a car for that night. I did not sleep the entire night and it reminded me of when I was young, giving me cause to understand what my parents went through.

Earlier today, I was saying to the Minister of Community Affairs that he, like the Second and Fourth Elected Members for West Bay, the Second Elected Member for George Town, and I, are so fortunate to have young children. I said that we should enjoy this time because the older they get, the more trouble they give with more concern. It is at this stage when they begin to reach the age of maturity that each one wants his driver's licence and we as parents become most fearful for their safety.

The Leader of the Opposition quite eloquently laid out the position of the Opposition. We support such provisions to have graduated licences in this country.

The Honourable Leader of Government Business spoke of the many young people who perished as a result of road accidents. The district of East End is no different in that regard because not long ago, I recall, in one year we had five young people in the prime of their lives struck down by road accidents. I recognise what the Leader of Government Business was saying in him sponsoring this Bill. He said that many places, within and outside the region, over the last few years, have introduced graduated licensing schemes and the motivation for such is no different from that which is motivating us to help save the lives of our young people.

One of the things I believe the Bill is missing is driver's education. I think the Leader of Government Business touched on it briefly. However, I believe that the plans to regulate anyone receiving a learner's permit would be required to do five hours with a licensed instructor which does not go very far. It should be introduced in our schools at the secondary level. I believe that it would go much further than just requiring a licensed instructor to train a young person.

In other jurisdictions there are the provisions that those who attend driver's education classes and get a certificate, not only reduce the time that is required to sit such exams, they also receive incentives, such as a percentage off of their insurance policy. In most instances it would be because of the parent's insurance policy why they would get the no claim bonus as a result of having been trained.

I wholeheartedly support mandatory training, be it through the license instruction, but more importantly I would like to see it in our secondary schools. Any parent who wants his child to drive should be prepared to pay a nominal fee (seventy five dollars or thereabouts) at secondary education level, which all children would have to go through. I believe it should be a part of the curriculum, particularly in this small

Island where we do not have the roads to support the kind of vehicles which the Leader of Government Business was speaking about earlier.

Each day there is a thin line that separates less Government and trying to protect the residents of any country and we have an obligation to ensure that our people are protected. Not only protecting the individual but other road users as well. I have a twelve year old and it will be a few years before he even think of a driver's license but I am prepared to take the backlash from him too.

I was taken by the requirement of Ontario Canada. In 1994 all new drivers who were applying for their first car or motorcycle licence entered the Ontario graduated licensing system where graduated license lets new drivers get driving experience and skills gradually. The two-step licensing process takes at least twenty months to complete, maybe a little more than we are proposing, but nevertheless it has resulted in dividends. Teenage road accidents are down and no one seems to complain any longer. Granted that was eleven years ago, however, some of the requirements, while similar to that which is being proposed, are different and I beg your indulgence to read some of the requirements from the Ontario Graduating License System.

There are different stages. It says, "New drivers earn full driving privileges in two stages and have five years to complete the program (G1, G2 or M2) and graduate to a full licence (Class G or M)." depending if is motorcycle or motor vehicle. For instance – **"Class G1- New drivers of passenger vehicles learn to drive with six important conditions with a G1 licence. A new driver must hold a G1 licence for a minimum of 12 months before attempting the G1 road test. This time can be reduced to eight months if you successfully complete an approved driver education course. Drivers earn more privileges after passing their G1 road test.**

**As a G1 driver, you are required to:**

- **maintain a zero blood alcohol level while driving;**
- **be accompanied by a fully licensed driver, who has at least four years driving experience, and a blood alcohol level of less than .05 per cent, in case he/she needs to take over the wheel;**
- **ensure the accompanying driver is the only other person in the front seat;"**

Here we say that they have to sit next to the learner or restricted driver.

- **"ensure the number of passengers in the vehicle is limited to the number of working seat belts;"**

I would like to stop there for a second. I am a little concerned with the learner's licence as proposed because it says that there should be no rear seat passengers. The first thing that came to my mind is that someone who is seventeen would be learning to drive

with his parents who would most likely be the mature/experienced driver and most times that happens on the weekends during the day. When the mother or father is in the front as the experienced driver, I am sure that there are other members of the family who would want to be transported at the same time and we may find that it creates some difficulty. When I had my learner's licence I wanted my father to go with me all the time and my brothers wanted to get in the rear seat as well. I think we need to have another look at that. In Ontario jurisdictions you cannot take anymore in the rear seats than the vehicle is registered to carry.

We have to put some responsibility on that person who is driving along with the learner. If it were left to me, I would require a longer, more experienced driver of four or five years because we will lessen that possibility where someone in their early twenties could be driving with a kid of seventeen years of age.

We as parents have a responsibility and I believe that we need to ensure that we make provisions for the family. We are also proposing that they cannot drive from 10 pm to 5 am and maybe that was put in there to ensure that they are not out at the close of bars. It puts curfew on them to ensure that at the close of the bars they are not coming home and they are not on the street as a learner or a restricted driver. On weekends we are restricting the family when they want to go driving and assist their teenager who has a learners licence. We are saying that only one parent can go with the learner. We know a lot of times two parents may not be at home, one can stay with the other kids, but a lot of times there are both parents and the entire family want to go out driving; this is a perfect opportunity for them to go. They teach their youngsters the responsibilities of the road and at the same time they get their experience. Maybe we need to take a second look at that.

I would like to touch on the area of the experienced driver not being drunk while accompanying a learner. I have seen where we have learner plates on a car—now I am not saying that the person driving was a learner but there were plates displayed on the car. Unfortunately all of our learner plates are permanent; therefore, it could be anyone driving the car. I believe that those learner plates should be from a temporary perspective only when that person is driving the car. It should not be permanently fixed. I have seen on a number of occasions where the person in the front seat was sleeping and the other driver was going along. I am not saying that was a learner but they had permanent learner plates affixed therefore we can assume that it was a learner as well as we can assume that it was not. Anyone can use a car and it does not say that you have to be a learner. Maybe we need to put provisions in there to ensure that the experienced driver is not drunk either, if we are restricting the learner. Maybe we need to say zero level of alcohol, period, whilst the person is driving.

There is the issue in the Ontario Graduated System where there are different roads that you are

allowed to drive on. Unfortunately, we do not have highways and cities like Ontario. So, that would not apply to us.

When you look at class G2 Licence it says: **“Class G2- New drivers must hold a G2 licence for a minimum of 12 months before they can attempt the G2 road test. At this level, you have more privileges because of your driving experience. You may drive without an accompanying driver on all Ontario roads anytime. However, you are still required to:**

- **maintain a zero blood alcohol level while driving;**
- **ensure the number of passengers in the vehicle is limited to the number of working seat belts.”**

So, there are still restrictions after getting the G1 licence and you have to hold that for one year before you can do the G2. I smile because this applies to anyone going to Ontario and someplace we are saying that if you come from an international recognised country which subscribes to the same licensing process you are exempt from it here. I do not know why we said that because people come to this country and they do not understand the traffic signs and regulations of this country.

I have a very good friend who migrated to Canada from Jamaica and he took these tests four times and failed. So, it was not that he was exempt because he had a licence in Jamaica; he had to go through the same process in Canada. The road network is more sophisticated than what we would have in Jamaica or Cayman, but certainly we have to try and find somewhere to ensure that the persons coming to our shores understand the road signs in this country. Many times people come to our country and drive on the other side of the road; that in itself gives us anxiety about other road users, such as those coming to live amongst us.

The fact that someone comes from a country where we have a much more sophisticated road network does not mean that they understand ours, and I believe, that provisions need to be put in place to ensure that these people understand. Even just a test; will be more revenue for us. There is a period of time when you can transfer your licence from another country and get a Cayman license. However, you have already been on the road unaccompanied and it does not take six or three months for an accident to happen. I have seen people come to this country with their licences and get in accidents within a short period of time because they have been authorised to drive in this country.

One may argue that we have to put up with when visitors come to the country and vehicles are rented to them because we do not expect them to go through the same long process, and such is the case with us wherever we go. When Caymanians go overseas we can rent a car but there are a number of in-

structions given to you. Many come into this country and do not receive any kind of instructions, particularly that which the rental agencies are required to pass on to the rental and I also believe the same applies to those people who come in here come to work or spend extended times with families who go straight into driving private vehicles. We have to be extremely careful with that.

In Ontario there is the same graduated system for motorcycle riders. You get Class M1 then go to M2. There are restrictions, for instance, Class M1 Motorcycle licence- you must ride only during daylight hours (1/2 hour before sunrise to 1/2 hour after sunset). These are the kinds of restrictions that are placed on motorcycle riders who are trying to obtain a licence. Many may say that is harsh but motorcycles are extremely vulnerable, more so than a vehicle. I have had my share of leaving skin on the sidewalk from motorbikes. I hear the Member for North Side saying that she did not know I rode motorbikes. Well, when it was the motorbike craze, I was one of those riders.

I want to touch briefly on the area of the restricted licence under section 34B (3) and (4). **“34B (3) and (4)- (3) A person who drives a vehicle under the authority of a restricted drivers licence and who is in breach of any condition attached to that restricted drivers licence (whether by virtue of this Law or the regulations) is guilty of an offence.**

**“(4)Whoever is convicted of an offence under subsection (3) is liable on summary conviction to a fine of one thousand dollars and to imprisonment for twelve months and the Court may order that he be disqualified from holding or obtaining a driver’s licence for such period not exceeding twelve months as the Court deems appropriate and the particulars of the conviction shall be endorsed on his restricted drivers licence.”**

Section 9(4) says: **“9(4) No teenager shall be granted a restricted driver’s licence for any group of motor vehicles –**

- (a) if, at any time during the period of twelve months preceding the date of the grant, he has been convicted of a serious traffic offence; or**
- (b) if he had not first passed the prescribed written examination for that group.”**

It appears that we are depending upon the examiner to enquire as to whether or not there has been a serious traffic offence committed. If regulations attached to a restricted driver’s licence are breached by an individual, he will go to Court. The Court may order that individual to be disqualified from obtaining a driver’s licence for such a period not exceeding twelve months, or as the Court deems necessary. I think the same should apply to the learner’s



licence. If we have a seventeen or eighteen-year old individual who has breached the restrictions, then we need to look at it and stop them.

I am sure the Second Official Member will pass on my comments in order that they may be considered in the Leader of Government Business' reply. It seems as though my debate is not that entertaining, if I was ranting and raving they would all be here; they love that! They love to hear if I am going to deal with them individually! Mr. Speaker, I am nevertheless going to go on because I do not have time to waste.

The Leader of Government Business mentioned—and I am only going on to this area because he mentioned this. He is very good at throwing out and waiting to see what the reply will be, whether it is in the press or on the Floor of this Honourable House. He mentioned an amendment to the Traffic Law to provide for those who have been disqualified as a result of DWI; the possibility of allowing them to go to work during daylight hours.

I know that there are many individuals in this country, who as a result of losing their licence from driving under the influence have had hardships in their lives, be it one year, eighteen months or whatever. There was a time when I lost my licence also but it was not because of DWI. I lost it because while working with CUC I had an emergency in West Bay and I was doing 60 in a 40 mile zone trying to get to West Bay before someone became electrocuted from a line that was hanging two or three feet off the ground. I was stopped by the Police and the judge had no pity on me so he took my licence away and charged me \$600 for three months. Of course, knowing me, I did not stop there; I appealed it and was successful in the appeal. Of course the appeal did not come off for one year and I already had my licence back, but I continued with it.

So, there are mitigating circumstances under which one can lose his licence and that makes it extremely difficult on a family and in a lot of instances they have to change their jobs. I am not overly excited about their being mitigating circumstances when someone has been to a function, bar, and has consumed alcohol that it puts them to the point where they may not be able to operate in a safe manner a piece of equipment which could endanger other lives. Someone has to come with information other than that which I have to convince me that there is some mitigating circumstance there that would prevent that person from serving that time out. This can happen to any of us and there may be circumstances where that person had one alcoholic beverage and it threw it over the limit and he was so unfortunate to be caught. However, the fact is the Law says that at that level you cannot safely operate a piece of equipment, whether it is one, ten, or twenty beers, it does not matter, your blood level is way over what is safe to operate that equipment.

My proposal to assist the Leader of Government Business is: We may want to consider reducing

the time, instead of the one year that is mandatory, reduce it to three months. At that stage you are already drunk; you are already going to Court, the past is the past and you have to be punished for that and you are not drunk when you walk into court. Since you were caught you probably sobered up every day since. So, if we want to assist those people we reduce the time and require that they wear for the remainder of the year a bumper sticker which says, '*I was caught driving drunk;*' that is fine punishment—do not follow me to the grave or to the court, or whatever the case may be, but somehow if you do the crime you have to do the time. There is no way that I am going to support that anyone drives during the day then you cannot drive at night. We would then have to monitor and enforce that. How are we going to do that when we cannot catch the speeders on the East End Road now in the absence of the Police?

We cannot throw another wrench in this gear to take out a few more mesh and teeth. We have to ensure that it is enforced and to do that we need more Police officers; we need the mechanism in place; and we need tracking devices or alternative sentencing methods. It causes too much problems, but if we find a person whether night or day and he is disqualified, then he is disqualified. If we require them to go to counselling and prove that they have done so that is another method that we can apply. In most instances someone who has been caught does not have a drinking problem; they just had a good time that night. Many of them do not have a drinking problem but many of them do. In the same token if they all knew that they had to go through the embarrassment then they would cut down on the drinking.

I promised that I would go back to the responsibilities of parents and of parenting when it comes to teenage drivers. As I said earlier, the agony that I have been through, which I know we all have experienced if we have teenage drivers. We cannot all be responsible and our children cannot be with us all the time so they have certain responsibilities too. We would not have to be here today debating this if parents would take their responsibility more seriously. I have a teenager and he enjoys the thing about the cars also, but certainly not by me condoning it. The first time I got a car, I had to buy it. My father promised me that he was not prepared to lose his house by allowing me to use it as collateral. He said, "Work for it and you will get it." Sometimes that could be considered harsh, particularly now when parents are within better means, however, with the accompanying driver there are some responsibilities that parents have to now take on.

The other responsibility that is of more importance is that we have to be responsible with the keys to operate this equipment that we have in our yards. How many times have we not heard that a teenager stole his parents' car and went out and had an accident? There have been fatalities as a result of it. The

only way the car can be stolen is if he or she uses the keys.

A teenager now, is no different from when we were growing up. We all went through the stage where we believed that we knew more than our parents and that we were more responsible than they. So, if they leave the keys out we are going to steal a joy ride in the middle of the night. We have all been there – and I see a little smile on your face, Mr. Speaker. In your day you might have had a bamboo stick horse and did not have the opportunity for the motorised vehicle. *[Laughter]*

We have to be responsible enough to ensure that only when it is convenient to us should our teenagers get into the vehicles. We cannot afford to allow our kids to fulfil the temptation of borrowing that vehicle without permission. Mr. Speaker, many a young person has succumbed as a lack of the responsibility on the parent's part. I feel sorry for them all and sympathise with them. Fortunately, I have one that is almost out of the dark woods and the other is coming into it. So, you can imagine what I will be going through for the next ten years; I am no different from any other parent.

I am trying to say that it does not matter what we legislate here and how much we support the legislation in front of us. We also have a responsibility; we cannot legislate morality. We legislate and govern the behaviour of people but not morality. It must be practised and many of us will go and sacrifice our own wellbeing to ensure our kids have everything they want. It is not teaching them principles or values. Albeit harsh, my values were instilled and I would not want to put my children through that same process, but they must understand that this is not about wants; this is about needs.

It can be applied to cellular phones; every child eight to ninety nine has a cellular phone. Before they can stick their fingers on the buttons they have a cellular phone, before they get their drivers licence they have an M3 and G3, G5 and G10 airplane in the garage. Do we really think legislation is going to control that? Legislation is not going to control it. I will vote yes, but do you think that is going to stop it? No, I am sorry but it is not going to stop it. If parents do not take up the responsibility and ensure that the young adults are not irresponsible, then it is useless. The legislation will not be worth the paper that it is printed on. I am sure the Minister of Community Affairs, when he gets up, will tell us about that.

My plea is to the parents: Let us ensure that we do not allow our children the lack of responsibility, on our part, to supersede the Law. That is the key in this piece of legislation. We continue to legislate and try to control the teenager but nothing will come of it if the parents do not enforce the values at home. Stop buying them cellular phones. Anywhere my twelve year old child is, it must be in the company of someone who is responsible or at school, and if the teach-

ers are not responsible enough to call me when something happens to my child then I am not sending him back to that school. He does not need a cellular phone and he does not need his ears pierced either. After he reaches eighteen I am still going to discourage him but I will only be able to talk then. I am responsible until eighteen and the day he is ready to leave, take my clothes off because I bought all of those. He goes to someone else the same way he came to me, naked; that is simple!

We need to ensure that their needs are met and that includes clothes, education and all good stuff that will make them ready for adulthood. We need to teach our children responsibility. There is really no need for so many people to be lobbying the Members of this Honourable Chamber to legislate something that we think is going to curb the behaviour of our children when we are not teaching them responsibility, morals and values.

I support the Bill for what it is worth; if it does not worth anything I still support it and if it saves some of our young adults, all the better. I am glad to lend my support to the Bill.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? It is now 4.22 pm and we will be asking for the suspension of Standing Order at 4.30 pm.

You may continue Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker.

I rise to lend my support to the Traffic Amendment Bill 2005 that is before this Honourable House. I wish to be associated with the voices that have said that the objects of the Bill are in fact laudable and that it is timely, if not, overdue.

In recent years we have witnessed an acceptable level of carnage on our roads, largely attributable to youthful exuberance on the part of our young drivers. The situation is even more depressing when this youthful exuberance is twinned with excessive speed and invariably fuelled by a consumption of alcohol. There is an obligation on those of us who has the means to do so, to where possible, attempt to curb this youthful exuberance. It is incumbent upon us to put in place the necessary legislative framework to guarantee a more structured approach in the accusation of driver's licence. Our young people listening outside might wish to ask: 'why are they trying to prevent us from enjoying ourselves when they had their day?' The simple answer to that is that at our age we now have the benefit of hindsight and so we are in a position to do something about it and it is incumbent on us to do so.

The issue of enhancing performance of some cars by some degree of modification is also a contributing factor to the high level of fatalities that we are currently experiencing on our roadways. I therefore,

agree with the observation by the Honourable Leader of Government Business that at some stage consideration ought to be given to looking at ways to prevent people who are acquiring these fast cars to find ways to further enhance their performance. It is totally unnecessary and as I said before it is one of the contributing factors to the high degree of road fatalities in the Cayman Islands.

I am sure that all Honourable Members of this House are aware of the difficulties that some young drivers are experiencing in getting insurance coverage. It is as a direct result of the high amount of payout that the insurance companies are being required to make through the years as a result of these mishaps on our roads. There is a direct correlation between the stance being taken by the insurance companies and the difficulties we are experiencing with these young drivers and the accidents that are occurring on our roadways.

As I stand here I am thinking in my other capacity, when I am wearing another hat as prosecutor. It is not unusual for me and some of my officers to encounter the unpleasant task of having to determine whether to prosecute a young driver who drove a vehicle in which a family member has been killed. It is a very painful exercise because here you are faced with competing interest; you need to enforce the Law but you are not unmindful that the person you are now seeking to prosecute might have suffered serious injuries himself and is also traumatised by the loss of a young one. Therefore anything we can do, as legislators, to prevent these sort of circumstances from occurring, in my view, is a laudable approach.

I do not intend to cover the other grounds that have been well trodden by previous speakers but I would like to make on further observation and that has to do with the current state of the Law.

When a person has been disqualified from holding a driver's licence for a period of twelve months, there is no provision in the Law whereby a court, after six months can consider lifting the disqualification in circumstances where the person has not re-offended in those six months, or there is evidence of continuing exceptional hardship. So persons are faced with having to serve the entire twelve months disqualification period or sometimes the exception being if an application is made to the Governor for exercise of pardon.

So, I have canvassed with the Mover of the Bill that perhaps he might want to consider a Committee Stage Amendment which would include a provision in the Bill that allows a court to entertain an application after six months of disqualification to consider lifting the disqualification in exceptional circumstances. It would go a long way in helping to probably ameliorate the hardships that some of these people suffer as a result of a disqualification. It ought to be borne in mind that clearly it is not something that would seek, in anyway, to detract from the seriousness of disqualification as a result of a driving offence

and I would certainly, at some stage, take up the issue with the Mover of the Bill on this matter.

I would like to join in the encomiums expressed by the Honourable Leader of Government Business and others who have spoken on the Bill on the timeliness of this initiative. I also join in expressing thanks and go a bit further to congratulate those who have been lobbying for such an initiative, the MattSafe people; Members of the Road Safety Group or their advocates; the Director of Licensing; and certainly the First Legislative Council who I know have done a lot of research herself in this area. I think the Bill is timely and it is indeed a laudable move. I lend my unqualified support to the initiative. Thank you.

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

**Hon. Roy Bodden:** Mr. Speaker—

**The Speaker:** Honourable Minister before you continue, I would ask The Leader of Government Business to suspend Standing Order 10(2) to allow the proceedings of the House to continue.

#### **Suspension of Standing Order 10(2)**

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. We intend to complete the agenda and therefore I move the suspension of Standing Order 10(2) in order for business to continue after 4.30 pm.

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow proceedings of the House to continue 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:** Please continue Honourable Minister for Education.

**Hon. Roy Bodden:** Thank you, Mr. Speaker.

I rise to lend my support to the Traffic Amendment Bill 2005. In so doing I would like to add general comments and observations because I think some of the merits of the Bill have already been delved into in some detail by previous speakers and of course there will always be a committee stage if I wish to make any more profound amendments or suggestions.

The history of the arrival of the motor car in the Cayman Islands has always been clouded by the potential for the motorcar to be, in addition of course to a vehicle of convenience, an instrument of carnage. I well remember older Bodden Town people telling me in the 1930s when Sir Allan Cardinal was

Commissioner in the Cayman Islands, that when Caymanian people went to Sir Allan Cardinal to lobby for wider and better roads, he told them then to prepare the drawing rooms for the caskets of the people whose lives would be taken by these automobiles. So, from the inception of automobiles coming to Cayman there was a threat and cloud.

I remember also when the influx of seamen in the late 1950s and early 1960s came to Cayman the very first serious motorcar accident that we had in the Cayman Islands. As a boy that incident is etched in my memory; some West Bay people on the Bluff Road in East End in a jeep (then called pink ladies), I think one or two young men were killed and coming down through the ages.

What has compounded the situation now is that we have become a much more affluent society in which younger people have come to automobile ownership. Along with that has been ownership and in many instances no real formal driver education. In most of the developed and advanced countries there is a specific route because automobile ownership is regarded as a right 'depassage' through which one has to pass and there are checkpoints along the way and one has to pass through those checkpoints. We have some semblance of that but it is, to this point, an informal system entirely optional.

Some people go for professional driver education; the vast majority, I would say, do not. They acquire the necessary expertise or the level of proficiency which allows them to pass the driver's education test. They sit the test and get a licence with little or no orientation other than the absolute necessity as to courtesy, rights, responsibility et cetera and so we place them on the roads. Often these people have just entered adulthood. The situation in the Caymanian society is that some of these people come upon expensive and fast cars, quite naturally with no formal orientation, no lessons of formal responsibility inculcated in them and there is a temptation; the adrenaline; the business of being a young adult; kind of gung ho, let the spirit go sort of thing, and they tempt fate.

I said at one stage that it is a good thing Cayman does not have a war to fight because we certainly would not have many eighteen year olds to send on the battlefield or to send to boot camp, judging by the rate at which our young people were killing themselves in automobiles. It is a situation not helped by responsive over enthusiastic parents who see the presentation of an automobile as an arrival point, to mainly an adult son because it is usually the sons who are involved in these kinds of accidents and who destroy themselves. A point at which can be taken to mean that we have made it. So, sometimes what happens in these cases is that the parents do themselves and their children a greater disfavour than they do favours.

We have favourably good road, comparatively speaking, it is a very liberal attitude as far as

alcohol is concerned. Once you are 18 that is the age people can purchase liquor and drink in the bars and come on the roads. In other societies the system is much more stringent so that I am happy to see that we are putting some kind of system in place because there is a dire necessity. Heaven forbid that I would say that people should not have the freedom to buy their children automobiles if they wish or can so afford, but I am saying that the responsibility is also on parents to ascertain that their children are responsible and mature when presented with an automobile. An automobile is a good servant but a bad master. It is like anything else: it is like a firearm or fire; if it gets out of hand it can wreak havoc and destruction.

I remember in my own case, I was a mature adult before I owned a motor car. I was the principal of East End Primary School in the 1970s and I remember buying a used car from the manager of the Canadian Imperial Bank of Commerce (CIBC). It was a four-door sedan; there were not many sports cars around Cayman at that time. When I went to the school as principal in 1970 I suffered great inconvenience because I had no automobile. Often I had to come to the Education Department to meetings in town and there was no bus service as it is now. So, I got the vehicle out of an absolute necessity and I cherished it until I was in a position to afford something a little better.

The same is not the case now and so there is a necessity for us to take a different look and in these kinds of circumstances it is right for the Government which is the ultimate protector of the society to step in and address the need where it has to be addressed in the interest of the safety of all of us. So, I think in that regard we are on the right track. I have heard the articulation of how we should go about this and I agree.

What I want to add is this: In the last four years we have, at the Secondary School, introduced what we call a Life Skills Programme. We have recruited a gentleman from the United Kingdom, Mr. Nat King who is in charge of that programme. That is a very interesting programme because we do all sorts of things with the youngsters, preparing them for life. We spoke about introducing driving lessons and we probably would have been well on the way if it were not for Hurricane Ivan and its aftermath.

However, the driver education, as I have seen it in Canada in secondary schools, begins with the students having access to an automobile where they can acquire skills on the campus of the school even before they go out on the road. In addition to the classroom learning, there are certain basic skills which are prerequisites to going on the road; like they should be able to manoeuvre easily and should understand the basic road signs even before they are treated to formal roadwork. That is why we were interested in procuring such a site, as we have for the high school in Frank Sound, with twenty six acres be-

cause it is our hope that we can use a part of the campus to begin these kinds of lessons.

I hope we can get to the point where driver education becomes a part of the life skills that we now teach and impart to the students at the secondary school level. I would also hope that we can introduce it on all three campuses by the time we have completed the building of the three high schools.

I know that sometimes these kinds of Bills are difficult for people because some people will see it as an imposition. I believe that the ultimate responsibility of the state, in cases where such responsibilities are not assumed otherwise, is to step in with a genteel hand and ensure that a balance is kept; that the society is safe; and that we protect people, even sometimes to the point of protecting them from themselves. This coming from by my own admission, a human rights advocate. I have seen in the last number of years, too many young Caymanian men, whom we can ill afford to lose, destroy themselves through reckless endangerment, nonsensical and insensitive use of the automobiles,

Mr. Speaker, I have been in the automobile industry for twenty years prior to coming to the Cabinet in 2000 and through those twenty years I have learnt that it is fashionable and popular for young people to soup up cars. However, I want to say that when the manufacturer completes a car, that car is tested under certain specifications and conditions. Any modification of the automobile, altering of the superstructure weakens the ability of the automobile to withstand impact because the cars are manufactured to certain specifications. When one alters the suspension or changes the suspensions; the tyres; or soups up the engine, that vehicle is unable to obtain a warranty because it is considered tampering with the vehicle and a change from the state it was in. Therefore it alters its ability to withstand crashes, to perform certain ways et cetera. You will find out that if someone buys a new vehicle and does that to it, it is a vehicle between one and five years old that the warranty is voided. If the insurance finds that out they will void the insurance. The automobile manufacturer will assume no responsibility for anything which happens as a result of a defect or a breakdown in any function of the automobile so that there is a danger.

It is compounded by the fact that some young people are so experimental and gung-ho, and attracted to speed that they do all sorts of things. I know they modify the engine; tamper with the fuel additives; change it so that it has an afterburner and they mix nitrous oxide which gives it an immediate acceleration. It is like a rocket, you push a switch and a booster kicks in to make the vehicle move like a rocket. These are dangerous practices and they are worse when you consider that some of the automobiles are midget size with suspensions not designed for high impact.

I had a police friend who told me that there is a popular and dangerous game youngsters played.

They bet \$500 on a game called "rounding the horn", they would leave from George Town go around Queen's Highway and meet back at a certain point and whoever won got the pot. These races would go on about one and two in the morning, sometimes I would hear them passing Bodden Town.

One would think that one or two in the morning to be safe hours to be on the road speeding but there is no safe hour to be speeding on the roads in the Cayman Islands now. Fortunately and happily such a practice seems to have discontinued largely through pressure from the Police and through the young people themselves coming to their senses; but this is the nature. This is not unique to the Cayman Islands. Any society where you have the introduction of the automobile young people did these kinds of things and there is a classic movie with Dean Martin, Rebel 'Without a Cause'. So it is documented in history.

I am happy that we are moving in what seems to be a sensible way to ensure that our young people use automobiles sensibly. I used to tell people when they came to the showroom that the primary purpose of an automobile is to move from point 'A' to point 'B' in comfort, safety and convenience. That is basically the purpose of the automobile.

When Henry Ford invented the conveyor belt he revolutionised and mass-produced the vehicles; that was the idea. It was predominantly for the use of the rank and file to be able to move themselves from point 'A' to point 'B' in comfort, safety and convenience. Those people who want the use of the automobile for a sport will have to go on the Grand Prix circuit. If there are Caymanians who would wish to do that I would encourage them in their aspirations, but the roads of the Cayman Islands are certainly not a Grand Prix circuit.

I would hope with the acceptance of this Bill and with the provision as I see it increasing now for formal driver education that we could have better results.

Before I sit down I want to say, that I noticed more so, since Hurricane Ivan, that courtesy on our roads are deteriorating. There are more people taking reckless and careless chances endangering not only themselves but other people as well, including other drivers but equally as important, pedestrians and pedal cyclists.

In Canada and the United States there is the point system and it goes like this: once you get a certain number of demerit points against you it is mandatory to go for driver re-education. You can get those points for bad parking, speeding, and as a result of disqualification for DUI. I believe the time has come in the Cayman Islands for us to begin looking at a point demerit system. We are having an increasing number of drivers on the road. It seems as if many of them are in a hurry, even in a jurisdiction where it is difficult, if not impossible to reach from point 'A' to point 'B' within half an hour or forty five minutes of your set-

ting out time. I see it on the road every morning— up until this morning, people are taking unnecessary chances and being discourteous.

I would hope that with this Bill all and sundry can get the message that we are for promoting orderly sensible driving and the automobile is to be used as a convenience and not as a weapon of war or weapon of self destruction.

I lend my support to this Bill, commend the Mover and all those who support it and say let us move forward and make the roads of the Cayman Islands as safe as they can be by acknowledging that there are certain principles and practices that we should all observe. The Law should only trip in, in those cases, and they should be few, where there are one or two people who take a radical departure from what is normal practice and courtesies. Thank you.

**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. Much has been said about the Bill that is before the House and if it were not that I felt so strongly about this issue I perhaps would have missed my turn this afternoon.

Like so many who have spoken before, I too have looked into the anguished eyes of a mother who has lost a son; I too have been dumbstruck when trying to think about what to say to a father who is rendered inconsolable at the loss of a child struck down in the flower of his youth.

So, while I too have grappled for a long time about whether or not we should impose legislation such as this, which will seriously restrict the mobility of young people, I have been driven to the conclusion that it is something not only right but something that I believe it would be remiss of us not to do.

I am not so removed from those years, by the passage of time, that I cannot remember vividly what it was like to be young, carefree, and full of fun and testosterone and to understand the thrill, the need for speed. I do not pretend now in my forty-fourth year that I was some sort of a road angel; I was not. I learnt very early; I got my learner's licence on my seventeenth birthday; I could not wait. I started driving when I was twelve and at every opportunity I could get, not on the main road but every opportunity I could get to persuade my father or anyone else who would let me drive to take the vehicle for a spin. I have had a love affair with the automobile most of my life. Even now when I drive a ten-year old pick-up truck I still get excited at looking at nice vehicles. I keep saying one of these days I am going to buy myself something sexy.

I got to know very early, the year after I graduated from high school, that I attended the first funeral of one of my school mates who was killed in

front of Wholesome Bakery in a motor vehicle accident. For me it goes back even further than that. I remember in 1975 when I certainly thought young people did not die, that there were two members of the graduating class of that year who did not make it to the graduation because in the time between school finishing June, and in those days graduating ceremonies were held in November, they got killed in a vehicle accident at Dixie Cemetery where they ran into the wall. That has been forever etched in my memory. I have never forgotten that.

Youth, inexperience, testosterone, peer pressure and alcohol make the deadliest of cocktails that you can consider. When you are seventeen, eighteen and nineteen, and unless things have changed radically since my youth, all of those are present most of the time when you are in a motor vehicle out with your buddies on a Friday and Saturday night.

I always thought that I was a sensible and responsible young man and most people thought that as well, my parents in particular. I suppose compared to many of my cohorts I was a much more sober individual in that respect. I always worried about what would happen if we did this or did not do that. I can tell you from personal experience when you are that age and all of your buddies have fast cars you can believe you are going to want one too. I can say this as well, for I have done all of this, you do not buy a fast car to drive slowly. You may tell your parents, the insurance company or your teachers that, but there is no way with all of those horses galloping under that hood that when you get the opportunity you are not going to stretch their legs. Been there and done that and thankfully with the grace of God I can say I am here to be able to tell this tale.

There is no getting around that; that is the nature of young men in particular, and I do not think that we should stand here hypocritically and say that I have not felt this way and I have not done these things. I do not think that we can try and pretend that our young people ought to be kept from the experiences of watching racing or having access to these sorts of vehicles. No matter what we try to do it is just the nature of the young human being, particularly young male to want to have these experiences and want to feel the rush and thrill of speed.

So, I do not want any of us to fool ourselves into thinking that by passing this legislation that will quell all of these desires and itching and the wanting. What I do believe is that we simply cannot close our eyes to the devastating reality, fatal and dangerous cocktail that I referred to, what that does to people, families and what it does to the nation when you have to bury young people because they made an error of judgement.

I believe that this legislation seeks to create an environment which will require additional training and experience, guidance, supervision for a period, and also allow them to not only get more experience

but to get older before they have the opportunity to actually grab one of these vehicles for themselves and venture on to the highway unaccompanied.

Based on my personal experience and my observation with persons younger than myself, the youth is the most critical. When you are seventeen, eighteen and nineteen you are learning so many things all at once, particularly if you have come from a sheltered upbringing. You are checking out alcohol, you now have the freedom to associate with persons whom your parents would not allow you to associate with when you were much younger or if they did, in very confined circumstances, so that you were not free to do all of the things that you felt that you ought to be doing which they were doing.

So, in that situation peer pressure becomes even more powerful because you believe that you need to prove to them that you are a man and not some sort of a mamma's boy who cannot drive fast or take risks. The older you get the less peer pressure really matters because you become more confident and secure in your own ability to do various things and it matters to you less what your peers think about what you do or do not do.

So, I know that young people are not going to be happy about this. They are going to say, 'you all have had your time and now you are trying to keep us from having fun when we are young.' There is no question in my mind that this is going to seriously restrict their independence in mobility; in other circumstances what they can do is going to be restricted.

No young person, especially when you are reaching that age, is going to embrace that and say that they are just looking out for us. That is the age at which you feel that you have seen it, done it, you have been under the guidance, supervision, direction, constraints and restraints imposed by your parents and the school system for all of those years. When you reach eighteen you think that is a long time. It is only when you get older that you realise that you did not 'start' to live at eighteen years old. So, they are going to be less than happy with this. I believe that it is not only a good thing, but I think it is critically necessary.

We cannot let the situation continue as it is. It is not going to result in preventing further deaths on the road, I wish I could say it would, but I do believe, and evidence from other places indicates, that it does have a real positive impact on the situation. It significantly reduces the number of teenage drivers who are killed as a result of accidents.

The provision which restricts the number of persons who can be in the vehicle, when you first examine that you say maybe that is unnecessary and unnecessarily restrictive, but again I can speak from personal experience. When you have a gang of your buddies in the car urging you on, or even if they do not urge you on by saying 'get him', the fact that they are there and the fact that you need to prove to them that you are not going to make so and so cross you

without trying to stop them, or trying to show that your car is faster than theirs.

While there is a drafting error in what is being proposed, I believe the concept is absolutely dead on. While it is going to create some problems, I do not think that learner drivers ought to have anybody else in the vehicle with them other than their instructor. You are unnecessarily exposing other persons to risks, which you need not do. I give this Bill my support, even with the outcry that I anticipate from the younger persons in the community..

I am being reminded that I said I was going to point out the drafting error I think I have discovered. It is on page 12 of the Bill, Clause 9 (c). To be able to understand that I think I must go back to the beginning which says: "**34B (1) A restricted driver in respect of any group of motor vehicles may drive any vehicle of that group on any road where vehicles may lawfully be driven, subject to such conditions as may be prescribed in regulations, and if -**

**(c) the holder of a restricted drivers licence in respect of any motor vehicle other than an invalid carriage or motorcycle does not carry more than two passengers or such other amount of passengers as may be prescribed.**" This is saying that a restricted driver can drive a vehicle which does not carry more than two passengers or such other amount of passengers as may be prescribed. Prescribed meaning by regulation. In other words, by regulation they can change the two passenger requirement to some other number. That is fine but we move on to subsection (2) which says: "**The holder of a restricted drivers licence in respect of a vehicle other than a motorcycle or moped may carry passengers if the restricted driver is accompanied and supervised by a person who has been fully licensed and qualified to drive vehicles of the group being driven for a period of at least three years and who is seated next to the restricted driver; but not more than three passengers (including the person supervising the restricted driver) shall be carried.**" We arrive at the result that even with an instructor the number of passengers cannot be increased beyond two because the instructor is counted as one of the three passengers. So, the effect is not to increase the number of passengers to more than two, which I believe to be the intent of this subsection. Therefore I would ask the Honourable Second Official Member if he would have a look at that and determine whether that is the intention. If it is intended to increase the number of passengers in the scenario set out in subsection (2) that is not the effect. That is not a policy matter, if it is an issue it is a drafting situation.

Mr. Speaker, if I could, I will speak briefly to the question of the mandatory disqualification of persons convicted of driving whilst intoxicated. This has always been a vexing and very controversial issue. Driving whilst intoxicated is a very serious offence; there is no question that many accidents and many

fatal accidents have an element of involving someone driving whilst intoxicated. It is an aggravating factor and the result of someone driving whilst being intoxicated can often have fatal results.

So, we have to take this offence seriously and under our Law there is a mandatory disqualification for twelve months. The result often is that persons have to leave their jobs or all sorts of special arrangements have to be made to accommodate them because their job involves some amount of driving.

In the short time I have been an Elected Member, I have had occasions when persons have come to me who have been taxi or bus drivers and have lost their licence as a result of conviction for DWI in a relation to an offence committed not while they were working; that is not when they were actually driving as a bus driver or a taxi driver. In the two instances, I can recall, it resulted in really serious financial consequences to those individuals and their families. These individuals possess no other skill sets which made them readily marketable and easily able to obtain employment elsewhere.

Some will say that you ought to consider that when you went out and considered the offence and that is true; you know that your job depends on your having the ability to drive yet you commit a traffic offence which has a mandatory consequence of disqualification. If one looks at it from that perspective you will say: *'let the chips fall where they may, you made your bed, go and lie in it. It is tough if your family suffers and you cannot send your children to school or pay your mortgage.'* This is a matter that I have given a lot of thought to over many years, while in this Honourable House and while I was practicing.

I have had the occasion when I was practicing to look at legislation elsewhere and look at cases to see if there was the slightest possibility of being able to put an argument to the magistrate about why he had some sort of inherent discretion not to disqualify in particular circumstances. The settled view of the Law in Cayman is that under the current legislation the magistrate has no discretion whatsoever, no matter what the situation or consequences will be to the individual, his family, or his employer; it just does not matter.

I believe that there ought to be some discretion. The difficulty is that once you introduce discretion, what is the exercise of that discretion? I also believe that there are situations where disqualification for a year causes far more hardship than the lesson they are designed to teach is worth. When a mother and a wife is forced to have to scabble and scramble to meet the monthly obligations of the family because the father has been disqualified from driving because of his own stupidity; when children are unable to go to school; when you have to seek assistance from Social Services because of the consequences of that, I

think it is time that we as a Legislative Assembly need to reconsider this issue.

I am not going to advocate that simply the need to drive from home to work is a basis on which you ought to have the ability to make an application for the disqualification not to be imposed in this case, or for the disqualification to be lifted. The fact that you need to hitch a ride to work or to go to the supermarket, restaurant or to the barber shop is an inconvenience. It may be a grave inconvenience but it is an inconvenience and not one, I believe, is sufficient for you to be able to base an application to the Court for disqualification not to apply in your case. There needs to be inconvenience as a result of this otherwise it is not teaching you a lesson. If everything is going to move along honky dory with business as usual, despite the fact that you have committed this offence, then it makes no sense to have the disqualification in the first place. Where there needs to be discretion is where a legitimate case can be made out of hardship because your job literally depends on it. If you work in the emergency services you therefore need to have the ability to respond when there is an emergency, or if you are a taxi or bus driver and it is critical. There may be other exceptional circumstances where you may have family members who are gravely ill—one can think of a range of possibilities that I would regard as possibly exceptional circumstances. However, I believe that we would make an error if we tried to encapsulate what exceptional circumstances would be and tried to define it and place it in the legislation.

I do not support the Honourable Second Official Member's suggestion where you put in a provision that after six months you could apply to have the disqualification lifted because you can then prove some degree of hardship. I am not for a moment suggesting that if you are disqualified that there should not be a provision to allow you, in due course and if a hardship arises, to make such an application and that the court should have the discretion then to decide whether or not to lift the disqualification, I am not saying that at all. I am saying that it seems to be pointless if you know from the start that this man is a taxi driver or you know his wife is chronically and seriously ill. If he is the only person available to take her to the hospital or deal with the children, why wait for six months to see what degree of hardship that family has endured before the Court has an opportunity to exercise their discretion to lift the disqualification?

I suggest that we invest the Court with the discretion not to disqualify for the entire twelve months in exceptional circumstances. I am not suggesting that we should not attempt somehow to establish the sort of circumstance we are talking about, but not by listening that these are the only ones, but to sort of develop parameters by which a set of circumstances can be considered to be determined whether or not the situation is exceptional. I would support that and if we need to take some time to have



that properly in a way that I think would become acceptable to Members then it is certainly something that I would support. That is what I have to say about that aspect.

In relation to the Leader of Government Business—I am not sure how to categorise what he said but I think he floated the idea of provisions in the legislation to provide against modification of motor vehicles. I understand the concerns about modifications because some of them are unsafe; a lot of them have to do with making the vehicle able to go faster than it once did; and to be able to accelerate more swiftly than it once did. So, providing that the vehicles ought not to be modified either here or off the Island is going to resolve the issue of speed, I would agree with him. However, providing that you have the money, you can walk into a car dealership and buy vehicles that literally fly that come from the factory. I really do not think that dealing with modifications to vehicles here, by passing legislation preventing it is going to address the issue at its heart. The issue is speed and you can buy factory built vehicles that can outstrip anything that they can do to those modified vehicles in Cayman.

I hear the concern about that and while we are on the subject of speed, I did say that it is natural for young people, particularly young men, but not limited to them because I know a number of young ladies who are seriously into racing, not that they physically do it but they watch NASCAR and all of the other races and they are seriously into speed. There is nothing wrong with that; it is a dangerous sport but it is a world wide internationally recognised and highly watched sport that has been around for a long time. There is nothing wrong with speed. There is a huge problem with speed on our roads because the roads are not designed for it and the number of vehicles that we have on the Island now make it very unsafe.

We are going to have to find an outlet for our young people and some older ones too who are into speed; those who like the idea of racing and all that goes with it. There were plans for the development of a race track beyond Pease Bay but I am not sure what has become of it. This much I know; unless young people, particularly young men, have changed a whole lot since I was twenty, which I do not think they have—is that those who are inclined to drive fast will seek and find an outlet. If there is not somewhere where they can do so in an organised and relatively safe manner they will utilize what is available, which are our roads. That is the reality!

I have two young sons, the elder of which have discovered, seemingly at the same time, a love for music and a love for fast cars, so I am really concerned about these things when I think of some of the things that I use to get to up to with vehicles.

Mr. Speaker, you remember well because we come from the same neck of the woods, I had a Corvette too. So, when I think of some of the things that I use to get up to and when I see his fledgling interest

in vehicles, I worry about his safety and the safety of his friends and the safety of other road users. That is why, with all of the criticism that is likely from the younger in the community and no doubt from him as well, I have come to the view that we must support the Bill that is before the House. However, we also, as Legislators and as a Cabinet, really need to think again about supporting those organisations and individuals who are prepared to do what is necessary to develop proper racing facilities on these Islands.

It is only through outlets like that that we will be ultimately able to deal with the need for speed which I have to accept because I have been there and done that. It is an integral part of many young people, particularly young men. It is something that goes with the territory; it is something of a right of passage. Not all young men get into it but certainly in my day all of the boys were into it and I suspect that things have not changed a great deal in the past twenty five years of those reckless days of my youth.

I do not believe that I can say much more about this matter. A lot has been said but I know that the Bill is not perfect and I know that it will draw criticism, but I believe that it is the right thing to do.

As I was about to conclude my good friend from East End has brought to my attention the fact that there is a provision in the current Traffic Law under Section 58 which provides that the Governor may by regulations provide for, among other things—I am sorry, Mr. Speaker, I was thinking this was another section but there is actually a provision in here which allows for the licensing of certain places and certain roads time trials and speed racing. The Commissioner of Police has that ability under the Law. So, clearly the legislators at that time contemplated the sort of situation that I was just discussing, and that is that we need to be able to make provision for the racing of vehicles in relatively safe circumstances and in a way that they will not pose a threat to other road users.

With those observations and few words I offer my full support to the Bill before this Honourable House. Thank you, Sir.

**The Speaker:** Honourable Members, maybe this is a convenient point for us to take a ten minute afternoon break. I ask you to please be back in ten minutes because there is still an amount of work on the Order Paper for the day. Pease be back by quarter to six.

**Proceedings suspended at 5.35 pm**

**Proceedings resumed at 5.59 pm**

**The Speaker:** Please be seated. Proceedings are resumed. Continuation of the Second Reading debate on the Traffic Amendment Bill 2005. 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 would the Honourable Mover wish to exercise his right of reply?

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

Let me begin by thanking Honourable Members who stood to contribute to the debate on the proposed Bill, and to thank those who did not, for their support also.

I note that without exception each Member has voiced support for the Bill and I note as well that there are still questions about the rationale behind certain measures contained in the Bill before us. Consequently I propose to clarify some of the aims and reasons behind various rules and address general queries which have been raised.

The Leader of the Opposition, the First Elected Member for George Town asked why the Bill permits restricted drivers to drive at different hours or longer hours than learners. The rationale behind this gets back to the nature of the proposed solution. We have adopted a graduated driver's licensing programme and this requires a gradual increase in privileges; the more experience that you have gained and the more responsible that you have proven yourself by not breaking the rules, the more privileges you get until you get a full licence. So, once teenage drivers satisfy the learner's requirement they graduate to the restricted stage and acquire more privileges.

In particular, let me clarify that in comparison with the learner's driver, the restricted driver can operate the vehicle for one additional hour; that is to 11 pm. They can carry some passengers albeit only two to manage the threat of peer pressure and any distractions within the vehicle, and does not require an adult driver in the car during the restricted stage. If you refer to the Bill, Section 9(c) clearly explains that two passengers are allowed. However, there is an error in the Bill under Section 9(2) which speaks to an adult driver being required for the restricted stage. This only applies in the learner stage and I intend to correct this misprint in the Committee Stage on Wednesday.

While some countries do require an adult driver if passengers are being transported during a restricted stage, we have already put in place other strict requirements. For example, the age for obtaining a driver's licence in the Islands is seventeen. This is older than many of the other countries that carry the graduated driver's licences. From the start the Cayman Islands teenage driver already have greater maturity in terms of years than some of the other systems that we have noted. Factors such as this have been considered in coming up with the terms of each stage.

The Elected Member from East End spoke about the need for introducing driver's education in the secondary level of schools. I say, such programmes already exist in some schools. However, our mandate was to introduce concrete measures

which could save lives today and would apply evenly to all teenage drivers. There are numerous practical limitations to introducing such programmes into all secondary schools today, for example, a good portion of persons between the ages of seventeen and eighteen, when most persons first apply for a driver's licence, have either graduated from high school or are in the process of graduating. We could miss a good portion of young people who are of age to drive if we relied solely on driving curriculum in secondary schools.

Our aim is to ensure that we do not miss anyone and that all teenagers have an opportunity to be properly taken through a driving programme where they get the necessary experience and instruction, whether it is from a parent or professional instructor. It also takes time and money to introduce approved driving curriculum and our goal is to do something today. No doubt what we do and how we do it can be refined over time. I feel that this Bill is a healthy and vital start to creating safer driving habits for young people.

The Elected Member from East End also spoke to the fact that the Government cannot legislate morality, and that is a fact. However, in some places there could be great philosophical debate on that point. The aim of the Government is to partner with parents, schools and law enforcement and other agencies, such as MattSafe and the Cayman Islands Road Safety Advisory Council to implement smart measures which have been tested throughout the world and proven to save lives. That is our role and we have accepted the challenge. I hope that others such as the insurance industry will step up and do their part to create incentives for young people to do the responsible and safe thing. The Bill will not and cannot replace the role of parents to safeguard their children.

The Second Elected Member from George Town, in his speech said that we cannot say that young people should not be watching television. It is a well known fact that the subliminal messages that are inherent in today's television and other media often entices persons, especially young elastic minds to try and imitate everything they see without considering, knowing or realising the consequences. That is why parents need to be more vigilant. I was not proposing that we go out and pass regulation to stop children watching television; it is a free country and that is not what I am saying. I am saying that in today's world far too many young elastic minds are influenced by certain television shows that cannot help them and do not educate them. I hope they are not considering that I am bashing the press; that is not what I am speaking about. I am speaking about a fact of life that exists, in particular, in these Islands with young children who watch television unsupervised.

The Bill cannot replace the role of parents to safeguard their children; instead the Policy proposes

that Government becomes allies with parents to keep young drivers and the roadway safe. The Elected Member for East End said rightly that all Government can do is legislate; that is our role and parents look to us to help give them the tools to raise healthy and safe children. They cannot come here and put these parameters in place so they look to us to do our part in this Assembly to support the rules they try their best to enforce at home.

The Member from East End also spoke about ensuring that the experience driver, who is supervising the learner, is not drunk when giving instructions. That is a practical concern and we note for example, people who currently give driving instructions are not required to have any particular accreditation. Under the Bill we address this concern by requiring that professional instructors satisfy the local Police Traffic Department of their qualifications to provide driving instruction. The same Member also questioned why certain recognised countries are exempt from having to satisfy local driver's testing when obtaining a Cayman Islands drivers licence; our tourist and so on.

The Bill is written in recognition of existing convention obligations. The Cayman Islands have given recognition to those countries under the Geneva Convention on road traffic of 1926, 1949, and 1968 whereby those countries who are signatory to the Convention are exempted by way of Section 26 of the Traffic Law and the Traffic Driving Test Exemption Order of 1998, providing that you hold a group of licence for that class of vehicle to be driven. When people question this it is because there are international obligations which the Cayman Islands must observe even in the consideration of this Bill governing teenage driving. So, we have done our part to recognise the Conventions.

The present system is informal and young people who obtain proper driving instructions only opt to do so now. Under the proposed Bill, teenagers will be required to obtain proper driving instructions either from a professional or an experienced licensed driver.

The Second Elected Member from George Town touched on an important point. He referred to be regarded in his youth as being a reasonable young man, yet he admitted to also being subject to the true nature of young people which is more adventurous. His point touches on what others might see as being punishment of good young people. The point I want to make is that no matter how good or how responsible our children may appear to us, the statistics worldwide prove that they are at risk on the road, particularly in the early years of driving when they are influenced by peers and have little to no practical experience.

I gave the House an example when I touched on that point about my son who was at home and went to take his girlfriend home, and on the way home past eleven o'clock by being over the speed limit he ran off the road. I think I have a good son, no drinking to the extent that he gets drunk that he does

not know what he is doing. So, it does happen to good children.

Speaking about that, I can remember the two accidents that the Second Elected Member from George Town spoke of. The one, in particular, at the Cemetery in George Town were Scout friends of mine, we had been scouting that same week when that happened. Although younger than us at the time, one of them was my Scout Master and two better young people you could not have found. He was well versed in anything: good academically; good at all the things that scouting taught us; boating and sports. He was one of the best footballers we have and that good life was lost of good young people; good parents of both of them and we will never forget it.

So, we aim to give each child the opportunity to gain wisdom and the parents an opportunity to accompany their children on the roads to caution them of the pitfalls to avoid. There is a requirement for teenage drivers to spend quality time with a qualified driver and I urge parents and guardians to use this time to impart critical lessons to precious children.

The Second Elected Member from George Town made the point about how well we could suffer the wrath of teenagers because we are cutting back on them getting a licence. I am prepared to suffer that wrath if that is what it is going to be. However, we have sensible and good young people and they know when someone is trying to do good for them. While they might pout for a while, it is worst than even losing their vote; well certainly it is worth anything they will say or do to save their lives. I am not concerned about backlash on this. What I want to urge each Member, especially those of us who are elected Members, is that we should go out and educate on this and not use it to gain influence over one another or to tear down any particular party or the Government. We need to tell young people exactly what their problem is and how we can try to remedy the situation and assist them. So, I am not concerned about any backlash in regards to this Bill. The good young people will appreciate it.

Finally, I want to thank all Members for their comments on the questions I initially rose about whether adults who are disqualified for driving whilst intoxicated should be allowed to drive to and from work only in order for them to maintain a livelihood. I have heard their comments and I will reflect on these further and take it back to Cabinet to see what we will decide to do.

Again, I want to thank Honourable Members for their contribution. I look forward to finalising the Bill in Committee Stage on Wednesday and hopefully put a good programme in place that will reduce the destruction, lost potential and loss of our children on the roads.

**The Speaker:** The question is that a Bill shortly entitled the Traffic (Amendment) Bill 2005 be given a second reading. All those in favour please say Aye.

**Ayes.**

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

**Agreed. The Traffic (Amendment) Bill 2005 given a second reading.**

#### **Suspension of Standing Order 49(1)**

**The Speaker:** Honourable Members, I understand that it is the wish of the Leader of Government Business that the Bill (Traffic (Amendment) Bill 2005) be deferred until Wednesday and not go to Committee today. So, out of the abundance of caution I ask that he move the suspension of Standing Order 49(1) so that we can effect this deferral.

**Hon. W. McKeever Bush:** Mr. Speaker, I move the suspension of Standing Order 49(1) in order to defer the Bill until another day and we can take the Committee Stage at that time – Wednesday, God willing.

**The Speaker:** All those in favour please say Aye.

**Ayes.**

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

**Agreed. Standing Order 49(1) suspended to allow committee stage on the Traffic (Amendment) Bill 2005 to be deferred until Wednesday 23 February 2005.**

**The Speaker:** We will now go into Committee on the Law Reform Commission Bill 2005

**House in Committee at 6.23 pm**

### **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 authorise the Honourable Second Official Member to correct minor errors and such in these Bills?

Would the Clerk please state the Bill and read the clauses?

#### **The Law Reform Commission Bill, 2005**

##### **Clauses 1 through 5**

**The Clerk:**

Clause 1 Short title and commencement

Clause 2	Interpretation
Clause 3	Establishment of the Law Reform Commission
Clause 4	Composition of the Commission
Clause 5	Resignation and revocation of appointment

**The Chairman:** The question is that Clauses 1 through 5 stand part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 1 through 5 passed.**

#### **Clauses 6 through 10**

**The Clerk:**

Clause 6	Remuneration
Clause 7	Functions of the Commission
Clause 8	Powers and duties of the Commission
Clause 9	Meetings of the Commission
Clause 10	Law reform administrator and staff of the Commission

**The Chairman:** The question is that Clauses 6 through 10 stand part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 6 through 10 passed.**

#### **Clauses 11 through 13**

**The Clerk:**

Clause 11	Records
Clause 12	Report and recommendations
Clause 13	Appointment of consultants and experts

**The Chairman:** The question is that Clauses 11 through 13 stand part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 11 through 13 passed.**

#### **Clause 14**

**The Clerk:** Clause 14 Annual report

**The Chairman:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Mr. Chairman, I beg to seek the leave of this Honourable House and the Committee pursuant to Standing Order 52 to move an amendment to that Clause— By deleting the word “six” and substituting therefor the word “three”.

The amendment was not circulated by notice and I therefore seek your leave to have it moved on the Floor.

**The Chairman:** So ordered. The question is that amendment stand part of the Clause. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the Clause as amended do stand part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 14 as amended passed.**

#### Clause 15

**The Clerk:** Clause 15 Laying of reports

**The Chairman:** Would the Honourable Second Official Member advise whether he was also amending Clause 15.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. It is my intention to move— By deleting the word “three” and substituting therefor the word “one”.

**The Chairman:** The question is that amendment stand part of the Clause. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the Clause as amended do stand part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 15 as amended passed.**

#### Clause 16

**The Clerk:** Clause 16 Rules

**The Chairman:** The question is that Clause 16 do stand part of the Bill. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Agreed Clause 16 passed.**

**The Clerk:** A Bill for a Law to establish a Commission for the reform of the Law of the Cayman 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.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Title passed.**

#### The Traffic (Amendment) Bill, 2005

*Deferred to Wednesday 23 February 2005*

**The Chairman:** This concludes proceedings in Committee. The House will now resume.

#### House resumed at 6.30 pm

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

### REPORT ON BILL

#### The Law Reform Commission Bill, 2005

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Mr. Speaker, I beg to report that a Bill entitled the Law Reform Commission Bill, 2005 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 Third Reading.

### THIRD READING

### The Law Reform Commission Bill, 2005

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker, I beg to move that a Bill entitled the Law Reform Commission Bill, 2005 be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Law Reform Commission Bill, 2005 be given a third reading and passed. All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it

**Agreed. The Law Reform Commission Bill 2005 given a third reading and passed.**

## GOVERNMENT BUSINESS

### MOTIONS

#### Government Motion No. 7/2004-05

**The Development and Planning Law (2003 Revision)**

**The Development and Planning (Amendment) Regulations, 2005**

**The Speaker:** The Honourable Minister responsible for Planning, Communications, District Administration and Information Technology.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I beg to move Government Motion No. 7/2004-05 the Development and Planning Law (2003 Revision) and the Development and Planning (Amendment) Regulations, 2005.

**The Speaker:** The Motion has been duly moved, does the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. The Motion as is now before this Honourable House is set out and was circulated. Suffice it says:

**WHEREAS section 42 (1) of the Development and Planning Law (2003 Revision) provides that the Governor in Cabinet may make regulations;**

**AND WHEREAS section 42 (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) Regulations, 2004 were laid on the Table of this Honourable House;**

**AND WHEREAS as a result of representations it was deemed necessary to amend the Regulations as set out below;**

**BE IT THEREFORE RESOLVED THAT the draft Development and Planning (Amendment) Regulations, 2004 be approved by the Legislative Assembly in accordance with the provisions of section 42(3) of the Development and Planning Law (2003 Revision) subject to the following amendment -**

**In Regulation 4, in paragraph 2 of the new Part IV proposed for insertion in the First Schedule to the principal Regulations, by the deletion of the words "restoration of a building" and the substitution of the words "restoration or the rebuilding of a building.**

As you would well know, Mr. Speaker, Hurricane Ivan wreaked havoc on these Islands and the purpose for these planning amendments are to help ensure that the various recovery efforts are not made even more onerous by planning requirements. I must therefore, express my sincere gratitude for the dedication and time that our Planning Department and the Central Planning Authority have played in the recovery effort thus far. As a result of Hurricane Ivan it became quickly apparent that the recovery and rebuilding efforts would require certain planning regulations to be relaxed for various reasons.

Firstly, the usual application and building permit fees will pose a hardship for those applicants whose pre Ivan buildings were destroyed but were yet uninsured.

Secondly, the usual application and building permit fees seem to be excessive for applicants who only wish to construct temporary owned buildings to assist in the recovery effort. Accordingly, the Development and Planning (Amendment) Regulations, 2005 makes provision for the following:

1. That the planning application fees for temporary development at any time during a recovery period for the purpose of the restoration of the Islands following a national disaster is fifty per cent of the usual application fees;
2. No application fee will be payable for planning permission for the restoration of a building following a national disaster; and;
3. Building permit fees payable for temporary development at any time, during a recovery period for the purpose of restoration and rebuilding of the Islands following a national disaster is fifty per cent of the usual building permit fees.

Those are substantially the reasons that we have sought to bring this regulations here for positive resolution, and I would seek the support of Honourable Members in this regard.

**The Speaker:** Does any other Member wish to speak? 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 my support to the Motion from the Government. I have only one concern, which I brought to the attention of the Minister, and that was the amendment she proposes to bring at Committee Stage about the restoration and or rebuilding of homes. I believe that someone may misunderstand restoration to be only if the building was still standing and repairs had to be done on it. When I brought that to her attention she was quite receptive of it and I can see she has brought an amendment. That was my only concern with the Motion.

I thank her for listening and addressing my concern. Therefore I can say that we, the Opposition support the Motion and it will alleviate some of the difficulties our people are going through especially in the cases of fees that need to be paid, which the Government is proposing to cut by fifty per cent. 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 would the Honourable Mover wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Only to thank Honourable Members who I anticipate would be supporting this Motion, and to say that the Government and other Honourable Members would anticipate quick relief in our respective constituencies. We trust that if there are any provisions that would present a hardship, if it were brought to our attention that we would, as far as practical, try to accommodate those requests. Thank you.

**The Speaker:** The question is that BE IT THEREFORE RESOLVED THAT the draft Development and Planning (Amendment) Regulations, 2004 be approved by the Legislative Assembly in accordance with the provisions of section 42(3) of the Development and Planning Law (2003 Revision) subject to the following amendment -

In Regulation 4, in paragraph 2 of the new Part IV proposed for insertion in the First Schedule to the principal Regulations, by the deletion of the words "restoration of a building" and the substitution of the words "restoration or the re-building of a building". All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it

**Agreed. Government Motion No. 7/2004-05 passed.**

### **Government Motion No. 8/2004-05**

#### **The Building Code (Amendment) Regulations, 2005**

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** I beg to move Government Motion No. 8/2005 the Development and Planning Law (2003 Revision) the Building Code (Amendment) Regulations, 2005.

**The Speaker:** So ordered.

**Hon. Juliana Y. O'Connor-Connolly:** WHEREAS section 42 (1) of the Development and Planning Law (2003 Revision) provides that the Governor in Cabinet may make regulations;

AND WHEREAS section 42 (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 Building Code (Amendment) Regulations, 2005 were laid on the Table of this Honourable House;

BE IT THEREFORE RESOLVED THAT the draft Building Code (Amendment) Regulations, 2005 be approved by the Legislative Assembly in accordance with the provisions of section 42 (3) of the Development and Planning Law (2003 Revision).

**The Speaker:** The question is BE IT THEREFORE RESOLVED THAT the draft Building Code (Amendment) Regulations, 2005 be approved by the Legislative Assembly in accordance with the provisions of section 42 (3) of the Development and Planning Law (2003 Revision). The Motion is now open for debate. Would the Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Briefly, Mr. Speaker.

The purpose of these minor amendments to the Building Regulations is to help with the magnitude of unsafe structures and equipment that was left behind in the wake of a national disaster and in this instance, Hurricane Ivan.

Accordingly, the Building Code (Amendment) Regulations, 2005 seeks to now replace Section 1035 which deals with unsafe buildings or systems of the Building Code with the provision of section 115, un-

safe structures and equipment of the International Building Code as was published by the International Code Council.

The proposed provision is more specific regarding what actually constitutes unsafe structures. The Revision also includes provision for restoration. In short the revisions offer the Planning Department greater options and flexibility in terms of the extent to which it deems structures to be unsafe as well as the options available to remedy the situation.

Demolition will not be the norm but restoration and rebuilding will be options, as well. I am therefore happy to introduce these amendments to the Building Code and I am grateful once again to the Planning Department for their recommendations and assistance. I am confident that the Planning Department and the Central Authority will continue to assist us in our recovery efforts in the true spirit of these beloved Cayman Islands. I therefore ask for the support of Honourable Members in this regard.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

Obviously from the Minister's presentation the concern is one that we would share and the adoption of Section 135 of the International Building Code (IBC) relating to unsafe structures and buildings, which would give specific requirements to ensure that buildings are safe, is one that is needed. While we do not want to create either legislation or regulation, which will create difficulty and hardships for the citizens, the fact of the matter is, that you have to strike a balance to ensure that whatever is done allows for continued safety of those citizens. It is incumbent upon those who create the legislation and regulations to ensure that they act in a responsible fashion and this is a responsible act.

I do believe that the staff at the Planning Department and the Central Planning Authority (CPA) would be in tune with the times. I have had comments from people with regards to their interaction with the Department post Hurricane Ivan, and experiences with the CPA, that while some of them had a few complaints because it simply meant that they would wish to do things a bit more expedient, the fact of the matter is that we have to have the check and balance. For the most part people are with an understanding.

To me, what makes this responsible is eventually the message gets out. The people who have to do a lot of work, some of them do work themselves; usually the people who find themselves in the position that they have to be doing stuff for themselves either because the insurance money is not enough or they did not have insurance and they are not in the position financially to be able to get everything done. Even those are aware that it is not just about getting some-

thing covered up but trying to ensure that it is done properly. This is in tune with the message that needs to be sent from here on in.

Finally, let me say that not in retrospect, but as a lesson in learning, many of our structures which were deemed to be sound structures pre Ivan, post Ivan; many homeowners and even contractors have discovered that what was acceptable in certain instances prior to Hurricane Ivan is no longer acceptable and I will give a simple example.:

Before anyone experienced something with the force of Hurricane Ivan, many people, when building homes, would construct the gable ends out of sheetrock and add something on the front of it to make it look like cement. Hurricane Ivan came along and blew holes through it. The old-time people used to block up the gable ends, and in fact after the regular belting was pored, when they blocked up the gable end they would pour the top of the gable end too. Many of the homes constructed in that manner withstood the fury of Hurricane Ivan one hundred times better than the sheetrock and mamanan gable ends.

I used that example to say that in all we do, the lessons to be learned must be learned throughout the country. The fact of the matter is that while God spared us this time, the timing was right; the tide was right; the daylight was right and we may not be so lucky the next time.

So, Mr. Speaker, the Opposition are happy to support the regulations which have been tabled. 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 would the Honourable Mover wish to exercise her right of reply?

**Hon. Juliana O'Connor-Connolly:** Thank you, Mr. Speaker.

Just to say that I am especially happy to see that this particular Motion will receive safe passage in light of the fact that I now have the opportunity to visit almost all of the areas that were hit by Hurricane Ivan. I do not believe, there is nothing more devastating to the human spirit than when you have a mere stroke of the pen ordering a demolition order. I believe this now injects elasticity and the discretion on the Planning Department to allow them to restore and fix up the property while at the same time ensuring that our buildings are safe, which will lead to the holistic well-being of our populous in general.

I thank all Honourable Members for their support. I wish also to thank the Honourable Leader of the Opposition for his expressed remarks. Thank you.

**The Speaker:** The question is BE IT THEREFORE RESOLVED THAT the draft Building Code (Amendment) Regulations, 2005 be approved by the Legisla-



tive Assembly in accordance with the provisions of section 42 (3) of the Development and Planning Law (2003 Revision). All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Government Motion No. 8/2004-05 passed.**

### **Government Motion No. 9/2004-05**

#### **Disbursement from the General Reserve Fund**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to move Government Motion No. 9/2004-05, which stands in my name and it pertains to a requested disbursement from the General Reserves Fund.

**The Speaker:** So ordered.

**Hon. G. Kenneth Jefferson:** The Motion reads as follows:

**WHEREAS the balance of the General Reserve Fund at 7<sup>th</sup> February, 2005 was \$24.88 million;**

**AND WHEREAS the Government is seeking to provide \$6.5 million in order to provide housing assistance to residents affected by Hurricane Ivan by way of an appropriation under the category Transfer Payments TP 17 – *Cayman Islands National Recovery Fund* for \$1 million and by a further appropriation under the category Output Group Expense DVB 4 – *Provision of Repairs and Essential Restoration to Houses Damaged by Hurricane Ivan* for \$5.5 million; and**

**BE IT RESOLVED that the Financial Secretary be authorised to disburse up to \$4 million from the General Reserve Fund to the general operating account of the Government in order to cover the following:**

- (1) expenses to be incurred under the appropriation TP 17 – *Cayman Islands National Recovery Fund of \$1 million*; and**
- (2) expenses to be incurred under the appropriation DVB 4 – *Provision of Repairs and Essentials Restoration to Houses Damaged by Hurricane Ivan* of up to \$3 million.**

**The Speaker:** The question is “BE IT RESOLVED that the Financial Secretary be authorised to disburse up to \$4 million from the General Reserve Fund to the

general operating account of the Government in order to cover the following:

- (1) expenses to be incurred under the appropriation TP 17 – Cayman Islands National Recovery Fund of \$1 million; and
- (2) expenses to be incurred under the appropriation DVB 4 – Provision of Repairs and Essentials Restoration to Houses Damaged by Hurricane Ivan of up to \$3 million.”

The Motion is open for debate. Would the Honourable Mover wish to speak thereto?

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. This Government Motion is concerned with two items of housing assistance that Government wishes to pursue in the year to June 30<sup>th</sup>. Those two items total \$6.5 million but as we saw last week when the Supplementary Appropriation Bill was considered there are other items that the Government has gotten the approval of the Legislative Assembly to pursue, such as \$2 million of housing assistance at district level.

The \$6.5 million assistance was approved by the House in the Supplementary Appropriation Bill last week. This was done by approval to two items in the Supplementary Bill. Transfer Payments TP17 to the Cayman Islands National Recovery Fund for \$1 million and approval of output DVB4—the provision of repairs and essential restoration to houses damaged by Hurricane Ivan for \$5.5 million.

The purpose of this Motion is to put forward a means of funding these two particular items. This Motion seeks approval for the transfer payment of \$1 million to the Cayman Islands National Recovery Fund to be funded from our General Reserves. The Motion also seeks approval for up to \$3 million of the General Reserves to be used to help fund the output DVB4 which is for the provision of repairs and essential restoration to homes damaged by Hurricane Ivan.

Mr. Speaker, the payment to the Cayman Islands National Recovery Fund of \$1 million has occurred and approximately \$2 million, so far, of the \$5.5 million that the Government seeks to spend on the restoration of homes has been utilized.

The Honourable Leader of the Opposition spoke across the room as to the remaining funding for DVB4, because this Motion seeks to use \$3 million of the General Reserves to fund an output group expense of \$5.5 million. The question arose, as to where is the remaining \$2.5 million. Honourable Members will remember that when we were in Finance Committee there were resolutions passed that provided the additional \$2.5 million funding for this particular output. So, Finance Committee has already resolved to provide the \$2.5 million from the National Disaster Reserve Fund on this particular item.

The question might arise in Honourable Members' minds as to what the effect of this particular Motion, if it is successful, would do to the Govern-

ment's General Reserve balance. As the Motion states on 7 February 2005 General Reserves stood at \$24.88 million. We in Finance Committee also resolved in September 2004 to transfer \$16 million into General Reserves. This has not been done as yet but it will be done before June 2005. Once this transfer takes place the General Reserve balance, at that point, will be \$40.88 million.

If this Motion is successful, which seeks to move \$4 million from General Reserves into the operating bank account of the Government that would leave an expected General Reserve balance at the end of June of \$36.88 million.

Mr. Speaker, I therefore urge all Honourable Members to support this Motion simply because it wishes to provide a funding vehicle for items already approved in the Supplementary Appropriations Bill that was passed last week. 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 not, would the Honourable Mover wish to exercise his right of reply?

**Hon. G. Kenneth Jefferson:** Just to thank all Honourable Members for their silent support.

**The Speaker:** The question is, "BE IT RESOLVED that the Financial Secretary be authorised to disburse up to \$4 million from the General Reserve Fund to the general operating account of the Government in order to cover the following:

- (1) expenses to be incurred under the appropriation TP 17 – Cayman Islands National Recovery Fund of \$1 million; and
- (2) expenses to be incurred under the appropriation DVB 4 – Provision of Repairs and Essentials Restoration to Houses Damaged by Hurricane Ivan of up to \$3 million."

All those in favour please say Aye.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Government Motion No. 9/2004-05 passed.**

### **Government Motion No. 10/2004-05**

#### **Government Guarantee in favour of the Cayman Islands Civil Service Association Co-Operative Credit Union Limited**

**The Speaker:** The Honourable Third Official Member

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to move Government Motion No. 10/2004-05 standing in my name.

**The Speaker:** So ordered.

**Hon. G. Kenneth Jefferson:** The Motion reads as follows:

**WHEREAS the Government approved on 16<sup>th</sup> November, 2004 an agreement with the Cayman Islands Civil Service Association Co-operative Credit Union Limited (Credit Union) for that institution to provide hurricane recovery assistance loans to Civil Servants of up to CI\$3,300 per Civil Servant repayable over two years, with the maximum for all loans being CI\$5 million;**

**AND WHEREAS the Government agreed with the Credit Union that the interest expense associated with these loans be paid by the Government and not by Civil Servants;**

**AND WHEREAS section 9 of the Public Management and Finance Law (2003 Revision) specifies that "no guarantee may be given by or on behalf of the Government unless it has been authorised by a resolution of the Legislative Assembly"; and**

**BE IT NOW RESOLVED that this Honourable Legislative Assembly, acting in accordance with Section 9 of the Public Management and Finance Law (2003 Revision) authorising the Government of the Cayman Islands to issue a guarantee to the Cayman Islands Civil Service Association Co-operative Credit Union Limited for an amount not exceeding \$5 million Cayman Islands Dollars to secure hurricane recovery assistance loans to Civil Servants.**

Thank you, Sir.

**The Speaker:** The question is, "BE IT NOW RESOLVED that this Honourable Legislative Assembly, acting in accordance with Section 9 of the Public Management and Finance Law (2003 Revision) authorising the Government of the Cayman Islands to issue a guarantee to the Cayman Islands Civil Service Association Co-operative Credit Union Limited for an amount not exceeding \$5 million Cayman Islands Dollars to secure hurricane recovery assistance loans to Civil Servants."

The Motion is now open for debate. Would the Honourable Third Official Member wish to speak thereto?

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I would like to provide a brief history to this request. Government initially approved \$1 million to make interest free loans to civil servants and stated that civil servants would be allowed to apply for a maximum of \$4,000 each. Civil servants invariably applied for the \$4,000 maximum which meant that the

\$1 million facility Government had in mind would have only helped 250 civil servants out of a total civil service population of three thousand plus. The Government took the view that this was unacceptably low to only assist 250 civil servants out of a population of three thousand plus.

The Government then decided that it would approach the Credit Union to provide the loans to civil servants and that the interest arising on those loans would be paid for by the Government so that to the civil servant the loans would be interest free, as the Government intended at the beginning.

The Credit Union graciously agreed to provide the loan facility to assist civil servants. In order to help a larger number of civil servants than the 250 just spoken of, the maximum of \$4,000 per applicant was decreased to \$3,300 per applicant. That is the figure mentioned in the Motion. This meant that the \$5 million facility at \$3,300 per applicant would mean that Government would be able to assist 15 hundred civil servants or approximately 50 per cent of the entire civil service.

The \$5 million facility that was made available has predominantly been utilized. The figures I have received to date are some 1,554 applications were sent to the Credit Union for processing and approximately \$4.6 million of the \$5 million facility has been used and assisted civil servants.

The Government sees the risk attaching to this particular facility with the Credit Union and the possible provision of the guarantee by Government to the Credit Union as being small. This is simply because all civil servants have been made to sign salary deduction forms, the effect of which is to deduct the loan repayments from their salaries and wages before they receive their emoluments. So, the risk of default by a civil servant is very small.

The repayment of the loans started in February 2005 and the maximum repayment period is 2 years; that means if a civil servant requested the very maximum of \$3,300, received it then opted to have it repaid over the two year maximum repayment period, it would mean that the civil servant would have \$137.50 deducted from their wages or salaries every month for two years and the interest element on that loan would be paid by the Government.

I ask all Honourable Members to support the Motion because it is in respect of a good cause and there is almost non-existent risk to the Government arising from the transaction. Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

We have been aware of this action for some-time now and given the circumstances I do not think any Member in here has a problem. I only rose to

seek clarification in this forum with regards to the applications.

It seems from the information the Honourable Third Official Member has divulged in his presentation of the Motion that the funds have just about been exhausted. I have had representation from individuals who seem to be confused as to what categories of civil servants were eligible for this loan. Seemingly they were told from higher ups that it was only a certain category of civil servant and I do not know whether that referred to group employees as compared to PPE or part time employees. So, when the Honourable Third Official Member uses the term civil servants and he speaks to over three thousand, perhaps in his wind up if we could get it clear as to who was and was not eligible and what type of civil servant it was.

Given the circumstances I believe that it was a good gesture, and it was a gesture which the Opposition supported from the beginning. 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, would the Honourable Third Official Member wish to exercise his right of reply?

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I thank the Honourable Leader of the Opposition for his remarks. The brief response to his desire to have the clarification is that all civil servants both bi-weekly and monthly paid employees were eligible to apply for the assistance that Government afforded. Both sets of civil servants applied and received the assistance.

I was more anticipating that Members of the Opposition would ask why the facility was restricted to civil servants and not be extended to employees of statutory authorities and government companies. I would like to explain briefly the reasons for that.

The first and important point to make is that Government was very mindful of the needs of everyone including those employed by statutory authorities and government companies. So, the fact that the facility was not made available to them does not in any way indicate that the Government was insensitive to their needs; it was the case that the Government was well aware of their needs. The inability of the Government to extend this particular facility to those persons simply arose because the Government had a legal and budgetary constraint in dealing with this particular item.

Under section 12(5) of the Public Management and Finance Law there is a 5 per cent revenue limit that the Cabinet could have utilized in assisting the recovery efforts arising from Hurricane Ivan. This limit amounted to approximately \$14.6 Million. This is the amount that had to be shared around amongst other competing needs in the Islands, such as debris removal and repairs to people's homes.

The Government has put in place schemes which will enable employees of statutory authorities and government companies to get assistance. For example, the Government has paid \$1 million to the National Recovery Fund; it has made available up to \$5.5 million to assist individuals to repair their homes; and it is making up to \$2 million available in district repair programmes. Employees of statutory authorities and government companies, being citizens of these Islands, are certainly eligible to get assistance under these programmes.

So, that is, effectively, Mr. Speaker, whilst not direct assistance to those individuals, there are certainly facilities to which they could avail themselves and get help. So, the Government has provided assistance in that regard.

Remember that the Government has made sweeping duty concessions that benefit the entire country. Such concessions exist on the importation of furniture, vehicles, equipment and building materials. Employees of statutory authorities and government companies are obviously able to receive the benefit of those concessions and so the Government is again providing assistance to everyone in the country including the employees of those entities. Whilst the Government was not able to make a direct monetary facility available to employees, Government has nonetheless assisted them by making these facilities available.

Another important point to remember is that statutory authorities and government companies continued to pay the salaries and wages of their employees, even though they may not have been physically able to attend a full working day because of attending to their own personal needs, invariably they got a full bi-weekly or full monthly pay. Hurricane Ivan has obviously caused statutory authorities and government companies to suffer losses and we heard of those losses in Finance Committee last week when the Supplementary Appropriation Bill was being considered.

We realise and know that the Government is also injecting funds into those statutory authorities. So, this again is indirect assistance by the Government into those statutory authorities which undoubtedly will help the staff of those entities.

I will conclude by saying that Government has helped both its civil servants and the employees of statutory authorities and government companies and I thank all Honourable Members for their support of the Motion. Thank you, Sir.

**The Speaker:** The question is, "BE IT NOW RESOLVED that this Honourable Legislative Assembly, acting in accordance with Section 9 of the Public Management and Finance Law (2003 Revision) authorising the Government of the Cayman Islands to issue a guarantee to the Cayman Islands Civil Service Association Co-operative Credit Union Limited, for an

amount not exceeding \$5 million Cayman Islands Dollars to secure hurricane recovery assistance loans to Civil Servants. All those in favour please say Aye.

**Ayes.**

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

**Agreed. Government Motion No. 10/2004-05 passed.**

## ADJOURNMENT

**The Speaker:** Honourable Deputy Leader of Government Business please move the adjournment.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the adjournment of this Honourable House until Wednesday, 23 February 2005 at 10 am.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday, 23 February 2005. All those in favour please say Aye.

**Ayes.**

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

**At 7.18 pm the House stood adjourned until 10 am, Wednesday, 23 February 2005.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**23 FEBRUARY 2005**  
**11:00 AM**  
*Seventh Sitting*

**The Speaker:** I invite the Honourable Second Official Member responsible for the Portfolio of Legal Administration to lead us in prayers.

**PRAYERS**

**Hon. Samuel W Bulgin:** Let us pray. *Almighty God, from whom all wisdom and power are derived: We beseech Thee so as 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 Cabinet 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 are resumed.

**Proceedings resumed at 11.03 am**

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

**Apologies**

**The Speaker:** I have received apologies for absence from the Third Elected Member for West Bay.

**PRESENTATION OF PAPERS  
AND OF REPORTS**

**Report and Recommendation of the Minister responsible for Lands Recommending the Vesting of Crown Land (Unclaimed) Block 70A Parcel 12 to the Estate of Absolom Jeffers (deceased)**

**The Speaker:** The Honourable Minister responsible for the Ministry of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Speaker. I beg to lay on the Table of this Honourable House the Report and Recommendation as it related to Block 70A Parcel 12, the Estate of Absolom Jeffers (deceased).

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** No, Mr. Speaker.

**Report and Recommendation of the Minister Responsible for Lands Recommending the Vesting of Crown Land (Unclaimed) Block 4C Parcel 22 to the Estate of Hubert Lee Ebanks (deceased)**

**The Speaker:** The Honourable Minister responsible for the Ministry of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Speaker. I beg to lay on the Table of this Honourable House the Report and Recommendation as it relates to Crown Grant 4C, Parcel 22 to the estate of Hubert Lee Ebanks (deceased).

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** No thank you, Mr. Speaker.

**Report and Recommendation of the Minister Responsible for Lands recommending the Vesting of Crown Land (Unclaimed) Block 63A Parcel 16 to the Estate of Henry Terry (deceased)**

**The Speaker:** The Honourable Minister responsible for the Ministry of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I beg to lay the Report and Recommendation of Crown Grant in respect of Block 63A, Parcel 16 to the estate of Hubert Lee Ebanks (deceased).

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** No thank you, Mr. Speaker.

**Report and Recommendation of the Minister Responsible for Lands recommending the Vesting of Crown Land (Unclaimed) Block 1D, Parcel 26 to the Cayman Turtle Farm Ltd.**

**The Speaker:** The Honourable Minister responsible for the Ministry of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Speaker. I beg to lay the Report and Recommendation of Crown Land transfer to Block 1D, Parcel 26 to The Cayman Turtle Farm Ltd. in accordance with Section 10(1) (b) of the said Law.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, briefly, Mr. Speaker. The Ministry received a request from the Cayman Turtle Farm Ltd. to acquire the subject parcel from the previous owner and vest the land to the Cayman Turtle Farm Ltd. To this end the Crown acquired the property and the Governor in Cabinet has agreed to dispose of the said property to the Cayman Turtle Farm Ltd. for the consideration of CI\$110,000 which is a move in accordance with the new Public and Finance Law, as opposed to previous transactions for a peppercorn there will now be consideration. I thank you.

**Report and Recommendation of the Minister Responsible for Lands recommending the Vesting of Crown Land Block 5B, Parcels 178 & 179 to the Port Authority of the Cayman Islands**

**The Speaker:** The Honourable Minister responsible for the Ministry of Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report and Recommendation as it relates to the vesting of Crown Land Block 5B Parcels 178 & 179 to the Port Authority of the Cayman Islands in accordance with Section 10(1)(b) of the said Law.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, Mr. Speaker, just briefly again to say that this Report is on a matter which has been considered by the Governor in Cabinet. After careful analysis and due consideration of the reports which were received from the Director of Lands and Survey it was resolved that the Parcel should be therein vested in the Port Authority of the Cayman Islands. Therefore in accordance with Section 10(2) of the Governor (Vesting of Lands) Amendment Disposition Law (1998 Revision) three evaluations were commissioned, one from the Government's valuation section and two others from the Private sector. The disposition of Block 5B, Parcels 178 & 179 to the Port Authority of the Cayman Islands will be done in accordance with the following terms and conditions:

1. The consideration for the said transfer will be CI\$1,388,400. Payment for the actual sum is to be deferred at a fixed interest rate of 3 per cent per annum to be paid in equal annual installments over a period of 10 years;
2. That stamp duty on the subject transfers shall be applicable;
3. Registration fees on the subject transfers should also be applicable.

These reports are attached therein on the documentation which was laid on the Table. Thank you.

**Report of the Standing Finance Committee – Meeting held 6 September 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee in respect of the Committee's meeting held 6 September, 2004.

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

**Hon. G. Kenneth Jefferson:** Mr. Speaker, since the report is familiar to all Honourable Members I do not have any additional comments to make.

**Report of the Standing Finance Committee – Meeting held 29 June 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee in respect of the Committee's meeting held 29 June, 2004.

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

**Hon. G. Kenneth Jefferson:** No thank you, Mr. Speaker.

**Report of the Standing Finance Committee – Meeting held 16 April 2004**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee in respect of the Committee's meeting held 16 April, 2004.

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

**Hon. G. Kenneth Jefferson:** Mr. Speaker, again, the contents of the Report are familiar to all Honourable Members and I have no additional remarks I would like to make, Sir. Thank you.

**Report of the Standing Finance Committee – Meeting held 10 September 2003**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee in respect of the Committee's meeting held 10 September, 2003.

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

**Hon. G. Kenneth Jefferson:** No thank you, Mr. Speaker.

**Report of the Standing Finance Committee – Meeting held 15 December 2003**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee in respect of the Committee's meeting held 15 December, 2003.

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

**Hon. G. Kenneth Jefferson:** No thank you, Mr. Speaker.

**Report of the Standing Finance Committee – Meeting held 26 April 1999**

**The Speaker:** The Honourable Third Official Member.

**Hon. G. Kenneth Jefferson:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee in respect of the Committee's meeting held 26 April 1999.

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

**Hon. G. Kenneth Jefferson:** No thank you, Mr. Speaker.

**STATEMENTS BY HONOURABLE  
MINISTERS AND MEMBERS  
OF THE CABINET**

**The Speaker:** I have received no statements from either Ministers or Members of the Cabinet.

**GOVERNMENT BUSINESS**

**BILLS**

**Suspension of Standing Order 46(1) and (2)**

**The Speaker:** I call on the Honourable Minister for Planning to move the suspension.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I move the suspension of Standing Order 46(1) and (2) to allow the Electricity Regulatory Authority Bill 2005 to be read a first time.

**The Speaker:** The question is that Standing Order 46(1) and (2) be suspended to allow for the First Reading of the Electricity Regulatory Authority Bill 2005. 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 Electricity Regulatory Authority Bill 2005**

**The Speaker:** The Bill has been deemed to have been read a first time and is set down for Second Reading.

The Honourable Minister for Planning.



**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, it was the intention to deal with the other stages of the Bill today but there have been representations for both sides of House, including but not limited to my friend from East End seeking for additional time to peruse the Law. I have taken cognisance of the request, fully understanding that it is a complex and important piece of legislation, and I would, with your permission, wish to move for the will of the House to be displayed by a vote that the debate thereon or the commencement of a second reading not be done until Wednesday of next week to allow Members ample time to peruse and discuss as appropriate.

**The Speaker:** The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. I would just crave your indulgence for a moment to say that the Opposition is totally in agreement with this. It was my intention to request, through the Chair, for the deferral because we do agree however we did not have time to properly peruse it. Therefore we are grateful to the Government for the proposal and certainly we do appreciate having some more time to look at it carefully. I am told that I should not thank the Government, Sir, I should thank the Minister, therefore I will thank the Minister.

**The Speaker:** It seems that both sides of the House are in agreement for the deferral of the Motion. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. The second reading of the Electricity Regulatory Authority Bill 2005 deferred until Wednesday 2 March 2005.**

**The Speaker:** The House will now go into Committee to consider the Traffic (Amendment) Bill 2005.

**House in Committee at 11.17 am**

## 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 authorise the Honourable Second Official Member to correct minor errors and such the like in these Bills? I believe that the Minister responsible for this Bill is not yet in the Chamber so I will ask the Serjeant to please invite him in to deal with the Bill.

Honourable Leader of Government Business can you say if any amendments have been circulated on this Bill?

**Hon. W. McKeeva Bush:** Mr. Chairman, the House was notified and thus the Speaker was notified of the amendments. I have just received the copy itself, however the House was notified during the debate of them and hopefully you can take that as notice, but it does need to be circulated. In the meantime, while that is happening, I have the United Nations Development Programme (UNDP) Officials for a minute and I am wondering whether the Committee would give me the chance to meet with them briefly, that is, myself and the Financial Secretary.

**The Chairman:** Sure. Accordingly the Committee is suspended for 10 minutes.

**Proceedings suspended at 11.20 am**

**Proceedings resumed at 11.45 am**

**The Chairman:** Proceedings in Committee are resumed. As previously said, 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 Traffic (Amendment) Bill 2005

Clause 1	Short Title and commencement
Clause 2	Amendment of section 2 of the Traffic Law (2003 Revision) -definitions
Clause 3	Amendment of section 23 – qualifications to drive
Clause 4	Repeal and substitution of section 24 – persons who are not licensed or authorized to drive
Clause 5	Amendment of section 25 – persons who may be licensed
Clause 6	Amendment of section 26 – new residents and certain visitors may be authorized to drive; international driving licence
Clause 7	Amendment of section 33 – learners' licences
Clause 8	Amendment of section 34 –conditions under which learners may drive and penalty for offences
Clause 9	Insertions of section 34A, and 34B – restricted drivers licences; conditions under which restricted drivers may drive and penalty for offences
Clause 10	Amendment of section 35 – tests of competence to drive
Clause 11	Repeal and substitution of section 38 – duration of licences

Clause 12	Amendment of section 39 – powers of arrest
Clause 13	Amendment of section 40 – regulations under this part
Clause 14	Amendment of section 41- establishment of Public Transport Board
Clause 15	Savings, validation and transitional provisions

**The Chairman:** The question is that Clauses 1 – 15 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 15 passed.**

**The Chairman:** Honourable Members you have been circulated with notice of Committee Stage Amendment and before calling on the Honourable Leader of Government Business to move the notice of the Committee Stage Amendment, I would just draw Member's attention to Standing Order 52(8), which states that the consideration of new clauses shall be considered after the clauses in the Bill as printed has been disposed of, and before consideration of the Schedule. This has just been done so at this point I would call on the Honourable Leader to move the Committee Stage Amendment.

**Hon. W. McKeeva Bush:** Thank you, Mr. Chairman. In accordance with the provisions of Standing Orders, I the Minister of Tourism, Environment Development and Commerce move the following amendment to the Traffic (Amendment) Bill 2005. That the Bill be amended as follows: By inserting after Clause 3 the following clause-:

**“3(a) The principal Law is amended by inserting after Part II the following Part-**

**“PART IIA - DRIVING INSTRUCTION**

**20A. (1) No paid instruction in the driving of a motor vehicle shall be given unless the name of the person giving the instruction is in the driving instructors register.**

**(2) No paid instruction in the driving of a motor vehicle shall be given unless there is fixed to and exhibited on that motor vehicle in such manner as may be prescribed a certificate in such form as may be prescribed that the name of the person giving the instruction is in the driving instructors register.**

**(3) For the purposes of subsections (1) and (2), instruction is paid instruction if payment of money or money's worth is, or is to be, made by**

**or in respect of the person to whom the instruction is given for the giving of the instruction.**

**(4) Where instruction is given in contravention of subsection (1) -**

- (a) the person by whom it is given, and**
- (b) if that person is employed by another to give that instruction, that other, as well as that person,**

**is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.**

**(5) Subsections (1) and (2) do not apply to the giving of instruction by a police instructor under the authority of the Commissioner.**

**(6) Where instruction is given in contravention of subsection (2), the person by whom it is given is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.**

**(7) In proceedings against a person for an offence under subsection (4), it shall be a defence for him to prove that he did not know, and had no reasonable cause to believe, that his name or, as the case may be, that of the person employed by him, was not in the driving instructors register at the material time.**

**20B. (1) The Director shall keep a register (to be called the “driving instructors register”) in which shall be entered -**

- (a) the name of every person who immediately before the date of commencement of the Traffic (Amendment) Law, 2005, was carrying on a business of giving paid instruction in the driving of a motor vehicle; and**
- (b) the name of every person whose application for registration under section 20C has been approved by the Director.**

**(2) Each entry in the driving instructors register shall contain the following particulars in relation to each person registered -**

- (a) his business address;**
- (b) the date on which his application was approved by the Director; and**
- (c) such other relevant particulars as the Director may determine.**

**(3) The Director shall -**

- (a) make such alterations to the particulars of persons registered as are notified to him;**
- (b) remove from the driving instructors register the name of a registered person who -**

- (i) is deceased;
  - (ii) otherwise ceases to be registered; or
  - (iii) ceases to carry on a business of giving paid instruction in the driving of a motor vehicle; and
- (c) where a registered person is disqualified by a court from driving, remove from the driving instructors register the name of that person during the period of disqualification.

(4) A registered person shall inform the Director in a timely manner of any change in his particulars under subsection (2)(a) and (c).

(5) The Director shall supply to the Commissioner a list of all persons registered in the driving instructors register and any other information from the driving instructors register as the Commissioner may require, and shall keep the Commissioner currently informed of all new registrations.

(6) The Director shall supply to any person applying for a copy of the entries on the driving instructors register relating to any specified person a copy of those entries upon payment of the prescribed fee.

(7) The contents of the driving instructors register shall for the purpose of all proceedings in any court be prima facie evidence of the information contained therein and extracts of the driving instructors register purporting to be certified as such by the Director shall be receivable in evidence in any court.

20C. (1) An application for the entry of a person's name in the driving instructors register shall be made to the Director in the prescribed form and accompanied by the prescribed registration fee.

(2) Where a person applies for the entry of his name in the driving instructors register, the Director shall approve the application and enter his name in the driving instructors register if he satisfies the Director that the following conditions are fulfilled in his case -

- (a) he has passed such examination of ability to give instruction in the driving of motor vehicles (consisting of a written examination, a practical test of ability and fitness to drive and a practical test of ability and fitness to instruct) as may be so prescribed;
- (b) he is the holder of a current driving licence authorising him to drive a motor vehicle (not being a restricted drivers licence or a learners licence) in respect of vehicles of that group;

- (c) during the period of six years ending with the day on which the application is made, the periods (if any) for which he did not hold one or more of the following licences, that is—

- (i) a current driving licence of the kind mentioned in paragraph (b), and
- (ii) an international driving licence of the kind mentioned in section 26,

did not amount in the aggregate to more than two years; and

- (d) apart from fulfilment of the preceding conditions, he is a fit and proper person to have his name entered in the driving instructors register.

(3) The entry of a person's name in the driving instructors register shall be subject to the condition that, so long as his name is in the driving instructors register, he will, if at any time required to do so by the Director, undergo the test prescribed by regulations of continued ability and fitness to give instruction in the driving of motor vehicles.

(4) The Director shall, on making a decision on an application under subsection (2), give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, shall state the grounds for the refusal.

20D. (1) Unless previously removed under the following provisions of this Part, the name of a person shall, subject to subsection (2), be removed from the driving instructors register at the end of the period of four years beginning with -

- (a) the first day of the month next after that in which the entry of his name was made; or
- (b) where his name has been retained in the driving instructors register under section 20E, the day with which the last further period for which his name was so retained began.

(2) If an application for the retention of his name in the driving instructors register is made under section 20E before the end of that period, the name shall not be removed except in pursuance of a decision of the Director having effect under that section.

(3) Where a person whose name has been removed from the driving instructors register under subsection (1) applies under section 20C(1) for his name to be entered again in the driving instructors register, he shall be required again to

pass the examination mentioned in section 20C(2)(a) unless the application is made before the end of the period of one year beginning with the end of the period of four years mentioned in subsection (1).

**20E.** (1) A person may, before the time when his name is required under section 20D(1) to be removed from the driving instructors register, apply to the Director in the prescribed form and manner, for the retention of his name in the driving instructors register for a further period of four years.

(2) On an application under subsection (1), a person shall be entitled, on payment of such fee, if any, as may be prescribed, to have his name retained in the driving instructors register for that further period, if he satisfies the Director that the following conditions are fulfilled in his case -

- (a) that he has not refused to undergo any such test as is mentioned in section 20C(3) which he has been required to undergo during the period of four years ending with the time when his name is required under section 20D(1) to be removed from the driving instructors register;
- (b) that his ability and fitness to give instruction in the driving of motor vehicles continue, having regard to any such test which he has undergone during that period, to be of a satisfactory standard;
- (c) that he is the holder of a current licence of the kind mentioned in section 20C(2)(b); and
- (d) that, apart from fulfilment of the preceding conditions, he continues to be a fit and proper person to have his name entered in the driving instructors register.

(3) The retention of a person's name under this section shall be subject to the condition mentioned in section 20C (3).

(4) Before refusing an application under subsection (1) the Director shall give to the applicant written notice stating that he is considering the refusal of the application and giving particulars of the grounds on which he is considering it.

(5) Where the Director gives notice under subsection (4) -

- (a) the applicant may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed refusal;

(b) the Director shall not decide to refuse the application until after the expiration of that period; and

(c) before deciding whether or not to refuse the application, the Director shall take into consideration any such representations made by the applicant within that period.

(6) On deciding to grant or refuse an application the Director shall give notice in writing of the decision to the person concerned.

(7) A decision to refuse an application shall take effect -

- (a) where no appeal under the following provisions of this Part is brought against the decision within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal; or
- (c) where such an appeal is brought and not withdrawn or struck out for want of prosecution, if and when the appeal is dismissed, and not otherwise.

**20F.** (1) The Director may remove the name of a person from the driving instructors register if he is satisfied that -

- (a) in a case where his name has not been retained in the driving instructors register under section 20E, at any time since the entry of his name was made; and
- (b) in a case where his name has been so retained under that section, at any time since it was last retained, any of the following conditions was fulfilled in his case -

- (i) that he not hold the kind of current driving licence mentioned in section 20C(2)(b);
- (ii) that he refused to undergo a test such as is mentioned in section 20C(3);
- (iii) that he failed to pass such a test;
- (iv) that he ceased, apart from fulfilment of any of the preceding conditions, to be a fit and proper person to have his name included in the driving instructors register.

(3) The Director may remove the name of a person from the driving instructors register if the

entry of his name in the driving instructors register, or the retention of his name in the driving instructors register, was made by mistake or procured by fraud.

(4) Before removing the name of a person from the driving instructors register under this section, the Director shall give him written notice stating that he is considering the removal and giving particulars of the grounds on which he is considering it.

(5) Where the Director gives notice to a person under subsection (4) -

- (a) that person may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed removal;
- (b) the Director shall not decide to remove his name from the driving instructors register until after the expiration of that period; and
- (c) before deciding whether or not to remove his name from the driving instructors register, the Director shall take into consideration any such representations made by him within that period.

(6) The Director shall, on making a decision to remove a name from the driving instructors register, give notice in writing of the decision to the person concerned.

(7) A decision to remove a name from the driving instructors register shall take effect -

- (a) where no appeal under the following provisions of this Part is brought against the decision within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal; or
- (c) where such an appeal is brought and not withdrawn or struck out for want of prosecution, if and when the appeal is dismissed, and not otherwise.

20G. (1) A person who is aggrieved by a decision of the Director -

- (a) to refuse an application for the entry of his name in the driving instructors register;
- (b) to refuse an application for the retention of his name in the driving instructors register; or

(c) to remove his name from the driving instructors register,

may by notice in writing appeal to a court of summary jurisdiction in accordance with rules of court.

(2) On the appeal the court may make such order -

- (a) for the grant or refusal of the application; or
- (b) for the removal or the retention of the name in the driving instructors register,

as the court thinks fit.

(3) An order for such refusal, removal or revocation may direct that an application by the appellant for his name to be entered in the driving instructors register, shall not be entertained before the expiration of such period, not exceeding four years beginning with the day on which the order is made, as may be specified in the order.

20H. (1) The Governor may, by regulations, may make provision -

- (a) with respect to the nature of examinations of the ability of persons to give instruction in the driving of motor vehicles and tests of continued ability and fitness to give such instruction;
- (b) with respect to evidence of the results of such tests and examinations;
- (c) generally with respect to such tests and examinations.
- (d) for requiring a person submitting himself to any part of such an examination which consists of a practical test, or to such a test of continued ability and fitness, to provide a vehicle for the purposes of the test, being a vehicle in respect of which such conditions as may be specified in regulations are complied with;
- (e) for requiring a person applying to submit himself for any part of such an examination to pay to the Director such fee as may be specified in the regulations in relation to that part; and
- (f) for requiring a person who desires to submit himself for any part of such an examination to supply the Director with such particulars as the Director may determine.

20 I. (1) Regulations may prescribe all or any of the following—

- (a) a form of certificate for issue to persons whose names are in the driving instructors register as evidence of their names' being in the driving instructors register;
- (b) a form of badge for use by such persons, and
- (c) an official title for such use.

(2) If a person whose name is not in the driving instructors register—

- (a) takes or uses a title prescribed under this section;
- (b) wears or displays a badge or certificate so prescribed; or
- (c) takes or uses any name, title, addition or description implying that his name is in the driving instructors register,

he is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months, unless he proves that he did not know, and had no reasonable cause to believe, that his name was not in the driving instructors register at the material time.

(3) If a person carrying on business in the provision of instruction in the driving of motor vehicles -

- (a) uses a title or description so prescribed in relation to any person employed by him whose name is not in the driving instructors register; or
- (b) issues any advertisement or invitation calculated to mislead with respect to the extent to which persons whose names are in the driving instructors register are employed by him,

he is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months, unless he proves that he did not know, and had no reasonable cause to believe, that the name or names in question were not in the driving instructors register at the material time.

**20J.** Where the name of a person to whom a certificate prescribed under section 20 I has been issued is removed from the driving instructors register in pursuance of this Part; that person shall, if so required by the Director by notice in writing, surrender the certificate to the Director within the period of fourteen days beginning with that on which the notice is given and, if he fails to do so, he is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.

**20K.** (1) A person to whom a certificate prescribed under section 20J is issued shall, on being so required by a constable, produce the certificate for examination.

(2) Where the name of a person is removed from the driving instructors register, if that person fails to satisfy an obligation imposed on him by section 20J, a constable may require him to produce any such certificate issued to him, and upon its being produced may seize it and deliver it to the Director.

(3) A person who is required under subsection (1) or (2) to produce a document and fails to do so is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.

**20L.** Where a body corporate is guilty of an offence under this Part and the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

**20M.** (1) A notice authorised or required to be given by this Part to a person may be given by delivering it to him, or by leaving it at his proper address, or by sending it to him by post.

(2) For the purposes of this section, the proper address of a person shall be, in the case of a person whose name is included in the driving instructors register, his address on the driving instructors register, and in any other case, his usual or last known address.

**20N.** In this Part -

“driving instructors register” means the register of driving instructors established pursuant to section 20C; and

“police instructor” means a person who is

- (a) a member of the Royal Cayman Islands Police Force and whose duties consist of or include, or have consisted of or included, the giving of instruction in the driving of motor vehicles to persons being members of the Police Force; or
- (b) a civilian from time to time employed in the Police Force for the purpose of giving such instruction to such persons.”

**The Chairman:** Honourable Members, a mistake was inadvertently made in the earlier reading of the

Amendment Bill because of the late receipt of the amendment. We overlooked that there was, in fact, amendments to Clauses 8, 9 and 10 and that what the Honourable Leader of Government Business has just read really constitutes the full text of the new clause. Therefore I propose to take that question after I have dealt in accordance with Standing Orders 52(8) with the other clauses. It is my intention at this point therefore to recommit clauses 8, 9 and 14 of the Bill, and I accordingly call on the Clerk to read these clauses once again.

**The Clerk:** Clause 8 Amendment of section 34 – conditions under which learners may drive and penalty for offences

**The Chairman:** The Honourable Leader of Government Business you may now read the amendment to Clause 8 in accordance with Standing Orders 52(1) and (2).

**Hon. W. McKeeva Bush:** In accordance with the Standing Orders I move that Clause 8 by inserting after paragraph (b) the following paragraph –

**“(c) by repealing subsection (4) and substituting the following subsection –**

**(4) Whoever is convicted of an offence under subsection (2) or (3) is liable on summary conviction to a fine of one thousand dollars and to imprisonment for twelve months and –**

- (a) in the case of a teenager convicted of an offence under subsection (2), the Court may order that he be disqualified from holding or obtaining a restricted driving licence for such period not exceeding twelve months as the Court deems appropriate; and**
- (b) in the case of any other person convicted of an offence under subsection (2), the Court may order that he be disqualified from holding or obtaining a driving licence, for such period not exceeding twelve months as the Court deems appropriate;**

**and the particulars of such conviction shall be endorsed on his driving record.”**

**The Chairman:** The question is that the amendment stands part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Clause 8 passed.**

**The Chairman:** The amendment stands part of the clause.

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, just to seek your guidance. I was trying to get your attention but I failed. The amendment that you just asked about, is that all of the section 20 amendments that were read?

**The Chairman:** That is the new Clause 3(a), yes.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, I did have a couple of questions and I would crave your indulgence just for clarity.

**The Chairman:** If you would allow me to just deal with this particular clause since it is on the Floor right now.

**Hon. D. Kurt Tibbetts:** But if it is approved now then we cannot go back to it.

**The Chairman:** You are talking about clause 8 or Clause 3(a). I have not taken the question on Clause 3(a) yet, I am coming back to that.

**Hon. D. Kurt Tibbetts:** Okay, thank you.

**Mr. V. Arden McLean:** Mr. Chairman.

**The Chairman:** Mr. Mclean.

**Mr. V. Arden McLean:** Thank you. Mr. Chairman, in the case of this amendment, under the new subsection 4(b) it says: **“in the case of any other person convicted of an offense under subsection 2”...**

**The Chairman:** Could you tell me what page you are on.

**Mr. V. Arden McLean:** Page 10.

**The Chairman:** It is under the amendment to Clause 8?

**Mr. V. Arden McLean:** Yes, Mr. Chairman.

**The Chairman:** Please continue.

**Mr. V. Arden McLean:** Clause 8 in the Bill is amending section 34 of the Law.

**The Chairman:** Yes.

*[Pause]*

**The Chairman:** Please continue.

**Mr. V. Arden McLean:** I was a little concerned about that, Sir. Under subsection (2) of section 34B of the Law it says: **“A person who drives a vehicle under the authority of a learner’s license who is in breach of any condition attached to that Learners License (whether by virtue of this Law or the regulations) is guilty of an offense”**

In the new subsection 4 it says: “(a) in the case of a teenager convicted of an offence under subsection (2), the Court may order that he be disqualified from holding or obtaining a restricted driving licence for such period not exceeding twelve months as the Court deems appropriate; and

“(b) in the case of any other person convicted of an offence under subsection (2), the Court may order that he be disqualified from holding or obtaining a driving licence, for such period not exceeding twelve months as the Court deems appropriate.”

Who would be the other person?

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Chairman, I am sorry but I needed to talk to the Legal Draftsman and did not catch the question.

**The Chairman:** Honourable Member for East End, would you repeat your question?

**Mr. V. Arden McLean:** Thank you. What I was saying was that Clause 8 of the Bill is amending section 34 of the Law and subsection (2) of 34 says: “Whoever drives a vehicle under the authority of a learner’s license who is in breach of any of the conditions attached to that restricted drivers license (whether by virtue of this Law or the regulations) is guilty of an offence”

Under the new clause (4), “(4) Whoever is convicted of an offence under subsection (2) or (3) is liable on summary conviction to a fine of one thousand dollars and to imprisonment for twelve months and –

(a) in the case of a teenager convicted of an offence under subsection (2), the Court may order that he be disqualified from holding or obtaining a restricted driving licence for such period not exceeding twelve months as the Court deems appropriate; and

(b) in the case of any other person convicted of an offence under subsection (2), the Court may order that he be disqualified from holding or obtaining a driving licence, for such period not exceeding twelve months as the Court deems appropriate;”

I am wondering who is the other person. It is a teenage driver, a learner that (2) refers to, unless we are talking about (3) “Whoever supervises or attempts to supervise a learner driver of a vehicle when not qualified or licensed to do so is guilty of an offence”

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Mr. Chairman, I am told that this clause is dealing with the mature person who is not covered under the TBLs.

**The Chairman:** Is this clear to the Honourable Member?

**Mr. V. Arden McLean:** No, Mr. Chairman.

**The Chairman:** I think if I may just say Honourable Member, what I understand the Leader of Government Business is saying is that the learner’s driver’s license is divided into two parts. You are dealing with the teenagers and then you are dealing with the adults who are instructing them.

**Hon. W. McKeever Bush:** An adult who is in the vehicle, yes.

*[Inaudible comments]*

**Mr. V. Arden McLean:** If the Leader of Government Business is saying that it is the adult in the vehicle, then that is covered under 3.

**The Chairman:** Under the supervision?

**Mr. V. Arden McLean:** Yes, under section 34(3).

**Hon. W. McKeever Bush:** Mr. Chairman, as I understand it, what we are dealing with here is fines for breach of conditions in relation of a learner’s license and this amendment puts to Law on all four with restricted drivers which is already in the Bill.

**The Chairman:** I think that what the Honourable Leader said is quite clear, because section 34(2) that was referred to states: “Whoever drives a vehicle under the authority of a learner’s license” it did not say under the supervision of anybody, it is under the authority of a learner’s license. That learner’s license can either be under the restriction for a teenager or it can be a learner license for an adult individual. I think that seems quite clear. I would like to move away from this point now and take the question.

The question is that the amendment forms part of the clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: The amendment forms part of the clause.**

**The Chairman:** The Ayes have it. The question now is that Clause 8 as amended form part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.



**Agreed: Clause 8 passed.**

**The Clerk:** Clause 9 Insertion of section 34(a) and 34(b) restricted drivers licenses; conditions under which restricted drivers may drive and penalty for offences

**The Chairman:** Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, I move that the Bill be amended and a new section 34(b) proposed for insertion in the principal law as follows: By deleting subsection (1)(c); and in subsection (2) by deleting the words "in respect of a vehicle other than a motor vehicle or moped" and substituting the words "in respect of any motor vehicle other than an invalid carriage or motor cycle"

**The Chairman:** The question is that the amendment forms part of the Clause. All those in favour, please say Aye. Those against, No.

**Ayes**

**Agreed: Clause 9 as amended forms part of the clause.**

**The Chairman:** The Ayes have it. The amendment stands part of the Clause. The question now is that the clause as amended forms part of the Bill. All those in favor please say Aye. Those against, No.

**Ayes.**

**Agreed: Clause 9 passed.**

**The Chairman:** The Ayes have it. The clause as amended forms part of the Bill.

**The Clerk:** Clause 14 Amendment of section 41- establishment of Public Transport Board

**The Chairman:** The Honourable Leader of Government Business

**Hon. W. McKeeva Bush:** I move Clause 14 by inserting below the new subsection (2)(a) proposed for insertion in section 41 of the principal Law the following subsection (2)(b) **"(2)(b) a meeting of the Board shall be presided over by the Chairman or, in the absence of the Chairman such member of the Board as the members present elect to act as Chairman at that meeting"**

**The Chairman:** The question is that the amendment forms part of the Clause. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Clause 14 as amended forms part of the clause.**

**The Chairman:** The Ayes have it. The amendment forms part of the Clause. The question now is that the clause as amended forms part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**Agreed: Clause 14 as amended passed**

**The Chairman:** The Ayes have it. The clause as amended stands part of the Bill.

I will now revert to the new clause, Clause 3(a) which was duly moved by the Honourable Leader of Government Business. The question is that I will put is that this clause be read a second time. Before calling on that I will ask Madame Clerk if she will read the marginal note of the clause.

**The Clerk:** Insertion of Part IIA in the principal Law - driving instruction.

**The Chairman:** The clause has been taken to have been read a first time. The question is that this clause be read a second time. All those in favour, please say Aye.

**Ayes.**

**The Chairman:** The amendment has been duly moved and at this point I will open it for discussion. I think the Honourable Leader of the Opposition had asked to make a few comments on this new clause.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Chairman. On page 2 of the Committee Stage Amendments, 20A(5) where it says: **"(5) Subsections (1) and (2) do not apply to the giving of instruction by a police instructor under the authority of the Commissioner"**

Further on in the amendments it explains what the police instructor would be doing and under whose authority and I understand that exemption. My question is: Are there any other services which might be considered for exemption? For instance, the fire service might be receiving certain special types of vehicles and there may have to be instructions taken for the drivers, within a certain time period, for those types of vehicles. If the only exemption is for a police instructor, then it means that if instructions have to be given for the fire service, someone from that fire service will have to be on the register. That is why I asked the question.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. D. Kurt Tibbetts:** While they are talking Mr. Chairman, it came to mind...

**The Chairman:** If you would just give them a minute to consult.

*[pause]*

**The Chairman:** Honourable Leader of Government Business, I think the Honourable Leader of the Opposition wanted to clarify the question that he had posed.

**Hon. D. Kurt Tibbetts:** I just wanted to say that it came to mind because recently we read where there were several new pieces of fire fighting equipment coming in to the Islands, and I am not in any doubt that there will have to be specific instructions given to fire officers when it comes to driving those vehicles given to certain fire officers.

**Hon. W. McKeever Bush:** That is what we are dealing with, the instructors. The police have in-house guidelines and it is not covered by the Traffic Law. The fire service is in a similar position. They do all the things in-house, that is what I understand from the Director whom I was just speaking with. The equipment that is coming would be no different than the other fire trucks that are here. They would be new ones, replacements, but I do not know that they would be different.

**The Chairman:** The Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** I do not want to prolong my line of argument because I understand what the Honourable Minister has said. However, my point is that notwithstanding the fact that they might have in-house instructors, I appreciate that. However, the fact of the matter is that they are going to be driving on public roads and that point in time you will have someone driving and someone instructing. I am also pretty certain that as people move up, not just in rank...

**The Chairman:** Honourable Member, just to avoid having to repeat if you would just wait until they finish their consultation.

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

*[Pause]*

**Hon. D. Kurt Tibbetts:** That is exactly my point.

**Hon. W. McKeever Bush:** The fire officers are like the police, covered under the Group 4 license in the law. The Fire Chief like the Commissioner of Police has responsibility to say who can drive that vehicle.

**The Chairman:** Any further questions?

**Hon. D. Kurt Tibbetts:** Yes Mr. Chairman. If you have a fire officer who does not have a Group 4 license, but who is desirous of having a Group 4 license, does he not at that point in time take instructions in specific vehicles and perhaps go to the Licensing Department to take the test in the said vehicle, at which point in time he has to take instructions prior to going to take the test? That is what I am trying to determine.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** The officer would have to make an application to get the Group 4 license which would allow him to drive such vehicle provided he is the mature person that would be considered to drive.

**Hon. D. Kurt Tibbetts:** But what happens during the time before he goes to take the test for the Group 4 license if he is being instructed in a fire vehicle by a fire officer? Does he go and take the test in that vehicle?

**The Chairman:** Honourable Leader of Government Business.

*[Pause]*

**Hon. W. McKeever Bush:** Mr. Chairman, what this exemption is trying to accomplish or will accomplish is the prevention of a person from having to put his name on the driving instructors register, or have to put a certificate on his vehicle saying that he is a driving instructor. That is what the exemption is doing.

**The Chairman:** I will allow two more questions.

**Hon. D. Kurt Tibbetts:** Mr. Chairman I will not ask a question and I will leave it alone but...

**Hon. W. McKeever Bush:** I think you should leave it alone because I think that you are on the wrong track.

**Hon. D. Kurt Tibbetts:** I am not on any track, Sir, but I am saying that. . .

**Hon. W. McKeever Bush:** Well I think that you are on the wrong track with it.

**Hon. D. Kurt Tibbetts:** I am saying that the fire service will have the same conditions under which the police will have, and for the purpose of the police they should do the same thing so that the fire service do not have any conditions where they have to display a certificate or have the person's name on the register.

**Hon. W. McKeever Bush:** They do not, because he would have to get the Group 4 and he will not do that in a fire truck. He will not gain his Group 4 in a fire truck.

**The Chairman:** I will now put the question...

**Hon. D. Kurt Tibbetts:** Mr. Chairman, there are a couple of other subsections...

**The Chairman:** Do you plan to ask questions on other sections?

**Hon. D. Kurt Tibbetts:** Section 3A.

**The Chairman:** Okay, please continue.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, 20B(3)(c): **“where a registered person is disqualified by a court from driving, remove from the driving instructors register the name of that person during the period of disqualification.”** While it is not in the legislation and we had at some point during the debate here discussed special circumstances under which disqualified people would have been allowed to drive, I just want to make sure that there is no need for any relationship in this instance.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Chairman, I found that we had no support to pass any such amendment to the Law. . .

**Hon. D. Kurt Tibbetts:** So in layman’s terms it is a no-brainer.

**Hon. W. McKeeva Bush:** So we left it out.

**The Chairman:** Would you continue, Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you. Page 3 20C(2)(a), and if I may just read the beginning of subsection(2) so that we understand the relationship. **“(2) Where a person applies for the entry of his name in the driving instructors register, the Director shall approve the application and enter his name in the driving instructors register if he satisfies the Director that the following conditions are fulfilled in his case -**

**(a) he has passed such examination of ability to give instruction in the driving of motor vehicles (consisting of a written examination, a practical test of ability and fitness to drive and a practical test of ability and fitness to instruct) as may be so prescribed;”**

This has a direct relationship to 20H (1) and it speaks to the regulations that the Governor may make provision for which speaks to the nature of the examinations et cetera. My question with that is right now we have a certain number of individuals who, I do not know whether by any legal regard or just par for the course are recognised instructors, that we know actu-

ally instruct people on driving and taking them for the test. I am wondering in this section whether it means that those who are know recognised as driving instructors by the Director and the department are going to have to go through the same tests as anyone else or is there a “grandfather” situation or will everybody have to begin at the same level.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** In the debate in moving the Bill, I said that the present driving instructors were grandfathered in.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, if I may, I understand that but if there is a section which speaks to that then that is fine. I just want to make sure that it is there so that it is not just said because it has to be recognised in the Law somewhere.

**Hon. W. McKeeva Bush:** Mr. Chairman, we would not just say it.

**Hon. D. Kurt Tibbetts:** No, I am not suggesting that.

**Hon. W. McKeeva Bush:** You are saying that, so my answer is ‘no’, we would not just say it we would put it in there. It is in there 20B1(a). We would not say it is ‘grandfathered’ and not include that provision in the Bill because that would not make sense.

**Hon. D. Kurt Tibbetts:** If I may continue, Mr. Chairman.

**The Chairman:** Please continue.

**Hon. D. Kurt Tibbetts:** Thank you. Mr. Chairman, 20G(3) on page 7 **“(3) An order for such refusal, removal or revocation may direct that an application by the appellant for his name to be entered in the driving instructors register, shall not be entertained before the expiration of such period, not exceeding four years beginning with the day on which the order is made, as may be specified in the order.”**

I take that back; that is not the 28 days. However, what this is saying, as far as I understand, is that the order for the refusal can extend or the actual refusal of the application can extend itself to a period of four years. I am just wondering what the considerations were why this time period had been decided upon to be placed in the Law.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. D. Kurt Tibbetts:** I believe the renewal is every four years, but at the same point in time, because the

renewal is every four years does it mean that you want to . . .

**The Chairman:** Just a second Honourable Leader of the Opposition. Please continue, Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** The person carries an instructor's license certificate for four years. That is why that period is in the amending Bill.

**Hon. D. Kurt Tibbetts:** My question . . .

**The Chairman:** It would be helpful if both sides would allow me to call on them before they start talking.

**Hon. D. Kurt Tibbetts:** My apologies, Mr. Chairman.

**The Chairman:** Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you Mr. Chairman. What I am trying to ask is: Is it considered reasonable that there can be a four year period where someone is disallowed from being placed on the register?

**The Chairman:** The Honourable Leader of Government Business. Would you wish to restate that question Honourable Leader of the Opposition?

**Hon. D. Kurt Tibbetts:** Yes I will, Sir. If we look under 20G which speaks to a person who is aggrieved by a decision of the director, this is speaking about appeals.

**20G. (1) A person who is aggrieved by a decision of the Director -**

- (a) to refuse an application for the entry of his name in the driving instructors register;
- (b) to refuse an application for the retention of his name in the driving instructors register; or
- (c) to remove his name from the driving instructors register,

may by notice in writing appeal to a court of summary jurisdiction in accordance with rules of court.

**(2) On the appeal the court may make such order -**

- (a) for the grant or refusal of the application; or
- (b) for the removal or the retention of the name in the driving instructors register,

as the court thinks fit.

**(3) An order for such refusal, removal or revocation may direct that an application by the appellant for his name to be entered in the driving**

**instructors register, shall not be entertained before the expiration of such period, not exceeding four years..."**

What I am saying is that I understand it as saying that the court order can order that no other application might be entertained from that individual for a period of up to four years. I understand that the licenses or the instructor's certificate are renewed every four years. However, this four year period that is spoken to here is not a direct relationship to the instructor's certificate and a renewal. What it is saying is that the person can be denied for a period of up to four years. This is giving the Courts the authority to make a ruling that the person may not apply for another four years.

**Hon. W. McKeeva Bush:** Up to four years.

**The Chairman:** I think the question has been clearly put. Honourable Leader of Government Business, would you wish to respond to that?

**Hon. W. McKeeva Bush:** Mr. Chairman, that is the maximum! What he is actually talking about would be an appeal process, which the Law allows for. The discretion is in the hands of the court for up to four years, it could be four months.

**The Chairman:** Honourable Members I propose to now move from this section, as I believe that the answers have been somewhat fully given on this as far as is possible.

**Hon. W. McKeeva Bush:** Perhaps he can tell me what he wants done.

**The Chairman:** No, we will move from this and I will ask the Honourable Leader of the Opposition to now continue with his other questions.

**Hon. D. Kurt Tibbetts:** Mr. Chairman, I do not have any more questions.

**The Chairman:** All questions having been asked, I will now put the question that this clause be added as clause 3A to the Bill. All those in favour, please say Aye. Those against, No.

**Ayes and No.**

**The Chairman:** I think I heard one 'No' but it seems that the Ayes have it.

**Ms. Edna M. Moyle:** Mr. Chairman, may I bring to your attention that there is not a quorum within this Chamber.

**The Chairman:** Honourable Members the Member is correct. We are lacking, at the time, I think it was two Members in order to form a quorum, so we will give up to five minutes for the Members to assemble.

*[Pause]*

**The Chairman:** I will now put the question, we seem to have quorum at this point. The question is that the new clause, clause 3A be added to the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 3A added to the Bill.**

**The Clerk:** A Bill for a law to amend the Traffic Law (2003 Revision) to revise the period of duration of driving licenses; to further regulate the grant of driving Licenses to teenagers; to restructure the Public Transport Board; and for incidental and connected purposes.

**The Chairman:** The question is that the Title stands part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Title passed.**

**The Chairman:** Honourable Members this now concludes proceedings in Committee and we will now resume proceedings of the House.

**House Resumed at 1.00 pm**

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

## REPORT ON BILL

### The Traffic (Amendment) Bill 2005

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg to report that a Bill for a law to amend the Traffic Law (2003 Revision) to revise the period of duration of driving licenses; to further regulate the grant of driving licenses to teenagers; to restructure the Public Transport Board; and for incidental and connected purposes was considered in Committee of the whole House and passed with amendments.

**The Speaker:** The Bill has been duly reported and is set down for Third Reading.

## THIRD READING

### The Traffic (Amendment) Bill, 2005

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I beg that a Bill for a law to amend the Traffic Law (2003 Revision) to revise the period of duration of driving licenses; to further regulate the grant of driving licenses to teenagers; to restructure the Public Transport Board; and for incidental and connected purposes be given a third reading and passed.

**The Speaker:** The question is that Bill shortly entitled the Traffic (Amendment) Bill, 2005 be given a third reading and passed. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. The Traffic (Amendment) Bill 2005 has been read a third time and is passed.

**Agreed. The Traffic (Amendment) Bill, 2005 given a third reading and passed.**

**The Speaker:** Honourable Leader of Government Business, I call on you for the adjournment.

*[Pause]*

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Sorry about that, Mr. Speaker. As you know there were some other matters that we had to decide to put off. Since Members are enquiring about tomorrow, we hope to have the Strata Titles Bill to the House, which is a short amendment and Members know about it, and the five Crown Grants and the Public Accounts [Committee] Report. We will come back tomorrow, that is Thursday, 24 February, 2005 at 10 am. Therefore, I move the adjournment.

**The Speaker:** The question is that this House do now adjourn until 10 am Thursday 24 February, 2005. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**At 1.04 pm the House stood adjourned until 10 am Thursday, 24 February, 2005.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**24 FEBRUARY 2005**  
**11.04 AM**  
*Eighth Sitting*

**The Speaker:** I will invite the Elected Member for East End to lead us in prayers.

**PRAYERS**

**Mr. V. Arden McLean:** Let us pray. *Almighty God, from whom all wisdom and power are derived: We beseech Thee so as 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 Cabinet 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.

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

**Apologies**

**The Speaker:** Honourable Members I have received apologies from the First Official Member who is absent today due to illness. I have also received apolo-

gies from the Honourable Minister for Planning, Communication, District Administration and Information Technology who is off the Island on official business. The Honourable Minister for Health Services, Agriculture, Aviation and Works has also tendered his apologies for his absence today.

**PRESENTATION OF PAPERS  
AND OF REPORTS**

**Complaints Commissioner's Own Motion Investigation Report 1 on the Department of Vehicle Licensing – Operational Issues following Hurricane Ivan, dated 18 February 2005**

**The Speaker:** The Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Mr. Speaker. I beg to lay on the Table of this House a report entitled: "Own Motion Investigation Report 1" prepared by the Complaints Commissioner, Dr. John Epp, and dated 18 February, 2005.

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

**Hon Samuel W. Bulgin:** Mr. Speaker, with your leave, just briefly. If I may say, this is an inaugural report. It is the first report by the Complaints Commissioner since he has assumed office. The report is made pursuant to section 18 of the recently enacted Complaints Commissioner Law 2003. Just to give some perspective for the benefit of this House and members of the public I would like to read section 18. **"18. (1) After conducting an investigation under this Law, the Commissioner shall inform the principal officer of the government entity concerned of the result of that investigation, and if the Commissioner is of the opinion that the person aggrieved has sustained injustice in consequence of a fault in the administration of that government entity, he shall inform such officer of the reason for that opinion and may, if he thinks fit, make recommendations for action to be taken by the government entity, as the case may be, within a specified time."**

The operative section for the purpose of this particular report is section 18(7) which reads: **"18. (7) Where the Commissioner makes an investigation on his own initiative or pursuant to a resolution of**

**the Legislative Assembly he shall make a report thereupon to the Legislative Assembly.”**

The report before this House is on his own initiative pursuant to section 18(7) and it relates to curricula at the Department of Vehicle Licensing (which is a government department). With your leave the synopsis is that in 2004 people who owned motor vehicles in the Cayman Islands were required to register their vehicles in the Department of Vehicle Licensing in accordance with the Traffic Law. Hurricane Ivan damaged the department's offices and inspection facilities in Grand Cayman. In the days after 12 September 2004 the department was not open to serve the public.

One office and inspection facility re-opened 27 September 2004; the other offices did not re-open in October 2004. It came to the Complaints Commissioner's attention that people in Grand Cayman seeking to comply with the vehicle licensing provisions were subject to very long delays. On 29 October 2004 and 1 November 2004, according to the Complaints Commissioner, people stood in line for many hours waiting to reach the public service counter.

On 1 November 2004 the Complaints Commissioner undertook an investigation on his own motion and met with the Director of Licensing, Mr. Dixon, to discuss the matter. In an effort to resolve the problem of delay, Mr. Dixon took action on a number of fronts in November 2004.

The offices in West Bay and Walkers road were cleaned and re-opened in the first week of November 2004. The Department hired and trained more staff to serve at the public counter and additional vehicle inspectors were appointed on an interim basis.

According to the report, some lessons were learned and recommendations arise from the experience. The recommendations include the following:

1. Government should study the feasibility of leasing office space on the condition that it has express authority to repair and clean storm damaged premises and to then deduct the cost incurred from the rental payment.

2. The Department of Vehicle Licensing should continue on a permanent basis, the interim policy of having new motor vehicles inspected for roadworthiness by qualified persons at motor vehicle dealerships.

3. The Department should now appoint qualified people to conduct used-vehicle inspections at repair stations located east of Grand Harbour.

4. The Department should in the near future establish another office east of Grand Harbour.

Thank you, Sir.

**Report of the Standing Business Committee for the Fourth Meeting of the 2004/5 Session of the Legislative Assembly**

**The Speaker:** The Honourable Minister for Tourism and Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House a report of the Standing Business Committee for the Fourth Meeting of the 2004/5 Session of the Legislative Assembly.

**The Speaker:** So ordered. Would the Honourable Minister speak thereto?

**Hon. W. McKeeva Bush:** No, Mr. Speaker. Just to say that there are other Papers and other meetings included in this report.

**Report of the Standing Business Committee for the Third Meeting of the 2004/05 Session of the Legislative Assembly**

**The Speaker:** The Honourable Minister for Tourism and Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House a report of the Standing Business Committee for the Third Meeting of the 2004/05 Session of the Legislative Assembly.

**The Speaker:** So ordered. Would the Honourable Minister speak thereto?

**Hon. W. McKeeva Bush:** No, Mr. Speaker.

**Report of the Standing Business Committee for the State Opening Meeting of the 2004/05 Session of the Legislative Assembly**

**The Speaker:** The Honourable Minister for Tourism and Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House a report of the Standing Business Committee for the State Opening Meeting of the 2004/05 Session of the Legislative Assembly.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. W. McKeeva Bush:** No, Mr. Speaker.

**Report of the Standing Business Committee for the Fifth Meeting of the 2003 Session of the Legislative Assembly**

**The Speaker:** The Honourable Minister for Tourism and Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House a report of the Standing Business Committee for the

Fifth Meeting of the 2003 Session of the Legislative Assembly.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. W. McKeeva Bush:** *[inaudible response]*

**Report of the Standing Business Committee for the Fourth Meeting of the 2003 Session of the Legislative Assembly**

**The Speaker:** The Honourable Minister for Tourism and Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House a report of the Standing Business Committee for the Fourth Meeting of the 2003 Session of the Legislative Assembly.

**The Speaker:** So ordered. Would the Honourable Minister speak thereto?

**Hon. W. McKeeva Bush:** No, Mr. Speaker.

**Report and Recommendation of the Minister responsible for Lands recommending the Vesting of Crown Land (Unclaimed) Block 44B Parcel 136 to the Estate of Leonard Jones, Jr. (deceased)**

**The Speaker:** I understand that the Honourable Minister for Community Services will be dealing with the Papers for the Honourable Minister for Planning, so I will be calling on him for the items in her name. The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, on behalf of the Honourable Juliana O'Connor-Connolly, JP, Minister responsible for Lands, I beg to lay the report recommending the Crown grant Block 44B Parcel 136 to the estate of Leonard Jones Jr. (deceased) in accordance with Section 10(1)(b) of the Law. It is accompanied by the documents required pursuant to Section 10(2) of the said Law which contain the details of the proposed Crown grant.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Dr. the Hon. Frank S. McField:** No, Mr. Speaker.

**Report and Recommendation of the Minister responsible for Lands recommending the Vesting of Crown Land (Unclaimed) Block 75A Parcel 131 to the Estate of Sybil Violet McLaughlin (nee Hurlston) (deceased)**

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, on behalf of the Honourable Minister responsible for Lands, I beg to lay the report recommending the Crown grant Block 75A Parcel 131 to the estate of Sybil Violet McLaughlin (nee Hurlston) (deceased) in accordance with Section 10(1)(b) of the Law. It is accompanied by the documents required pursuant to Section 10(2) of the said Law which contain the details of the proposed Crown grant, unclaimed.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Dr. the Hon. Frank S. McField:** No, Mr. Speaker.

**Report and Recommendation of the Minister responsible for Lands recommending the Vesting of Crown Land (Unclaimed) Block 38D Parcel 26 to Maureen Harris and Marion Cronheim**

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, on behalf of the Honourable Minister responsible for Lands, I beg to lay this report recommending the Crown grant Block 38D Parcel 26 to Maureen Harris and Marion Cronheim in accordance with Section 10(1)(b) of the Law. It is accompanied by the documents required pursuant to Section 10(2) of the said Law which contain the details of the proposed Crown grant.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Dr. the Hon. Frank S. McField:** No, Mr. Speaker.

**Report and Recommendation of the Minister responsible for Lands recommending the Vesting of Crown Land (Unclaimed) Block 66A Parcel 57 to The Estate of James Martin Frederick (deceased)**

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, on behalf of the Honourable Juliana O'Connor-Connolly, JP, Minister responsible for Lands, I beg to lay the report recommending the Crown grant Block 66A Parcel 57 to the estate of James Martin Frederick (deceased) in accordance with Section 10(1)(b) of the Law. It is accompanied by the documents required pursuant to Section 10(2) of the said Law which contain the details of the proposed Crown grant.



**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Dr. the Hon. Frank S. McField:** No, Mr. Speaker.

**Report and Recommendation of the Minister responsible for Lands recommending the Vesting of Crown Land (Unclaimed) Block 44B Parcel 191 to The Estate of James Martin Frederick (deceased)**

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Mr. Speaker, on behalf of the Honourable Minister responsible for Lands, I beg to lay the report recommending the Crown grant Block 44B Parcel 191 to the estate of James Martin Frederick (deceased) in accordance with Section 10(1)(b) of the Law. It is accompanied by the documents required pursuant to Section 10(2) of the said Law which contain the details of the proposed Crown grant.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Dr. the Hon. Frank S. McField:** Mr. Speaker, just to briefly remind the Honourable House that the Government had made an undertaking to try to resolve many of the undealt with Crown grant claims. I would also remind Honourable Members of the House that the land which the Government had as Crown land in many cases was land that had not been claimed. However, since the persons that we have mentioned have demonstrated sufficiently that they are the descendants of the owners of these estates, the Government has made the decision to award the ownership back to the families that they belong to. So, we are very happy to have been able to take this exercise just a little bit further to conclusion.

**The Speaker:** Thank you.

**STATEMENTS BY HONOURABLE  
MINISTERS/MEMBERS  
OF THE CABINET**

**A Status Report on Education as at February 2005**

**The Speaker:** The Honourable Minister for Education.

**Hon. Roy Boddén:** Thank you, Mr... Speaker. I wish to present to this Honourable House an update on education. "A status report on education as at February 2005".

Honourable Ministers and Members of the Legislative Assembly, on September 11, 2004, Hurricane Ivan caused an estimated 18 million dollars in damage to our school buildings in Grand Cayman and a further loss of about six million in assets. The most

severe damage was at the Island's two high schools, George Hicks and John Gray. However, every Government school suffered some damage. Yet, despite many challenges, a mere two months after the hurricane namely on 29 November all Government schools were reopened. This was achieved with minimal disruptions to Year 12 examination students, who returned even earlier on 21 October.

I am pleased to be able to state that schools in the Sister Islands escaped damage and were able to resume within two days of the hurricane. They, together with the two temporary learning centres established by the Ministry of Education, provided much needed temporary shelter for over 200 displaced students from Grand Cayman. In most cases, the population of the Islands' four schools doubled to achieve this.

I am pleased to be able to report that considerable progress has been made to date in the Ministry's recovery efforts. However, it is important to acknowledge that despite these achievements, the Education system is still very much in a state of recovery. There is still much to be achieved, which includes, but goes beyond, the extensive rebuilding effort which will continue until near the end of the school year in most cases, or, the replacing of lost contents. For example, our children have suffered, and we must continue to be flexible enough in our curriculum to make the necessary changes and find the time to ensure that we provide them with effective support. We must also not forget that many of our teachers and others within the Education system have suffered their own personal losses, and that, in many cases, adequate housing and transportation remain pressing problems.

The recovery effort, therefore, continues to present many challenges for the Education system and continues to take priority in the allocation of the Ministry's resources. However, four months on from the hurricane, it is equally important for the system to look beyond the short-term needs of the recovery effort, to also begin to tackle the longer term needs and opportunities for redevelopment that exist. The challenge for the Ministry of Education, as it continues to lead a combined education recovery team consisting of staff from the Education Department and Schools' Inspectorate, is to achieve an appropriate balance between these two equally important and pressing needs.

*The ITALIC Programme and ICT in Schools*

I would like to take this opportunity to provide Honourable Ministers and Members with an update on Information Communication Technology (ICT) in our schools. As many of you will know, ICT in our schools is now subsumed under the ITALIC initiative. ITALIC stands for "Improving teaching and Learning in the Cayman Islands". Through ITALIC, we are leveraging technology to raise educational standards. It is one of the most ambitious projects undertaken by the Minis-

try of Education, and has the potential to transform the way we teach and learn in the Government Education system.

Many of you will have read last week a newspaper article in the *Caymanian Compass* on the donation of four used computers to George Town Primary school by the Honourable Minister of Community Affairs. The article stated that the donation was made to support the Ministry of Education's ITALIC initiative.

I would like to take this opportunity to clarify the position of the George Town Primary in relation to Information Communication Technology (ICT) needs, and to share the policies of the Ministry of Education regarding ICT donations. I would also like to take this opportunity to provide this Honourable House with an update on the Ministry's ITALIC programme.

#### *George Town Primary Pre-Ivan*

I would like to talk first about ICT in George Town Primary. Before Ivan, as part of the Ministry's ITALIC initiative, George Town Primary was provided with state of the art technology of various types:

- New state-of-the-art IBM Personal Computers for classroom and administrative use, to supplement and eventually replace a 30-computer Apple Macintosh Lab. In the classrooms, the computers had wireless access to the internet.
- Teachers were provided with laptops and a free online training programme to improve their technical skills as well as their expertise in integrating technology into their lessons. Wireless access to the internet from any location in the school and the use of 6 LCD projectors enabled the teachers to use their laptops during lessons with their students.
- George Town Primary School also received other peripherals, including digital cameras and a camcorder.

Therefore, Honourable Minister and Members of the house, pre-Ivan, George Town Primary School, as was all our other schools, well equipped with technology, with a particular emphasis on using it to support our students' learning.

#### *Post-Ivan*

George Town was one of a large number of schools that suffered severe infrastructural damage, and loss of computers and other peripherals as a result of Hurricane Ivan. Many of you will know that damage to the site forced the Ministry to set up a temporary learning Centre at the Elmslie Church Hall.

However, even at the learning centre the students had access to technology, as they were provided with state of the art wireless laptops and access to the internet, and teachers had use of a LCD projec-

tor and digital cameras. Those students who are now on the school site also have similar access.

I would also like to inform you that an important project within the ITALIC initiative is to provide sufficient personal computers (PCs) in all classrooms in primary schools to provide greater access to technology in all lessons. This strategy was disrupted by Ivan, but we are now preparing to implement its first phase, which will focus on Years 1 and 2, and provide at least four laptops or PCs for each class in all of our Government primary schools. George Town, like all other Government primary schools will benefit from this project. At the secondary schools our approach will be to provide subject area labs for the core subjects, in addition to ICT teaching labs.

#### *Impact of Ivan on ICT and the ITALIC initiative in our schools*

I would next like to inform this Honourable House of the state of affairs in ICT following Hurricane Ivan.

As a result of Hurricane Ivan, major infrastructural damage was sustained at six facilities, namely:

- John Gray High School;
- the Alternative Education Centre;
- George Hicks High School;
- Savannah Primary School;
- North Side Primary School;
- Bodden Town Primary School;
- George Town Primary School; and
- Education Department.

Most of the computers and other peripherals at these sites were also damaged and need to be replaced, such as printers, projectors and scanners. Although not as severe, all of the remaining schools sustained some damage. I am pleased to report that there were no losses to ICT equipment in Cayman Brac or Little Cayman.

We have good insurance coverage for ICT, through Government's insurance providers, and are working with the insurance adjusters to validate our claim and to replace equipment as soon as possible.

To date, the following actions have been taken:

- detailed assessments have been carried out at each school, to test equipment, and a report was prepared identifying potential replacement needs;
- all teachers' laptops that were damaged have been replaced;
- eight educational facilities have internet access and five have WAN access. We have been trying to get fax, telephone and internet lines re-established at all schools, however, we are experiencing delays.
- an initial order has been received for replacement PCs, and new cameras and camcorders have been distributed to schools.

- o servers were rescued and relocated to the Schools' Inspectorate. The servers provide a central point for internet proxy to limit access to internet to safe sites for children and to also acts as our educational portal.

Although every effort will be needed to continue our recovery for some time, we are also looking forward to get the ITALIC initiative back on track. An important first step was the resumption of training for teachers. In December 2004, we held a training session for 111 teachers from primary and high schools on new literacy and mathematics curriculum software, which will be implemented this academic year.

We are also working towards establishing, before the end of this academic year, teleconferencing facilities for Cayman Brac, to be based at the Teacher's Centre. We will establish similar facilities at the Schools' Inspectorate and the Education Department, to allow teachers in the Brac to participate in meetings and training sessions without having to fly down to Grand Cayman. We will be pursuing this as a first step towards facilitating distance-learning for Cayman Brac residents. Teleconferencing will also allow principals to take a more active role in the recruitment of their staff, and will be a valuable resource for the community as a whole.

We are also currently revisiting and strengthening our ITALIC project plan, to review progress and make any needed adjustments to our strategies and action plans. This will set the stage for a more detailed internal assessment, which will be followed at a later stage by a more formal review of the initiative.

### *The Rebuilding Process*

I would like to address, next, the rebuilding process for our schools.

Following the hurricane and by the end of September 2004, initial damage assessments had been carried out, a project manager from the Public Works Department (PWD) and a construction company had been assigned to each school, and a two-phase rebuilding programme was approved.

#### *Phase One of the Rebuilding Process*

The first phase of the rebuilding (September to November 2004) involved repairing sufficient rooms to accommodate the students who had re-registered at each school after the hurricane, supplemented where necessary by learning centres at alternative sites. The examination students at the John Gray High school were given priority, and school reopened for these students on 21 October, 2004, offering the full range of examination classes. The opening of the other schools and starting dates for other Year groups were staggered between 25 October and 29 November 2004. With the exception of the Year 10 students at the John Gray and the George Hicks High School, students attended school full time.

### *Challenges at Secondary*

Given the extensive nature of the repairs required and the lack of alternative space capable of providing for the number of students involved, the students at the George Hicks attend daily for four hours on a shift system, as the school can only accommodate half of the students at a time. This arrangement will continue until the end of the school year.

At John Gray while the Year 11 and 12 students are on site full-time, the Year 10 students attend school at an alternative site. As only half the year group can be accommodated at one time, the students attend every other day. Significant delays in the repair schedule have made it necessary to extend the expected date for the Year 10 students to return to the school on a full-time basis, from February 1, 2005 to the end of April, 2005.

In response, an enrichment programme is being finalised for the Year 10 John Gray students. It will include a work experience option, and will help to develop essential skills and a good foundation for the options and career choices that students will soon face. The programme will be part of the ASDAN (Award Scheme Development and Accreditation Network) and can lead to an internationally recognized certificate.

#### *Phase Two of the Rebuilding Process*

All schools are now in the second and final phase of their rebuilding programmes, which, for most schools should conclude by June 2005. While the Lighthouse School, Alternative Education Centre Red Bay Primary require only minor works; major repairs are required at all other schools.

The Ministry continues to experience delays in the repair schedules due to a range of issues including an inability of contractors to provide sufficient labour and delays in receiving crucial material such as roof trusses. In some cases, the decision to upgrade buildings that are to be used as hurricane shelters, such as the Islay Conolly Hall, has also extended the repair schedule. In addition, PWD has also found it very difficult to persuade contractors to take on projects in the eastern districts. The impact of these delays is most significant at John Gray High school, where repairs to buildings needed for the large numbers of students to take external examinations, such as the Library, the halls and ICT rooms, are still not yet complete.

#### *Modular Classrooms*

In this second phase of the rebuilding programme, modular classrooms are supplementing the number of permanent classrooms repaired, as enrollments continue to edge closer towards the September 2004 numbers. Twenty temporary classrooms were delivered on December 24 and turned over to the

Public Works Department for assembly. Despite some delays in the assembly and the need for further minor works, all are now on their respective sites and, except for those at John Gray, are in full use.

The 24' X 36' classrooms are air-conditioned and can accommodate at least 30 students. They have been allocated based on the specific needs at the school and in conjunction with the repair schedule. Physical space to accommodate them, as well as the ability of the school to provide adequate supervision, were also important considerations. The modular classrooms have been allocated on the following sites as follows:

John Gray:	11
Savannah:	4
George Town Primary:	3
Bodden Town Primary:	1
East End Primary:	1

#### *Storage Issues*

Temporary storage facilities for schools is also currently a priority, as items stored in classrooms need to be cleared to allow for the repair work to continue. Despite shortages of containers locally and in Florida, the Ministry has managed to procure six trailers, which have been distributed to various schools. Another six should be on island shortly.

#### *A Strategic Response*

I would like to assure all Honourable Members of this House that the Ministry for which I have responsibility has used all available resources to get our schools repaired. I would also like to emphasize that we are operating strategically: there are processes and procedures for managing the repairs as well as for setting priorities and monitoring progress.

I think that it is also important to point out that not all factors of the recovery process are within the direct control of my Ministry. In the areas where we do have direct control, here are some of the things that we have achieved:

- we have ensured that all of our students have been able to return to school within two months of the hurricane, and in safe and healthy environments;
- We have provided the necessary equipment and furniture and other educational materials for schools to be able to operate;
- We have provided counselling support for school counsellors and teachers.
- We have prioritized the curriculum to maximize the time available for learning;
- We have put in place strategies for making up for lost curriculum time (such as amending the school day, and taking away non-priority items from the school calendar).

What has been achieved is made even more significant by acknowledging the many factors of the recovery process that are *outside* the direct control of the Ministry, for example:

- the resumption of key services like electricity and phone lines;
- the use of schools as hurricane shelters;
- shipping schedules and the availability of materials for repairs;
- the ability to secure contractors with sufficient labour;
- delays caused by the need to address health and safety concerns.

#### *Student Enrolment*

January 2005 student enrolment figures for government schools on Grand Cayman indicate that student numbers since Ivan have continued to increase, and are approaching September 2004 figures for most schools and are expected to continue to grow. However, there are still significant differences in the enrolment figures between September 2004 and January 2005, at both primary and secondary levels (see Appendix I at end of Statement).

In Grand Cayman, the data for John Gray and George Hicks High schools indicate that there has been a drop in enrolment of 410 for secondary-aged students, out of a total of 1,939 students. About three-quarters of these are from George Hicks. At the Primary School level, enrolment has dropped by a total of 300 students, out of a total of 2171. Enrolment in the Island's only special school, The Lighthouse School, has dropped only slightly from 69 to 60 students. In the Sister Islands, however, enrolment has *increased* by 32 students.

Link officers from the Education Department and Schools' Inspectorate have been monitoring student enrolment closely to track student attendance and to inform decisions about staff deployment and ongoing repairs to schools, to ensure that there is adequate provision for the numbers enrolled. There are still some students who are not accounted for. Schools and the Truancy Officer are continuing to follow up on students who have not shown up since their schools reopened or have not been attending regularly.

#### *Making up for Lost Curriculum Time Change to the School Day*

In January 2005, schools implemented an earlier 8 a.m. start to the school day, as one of the initiatives undertaken to make up for lost curricular time. The Education Department is currently liaising with principals to assess the effectiveness and impact of this change, to determine if it will be continued into the summer term. Other initiatives to create more

curriculum time include a pruning of the national school calendar, to take out non-essential items.

#### *Curriculum Review*

In addition, schools, working with link officers from the Education Department and the Schools' Inspectorate, completed a prioritization of the curriculum in the core subjects at both primary and secondary levels. The curriculum has been reviewed to identify core learning objectives and opportunities for maximizing learning time, including the use of cross-curricular approaches, and joint planning between John Gray and its feeder school, George Hicks.

#### *Providing a Balanced Curriculum*

It is important to stress that efforts to recover lost curricular time should not result in an over-emphasis on the academics in our schools. Principals and teachers have been reminded through various inputs, including the contributions of psychologist Dr Jerome Broadlie, that it is important to continue to provide children with a balanced curriculum, and that the arts and other practical and creative subjects take on even greater importance in the current circumstances, as important therapeutic outlets. Therefore, the revised curriculum guidelines are not intended to be straightjackets for teachers, but guidance to assist in setting expectations and priorities. It is important for schools to retain some flexibility in their curriculum, to be able to respond to their students' needs.

#### *Accommodation and Transportation for Teachers*

It is a matter of grave concern for my Ministry that four months on from the hurricane, many of our teachers continue to struggle with accommodation and transportation issues. Relief is being provided for some by Government's trailer home initiative.

However, this will not be a solution for all. Like many others in the community, many of our teachers are facing increased rent or paying rent in addition to a mortgage while their homes are being repaired. While we may say that this is not the only group that is suffering, I would remind you that these are the persons who are teaching our children, often in less than ideal circumstances at school as well as in their homes, and from whom we expect many things.

My Ministry is currently reviewing options for providing some short term tangible support for teachers, and looking towards the longer term to establish incentives that will allow us to continue to attract quality teachers.

I am pleased to be able to advise this Honourable House that the Education Council has revisited the issue of extending the school year, and has decided not to proceed with this. Government schools in Grand Cayman will close on July 8, the closing date

set before Hurricane Ivan. This decision has been made in light of the good gains made in our students' learning and the curriculum time gained by the various other strategies implemented by the Ministry. We are also concerned about the impact of a longer school year on the morale and well-being of our teachers, many of whom still have difficult personal circumstances.

Undoubtedly there will be some students who will need additional support at both the primary and secondary levels, given the disruption to the school year and to school routines. The Education recovery team is now exploring options for summer school programmes.

#### *Opportunities for Redevelopment and Progress Strategic, Long-Term Plans for School Facilities*

As a result of Hurricane Ivan, extensive repair and rebuilding is required at the George Hicks (GHHS) and John Gray (JGHS) high schools. The initial estimates by the Public Works Department (PWD) set the figure at CI \$6,500,000. Even before Ivan, however, it was apparent that redevelopment was necessary: both schools are overcrowded and catering to student numbers well beyond their intended capacity; additional facilities are needed; some buildings are very old, not purpose-built and there are health and safety concerns; and the campuses, with additional buildings added over the years, are now very spread out and difficult to supervise.

Simply repairing and rebuilding these schools to their former standards will not alleviate the serious deficiencies in our secondary facilities that existed prior to Hurricane Ivan. Instead, there is a necessity, and opportunity, to now place the work at these schools within the broader context of a strategic and long-term plan for the redevelopment of high school education and educational facilities in the Cayman Islands.

The Ministry of Education is now seeking Cabinet approval for the following proposals, as part of a long-term plan for the redevelopment of high-school education and educational facilities in Grand Cayman:

- the restructuring of all high schools as 10+-16+ schools (incorporating both junior and high school phases);
- the provision of three high schools at strategic locations in Grand Cayman: West Bay, George Town and North Side, over the period 2004-2009.

The Ministry is also aware of the need for, and is actively pursuing, infrastructural and other improvements for the Cayman Brac High School. One major initiative is the Ministry's plan to begin work on a new school hall in Cayman Brac before the end of this financial year. We will also be considering, as a longer-term option, the relocation of the Cayman Brac High School to a location on the bluff.

The Ministry also plans to undertake critical reviews of school facilities for Cayman Brac and for primary education in Grand Cayman, with a view to making proposals for their long-term development.

*Curriculum Review*

It is important that the planned work on improvements to the physical plant at our schools is complemented by improvements to the curriculum we are offering to our students. During the next financial year, the first phase of a large-scale review of the curriculum in our primary and secondary schools will take place.

*Organisational Review and Alignment*

Prior to Hurricane Ivan, drafting instructions for a new Education law were tabled in the Legislative Assembly. This comprehensive and modern Bill for education and training in the Cayman Islands is designed to provide the maximum educational advantage possible to students of all ages. It will serve to modernize our education system and provide a strong foundation for its further growth and development.

However, for this law to have its desired impact, the context in which it is to operate must be aligned with and be supportive of the new standards and ways of working required by the law. Therefore, while the Ministry works to finalise the new Education Law it has also begun the process of reviewing organizational effectiveness and alignment at all levels within the leadership and management of the Education system, as the foundation for a major restructuring exercise.

*Disaster Preparation*

Ivan has taught us many lessons, one of which is that our educational system, like much of our country, was not sufficiently prepared for a disaster of this magnitude. It is imperative that we use the lessons learned to prepare for the future. Therefore, the Ministry of Education, Human Resources and Culture, intends to lead the way in developing a Disaster Preparation, Response and Recovery plan for education. Despite the many other pressing tasks facing us in the coming months, we are aiming to complete this before the onset of the next hurricane season.

*Conclusions*

I would like to end by expressing, on behalf of the staff and departments within the Ministry of Education, Human Resources and Culture, my deepest gratitude for the many donations and other means of support provided for our recovery, both locally and from abroad, following Hurricane Ivan.

With your permission, I would like to read into the record, although not in the Statement, the generous donation received from Mr. David Foster and his son Woody, of the Foster Food Fair Group. These gentlemen donated \$100,000 to our efforts to provide modular classrooms merely at a simple request from myself.

I would also like to acknowledge the grateful generosity of Pastor Al and his church community at the Agape Worship Center. Also the United Church of Grand Cayman, the main Church in George Town, has allowed us to use their hall. We are continuing to use that hall as a learning resource center and I would like to thank the Emslie Church Community for that.

Mr. Speaker, there were also other numerous donors like my friend Dr Jerome Broadlie, well-established and renowned psychologist who has given of his own time to council with our students and our teachers. In addition, he has provided us with 3,000 school books for our libraries.

There are others to which the Ministry and the Government extend their heartfelt appreciation.

Our progress thus far has been possible because of the generosity and hard work of principals, teachers, educators, other government agencies and many private organizations and individuals. The Ministry intends to acknowledge these contributions formally, beginning with an awards evening in Cayman Brac in early March, 2005. Mr. Speaker I thank you for the extended privilege of reading this Statement.

**Appendix I—Enrollment Data for Government Schools**

**Primary Schools in Grand Cayman**

School	September '04 enrollment	January '05 enrollment
<b>Primary Schools</b>		
Bodden Town		
East End	188	150
George Town	118	109
John A Cumber	258	200
North Side	478	456
Prospect	81	77
Red Bay	266	222
Savannah	494	425
	288	240
<b>Total primary schools</b>	<b>2171</b>	<b>1879</b>
Lighthouse School	69	60

**High Schools in Grand Cayman**

School	September '04 enrollment	Jan '05 enrollment
George Hicks	1076	783
John Gray	863	746
<b>Total High schools</b>	<b>1939</b>	<b>1529</b>

**Sister Islands' schools**

School	September '04 enrolment	January '05 enrolment
Cayman Brac High	160	178
Creek/Spot Bay	57/44	58/50
West End	60	67
Little Cayman Educational Services	5	5
<b>Total Sister Island Schools</b>	<b>326</b>	<b>358</b>

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

**Mr. Anthony S. Eden:** Thank you Mr. Speaker. I have a brief question under Standing Order 30(2).

**The Speaker:** In accordance with the provision of Standing Order 30(2) I will allow short questions.

**Mr. Anthony S. Eden:** Under 'Student Enrollment' to the Honourable Minister there is approximately a net loss of 680 students over the schools and it says that some of the students are still not accounted for. I do not know if the Honourable Minister is in a position to say whether these are students that have gone to school overseas and the possibility of these children coming back to school here. Does he have any indication to that effect?

**The Speaker:** The Honourable Minister for Education.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. The Honourable Member is correct: they are students most of whom have relocated, and are in schools outside of the Cayman Islands. It is my understanding that the Education Department is receiving inquiries from many of those students and we are under the impression that most of them, if not all, will be returning for the beginning of the new school year.

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

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I too would like to ask the Minister a question concerning the temporary classrooms. Seeing that the temporary classrooms are the only means of now accommodating our students, I am wondering if the Minister can say if we are satisfied that the installation of those classrooms is being done properly. The one that I am aware of, and a few others, seem to be propped up on blocks that are not permanently in place with cement. I am therefore wondering, seeing as we recently had a tremor and the hurricane season is upon us again, I am wondering if the Minister can say if we are confident that these will withstand such adverse weather conditions.

**The Speaker:** The Honourable Minister for Education.

**Hon. Roy Bodden:** Mr. Speaker, might I remind the Honourable Member making the query that it is our objective that we will be back to pre-Ivan arrangements by the end of this school year. Hopefully, in some cases, by the end of May so that on some sites there will not be a pressing need for the modular classrooms as I prefer to call them.

The reason why the classrooms are set up in this manner is exactly because they are temporary. We would hope to be able to remove them from the sites as soon as we have normalized the arrangements. I heard what the Honourable Member has said and I spoke with the engineers at Public Works and we talked about that. I mentioned in the Finance Committee that there were some sites from which we had specific complaints because students could go under them. They were not secure from the smaller students going under them. Therefore arrangements were made to put some kind of netting or fencing around them.

We were also instructed that in addition, the classrooms would be strapped down and the foundations on which they presently sit would be strengthened and bolstered. I have heard the Honourable Member's concern, I give the undertaking that I will follow up to ensure that the structures, although temporary, are set in such a manner that they will not tee-tle or topple down easily.

You will however understand Mr. Speaker, that we have no control in the event of an earthquake. Even a building on a firm foundation can tumble, but I take the Honourable Member's point and I give the House my undertaking that I will endeavour to ensure that his fears are allayed.

**The Speaker:** I will allow two more short questions. The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. I wonder if the Honourable Minister can give us some indication as to when the temporary classrooms at the John Gray site will be operational.

**The Speaker:** The Honourable Minister for Education.

**Hon. Roy Bodden:** Mr. Speaker, as I said in my statement, regrettably, certain circumstances are beyond our control. We are working with Public Works. We have impressed upon them the necessity and the urgency of arriving at a position in which these classrooms are functional. However, we are at the whims and fancies of other gods. I would hope that these could be functional by the end of May, 2005, so that we will have them in place. We were thinking that they could be in place shortly after the Easter, so that we could move the year 10 from the Agape Worship Centre back to the John Gray site. We are hoping that will be the case, however I would hesitate to give the Honourable Member any firm date seeing that we are having difficulties negotiating with Public Works.

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Orders 46(1) and (2)

**The Speaker:** At this time I will call on the Honourable Minister for Planning to move the suspension.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I move the suspension of Standing Orders 46(1) and (2) to allow the Strata Titles Registration (Amendment) Bill 2005 to be read a first time.

**The Speaker:** The question is that Standing Orders 46(1) and (2) be suspended to allow the Strata Titles Registration (Amendment) Bill 2005 to be read a first time. All those in favour, please say Aye. All those against, No.

**Ayes**

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

**Agreed. Standing Orders 46(1) and (2) suspended.**

### FIRST READING

#### The Strata Titles Registration (Amendment) Bill 2005

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

### SECOND READING

#### Suspension of Standing Order 46(4)

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you Mr. Speaker. I wish move the suspension of Standing Order 46(4) to allow the Strata Titles Registration (Amendment) Bill 2005 to be read a second 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 Orders 46(4) suspended.**

#### The Strata Titles Registration (Amendment) Bill 2005

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I beg to move a Bill entitled The Strata Titles Registration Bill 2005.

**The Speaker:** The Bill has been duly moved. Does the Honourable Member wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, thank you, Mr. Speaker.

As Members of this Honourable House would not doubt be acutely aware, the Cayman Islands economy depends on the growth and development of tourism, including stay-over visitors. Accordingly, the Government has continued to grow and promote our country's economy by working with the private sector to recognise opportunities for development in this most vital sector of our economy.

The Government has also received various advice and input from our industry experts, including by not limited, to the banking, real estate and tour operators. All seem to be sending the same message and that is that we need to continue to attract tourism investment to these islands.

Mr. Speaker, as we continue to rebuild our lives in the aftermath of Hurricane Ivan, we are still nonetheless faced with many challenges presented by the unfortunate events of Ivan and not the least some three years ago which still have a effects on our tourism here in the Caymanian jurisdiction.

The results of the global recession in tourism have seen that traditional sources of funding for hotel projects have drastically declined. Accordingly, I am advised that it has now become necessary to create ways of funding, such as selling hotel rooms and using the proceeds for bridge financing. Under the financing mechanism, the rooms would then be licensed back to the hotel for its utilisation for the majority of the year, thereby making the rooms available to the hotel whilst still providing a return on investment for the purchaser. I am also advised that local hotel developers see this as a viable source of financing. However, they are bound by the current strata legislation which does not permit stratas to be registered if they are in any way, form or shape associated with a hotel.

In short, hotel rooms cannot now be sold under our current legislation. Therefore, Mr. Speaker, in an effort to encourage hotel development in the Cayman Islands I am bringing before this Honourable House a proposed amendment to the Strata Title Registration Law which I believe will allow, at the discretion of the Governor in Cabinet, the sale of fee simple hotel rooms. In short, Mr. Speaker, the Bill (if passed) would, upon the application of any proprietor to the Governor in Cabinet (they would at the discretion of the Governor in Cabinet) grant permission for the registration of a strata plan over the whole of a single par-



cel of land being used or intended to be used for a hotel.

Mr. Speaker, with those remarks—except for the addition of a reference which I made several days ago (but because of a question I think I need to reiterate or place emphasis)—the Ministry and the Legal Department are (as I now speak) making the necessary amendments to the Strata Regulations the effect would be to allow strata titles to be registered in Cayman Brac and Little Cayman. Currently under the Development and Planning Law, the requirement is that Regulations 1 – 33 are not applicable to Cayman Brac and Little Cayman for a number of reasons that I need not go into in this particular forum.

However, suffice to say the advice that I have received is that it will be appropriate to only amend the Regulations for the Strata Law. Once that is done (hopefully by this Tuesday or the following Tuesday) proprietors on Cayman Brac and Little Cayman will now also advance the privilege and the advantages of resident strata title properties within the two islands.

I say that Mr. Speaker, although it does not directly relate to this but because an amendment is coming to the Strata Law I would want to save Members the time of debating that particular item because it is being taken care of and I will be making a statement as soon as I have my colleague's approval in Cabinet for the passage thereon.

With that, Mr. Speaker, it would only leave me now to ask Honourable Members to render their support for this amendment which I believe would have positive economical effects within our jurisdiction.

Thank you.

**The Speaker:** Does any other Member wish to speak?

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you. Although this is one of those Bills that we have not had a long time to peruse, it is not complicated and what is being sought by way of the amending Bill is fairly straightforward.

Just to use an example, as I understand it, so that some people who might be listening would not be confused: One might look at a project such as the Ritz-Carlton Hotel which has a hotel but also has condominiums and suites. One might wonder if that project were able to go ahead why would there be a requirement for an amendment to the existing Strata Titles Law. However, the fact is, as I understand it, that the apartments, suites or condominiums are located on their own parcel of land which is separate and apart from the hotel site itself. So, even though there will be apartments on the ocean side of that project and they will be part and parcel of the rental pool for the hotel, the fact is that the effect of the Strata Titles Law is self-contained within that parcel and is not mixed with the hotel property.

This amendment is seeking to allow perhaps on the same parcel for both conditions to exist. As the Law is now without the amendment, it would be physically impossible for that to be allowed to happen. Therefore, I am just using that example to clear the air and to say that we on this side see no risk, because however the management structure is arranged for a project which has a combination of these, certainly the management would be structured in such a way as to not conflict. It would not suit financially for there to be a conflict with persons owning individual units and the larger number of hotel rooms being rented on the same premises. I am sure that that part of it will be structured well and there is no risk in us passing this amendment and the Opposition is quite happy to support what is being proposed. 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 merely to make a few comments on the amendment to the Strata Titles Registration Bill before us. The Leader of the Opposition has already indicated that the Members of the Opposition support this amendment. However, there are a few comments that I would like to make.

Sometime ago I made a statement in this Honourable House about a hotel development that was going on the eastern end of the Island, in East End in particular up on the northeast coast which is in my constituency. At the time I said the people of East End looked forward to the development and they continue to look forward to that type of development within their constituency. It is my understanding that this amendment will support that development. It is also strategically placed almost on the divide line between East End and North Side. It will certainly affect the economy of North Side also. I believe that this amendment will assist in encouraging the developers to do the development. I can lend my support to it because I still believe that East End is the prettiest part of this country and we will encourage development of this nature because it can do no harm to our constituency.

However, I believe there are a few things that we need to ensure happen, and that is the infrastructure on that side. Currently the water goes to within 2 miles of this site and a development of that magnitude will require pipe water be installed to the site and I believe that as an incentive to that type of development on that side of the Island I think Government, through the Water Authority, needs to look seriously at extending that water along there.

We also have a lot of residents between Tortuga Club and this site that is currently under review to be developed. There are a number of residents, Caymanians and foreigners and I believe that it would be

in the best interest for us to seriously consider the extension of the water mains in that area.

It is also necessary, not only for that piece of road, but for the rest of the road into East End, that is from the junction of Frank Sound road to East End to be paved. We are now getting more traffic as a result of these developments in that area and the roads are in a less than satisfactory state. That too will encourage more development in that area.

As I understand it, the development of the Mandarin, which I am speaking of, is going to cost over \$100 million and that should in itself encourage the Government to assist and give some incentives to move development in that direction. We have the West Bay Road that is almost finished with very little space left and the eastern districts are by far the most beautiful and the ones that should now get the upscale developments.

Mr. Speaker, I think in the stratas we charge \$10 per night for rental. I would like to ask the Minister if this would also be applicable to the hotel stratas – seeing that this is a hotel strata as opposed to just strata. That would certainly be an added reason to amend the Law if we are going to be collecting \$10 per night like we do on timeshares.

Through this forum I would like to encourage the Planning Authority, members of the community and certainly the eastern districts to look positively at some of these developments going on the eastern route. I would also encourage candidates and potential candidates to talk positively of these developments and try to encourage the people to accept some of these types of developments. It can only bring good to the eastern districts, Mr. Speaker. All of the candidates from the eastern districts have understood that the western end of the Island has been where all of the upscale development has been. We have the potential to attract and to sustain these upscale developments. It is our turn now, so when we hit the soapbox in the next few months we should try to encourage our people to support these kinds of developments. I support the Minister and my only question is if the \$10 would extend to the hotel strata section of the Law as amended.

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 not would the Honourable Minister for Planning wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. Just to thank the Members of the Opposition who expressly stated their support for this Bill and for the other Members on both sides who I assume will approve by way of their silence.

With reference to the last speaker, the Member for East End, as the Leader of the Opposition indicated the Bill is merely seeking to make it possible for

a hotel development on one site to be able to have the benefits of the registration of strata title. The Bill is in no way seeking to give any other advantages. Therefore all the condition precedents that are now in place for strata titles would still be applicable to this scenario. So, his fear of the collection of the extra \$10 – or his emphasis – was well-founded in that the Government is certainly not seeking – certainly not at this stage, and I have not been advised or instructed to do otherwise at this stage.

I wish to thank Members, and as I said in my preliminaries I believe that this is an initial step, but an important one in ensuring that not only development in the tourism sector continues to be a viable and sustainable sector of our industry but it will also allow, as the Member from East End said, the outer districts whether it is the eastern districts in Grand Cayman or those on the Cayman Brac and Little Cayman to have an opportunity for revitalization and other shot in its economy. I thank you.

**The Speaker:** The question is that a Bill shortly entitled the Strata Titles Registration (Amendment) Bill 2005 be given a second reading.

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

**Ayes.**

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

**Agreed. The Strata Titles Registration (Amendment) Bill 2005, given a second reading.**

**The Speaker:** Honourable Members I think we have time that we can go into Committee so we will just continue. The House will now go into Committee to consider the Bill.

**House in Committee at 12.31 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 authorize the Honourable Second Official Member to correct minor errors and such the like in these Bills?

### The Strata Titles Registration (Amendment) Bill 2005

Clause 1	Short Title
Clause 2	Amendment of section 2. Definitions.
Clause 3	Amendment of section 3. Creation of strata lots.

**The Chairman:** The question is that Clause 1, 2 and 3 form part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. Clauses 1, 2 and 3 form part of the Bill.

**Agreed: Clauses 1 through 3 passed.**

**The Clerk:** A Bill for a law to amend the Strata Titles Registration Law (1996 Revision) to confer upon the Governor in Cabinet the discretion to allow the registration of a strata plan over a single parcel of land being used or intended to be used as a hotel.

**The Chairman:** The question is that the Title forms part of the Bill. All those in favour, please say Aye. All those against, No.

**Ayes.**

**The Chairman:** The Ayes have it. The title forms part of the Bill.

**Agreed: Title passed.**

**The Chairman:** Honourable Members, this concludes the proceedings in the Committee. We will now return to proceedings in the House.

**House resumed at 12.33 pm**

## **REPORT ON BILL**

### **The Strata Titles Registration (Amendment) Bill 2005**

**The Speaker:** Proceedings are resumed. The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker. I beg to report that a Bill entitled the Strata Titles (Amendment) Bill 2005 was considered by the whole House and was passed without amendment.

**The Speaker:** The Bill has been duly reported and is set down for Third Reading.

## **THIRD READING**

### **Suspension of Standing Order 47**

**The Speaker:** At this time I will call on the Honourable Minister for Planning to move the suspension

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I move the suspension of Standing Order 47 to allow the Strata Titles Registration (Amendment) Bill 2005 to be read a third time

**The Speaker:** The question is that Standing Order 47 be suspended to allow the Strata Titles Registration (Amendment) Bill 2005 to be read a third time. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed. Standing Order 47 suspended.**

### **Strata Titles Registration (Amendment) Bill 2005**

**The Speaker:** The Honourable Minister for Planning to move the suspension

**Hon. Juliana Y. O'Connor-Connolly:** I move that the Strata Titles Registration (Amendment) Bill 2005 be read a third time.

**The Speaker:** The question is that a Bill shortly entitled the Strata Titles Registration (Amendment) Bill 2005 be given a third reading and passed. All those in favour, please say Aye. All those against, No.

**Ayes.**

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

**Agreed. Strata Titles Registration (Amendment) Bill 2005 given a third reading and passed.**

**The Speaker:** The Honourable Leader of Government Business.

## **ADJOURNMENT**

**Hon. W. McKeeva Bush:** Mr. Speaker, on the Motion for adjournment I would like to say a few words, Sir, but I move the adjournment of this Honourable House until Monday, 28 February, 2005 as there is not a lot of business left but there is some business still to conduct.

I leave the Island today to do a round of meetings and I have entitled those meetings "Promoting, Protecting and Enhancing the Cayman Islands". One meeting is in New York and it is a press conference with 25 of the top USA media and accompanying me will be Mr. Mike Adams from Cayman Airways, the Minister of Planning for Cayman Brac and Little Cayman, Mr. Mark Bastis from Cayman Islands Tourism Association and the Department of Tourism and my Permanent Secretary.

Mr. Speaker, we want to bear in mind that while there was a lot of noise about the Government and others not letting the world know about what damage existed in Cayman after the hurricane there was a lot of coverage. We have to manage "fallout." Our tourism is affected and we have to manage that fallout. There are other news items in various local

newspapers that bring fallout to this country and we have to manage it and that is what we will attempt to do there.

There is also a very important meeting on behalf of Cayman Airways in Madrid with Mike Adams, the Airports Authority Director and myself. The meeting in Dubai has already been publicized. However as you know, Mr. Speaker, we spent four years in talking and dealing with various tax agreements and various regulatory legislation and initiatives including the OECD. There has not been a lot of promoting Cayman, of getting new business and while we are doing okay we are far from out of the woods. In addition, while the financial industry is doing good in some places we are challenging others.

The delegation will consist of the Cayman Islands Monetary Authority and various private sector companies and will promote business. We have to look not only at the short-term but at the long-term. The Emirates and Dubai pose a challenge to us but also an opportunity for some of our business vehicles. Therefore this is our opportunity to do business and promote business.

Next month the leading political of Jersey will take a delegation of 60 there (the Emirates and Dubai) and the Chief Minister of the Isle of Man will lead, I think today, a preliminary delegation of five. It shows us what competitors are doing and how important they think the jurisdictions is. Advice from the private sector has been that Cayman should present ourselves in the Emirates.

The United Kingdom is developing hand over fist from the Emirates, so this is about promoting business for the Cayman Islands. We will launch the Cayman Islands Investment Bureau, which was intended to have been launched last year September but as everyone knows we had to cancel that, however we will be launching it on this round.

It is important not just for inward investment but also the office will look out for tourism prospects between the East and the Cayman Islands. It is that meeting that will take me away from the country for this length of time and it will take me away from Nomination Day. Nevertheless the Law permits for nominations while you are absent from the country and that will be done.

Since this will be somewhat of a swan song for me, although the House will go on, I hope you will permit me to say that we have had a hard road to go. We have had worldwide challenges from 2001 and the disaster that affected the United States and thus the world and then our own disaster here. It seems as if we went from one thing to the next.

However, the Almighty God has helped us, we have survived and I believe that this country still has a good future and we will have to ensure that it has a good future. Of course I intend to stand in the West Bay constituency which I have represented for over 20 years come the general elections on 11 May, 2005.

Mr. Speaker, I believe that I have a good record and I will wait to see what my constituency says, but I will do what I have always done and that is to tell them truth and trust their good common sense.

I want to wish all Members of this Honourable House well and to beg to not let politics separate us, and to not let institutions, as we have talked about the party system and some have blamed the party system but I believe that the country has to have some system and although small we know it can work and it is up to us to let it work.

For those who do not believe so, well we wish them all the best in their going forward. However, let us not allow politics to so divide us in here or even on the political platform that it divides our people to the extent that it harms us. There will be division because that is the name of politics, but we do not have to be enemies.

Therefore while some will do their rounds vigorously in the daylight and they will have their opportunity, what I call nocturnal opportunities, I beg of all of us, and I know other Members will hopefully voice the same sentiment, let us not be enemies. The Cayman Islands depends on us and there is enough talent for us to make this country work. I hope Members will not take this as an offence, I asked you for the opportunity because I will not be here because that is how important the rounds of meetings are. I will not be here when the House is dissolved on Nomination day.

As for my opposition in West Bay, let them put their best foot forward, but they too will have to stand on their record and that is already well known

I thank you, Mr. Speaker, for your services, your conduct as Speaker and Presiding Officer of this House. I want to thank the staff for many times the inconvenience to them and their families and of course the Serjeant of Arms who has, I think, done a sterling job as a new serjeant and our security, and of course the Members of the Fourth Estate, the media. We want to thank them for their services and their reports on this House which has been, from the *Caymanian Compass*, a very fair job. Well done.

I certainly would like to thank my colleague, the Deputy Speaker, who has done a sterling job while you were absent from the Chair at times and I look forward to him being here and my other colleagues with me during the next four years, God willing. Mr. Speaker, may Almighty God continue to bless these Islands as we move forward and good luck to everyone.

**The Speaker:** Honourable Members, just to let you know and to clarify for the press, I will be giving a similar opportunity on the adjournment at the last day of this current meeting, or when we have finished the business of the House so that other Members will have an opportunity to make brief remarks.

The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbets:** Thank you, Mr. Speaker. Just to say that while we will have our opportunity to say words of kindness, my rising to speak is not to speak after the Leader of Government Business but just to take this opportunity on behalf of the Opposition—and I am certain all Members will join me to wish you, Sir, a happy birthday. We will not ask you your age and perhaps it might not be good of us to attempt to sing over the microphones either. Even if in the political campaign we are competing, we still wish you a happy birthday, Sir!

**The Speaker:** Thank you kindly. Also just to say in response to the kind comments made and also comments by the Honourable Leader of Government Business, I am sure as a House we would wish him the very best as he travels and as he once again enters into the political campaign I hope that we all take the message that he has given, that we should do it with dignity. I am sure we will do it firmly, but with dignity remembering that we are all really trying to do the same thing and that is to give our people the very best representation possible.

Leader of the Opposition, I thank you most kindly for your kind words; I feel a little bit despondent today that I am turning 21.

*[Laughter]*

**The Speaker:** However, that is a fact of life so I am going to enjoy it. I know some Members think it is all in my mind but it is also in my body. I am feeling great so I want to thank you so much for your kind remarks.

The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Mr. Speaker, I did not know it was your birthday; it seems as if the Leader of the Opposition is paying close attention to you.

*[Laughter]*

**Hon. W. McKeeva Bush:** However, Mr. Speaker, let me add from this side of the House, and in fact on behalf of Cabinet, our congratulations for reaching what you think is a good age. May you have a very enjoyable day, Sir, and may God continue to bless you with good health.

**The Speaker:** Thank you so much, Honourable Leader of Government Business. I try to keep my relationship equal between the Opposition and the Government bench. I believe that the Leader of Opposition remembered because we are both under the sign of Pisces.

*[Laughter]*

**The Speaker:** Honourable Members, I will now put the question for the adjournment. The question is that

this House do now adjourn until 10 am on Monday, 28 February, 2005. 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 10 am on Monday, 28 February, 2005.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**28 FEBRUARY 2005**  
**10.35 AM**  
*Ninth Sitting*

**The Speaker:** I invite the Honourable Third Elected Member for West Bay to lead us in Prayers.

apologies for the late arrival of the Honourable Second Official Member.

**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 Cabinet 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 are resumed.

**Proceedings resumed at 10.37 am**

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

**Apologies**

**The Speaker:** I have received apologies for absence from the Honourable Leader of Government Business and from the Honourable Minister of Planning and

**PRESENTATION OF PAPERS  
AND OF REPORTS**

**White Paper Draft Bill: The Education and Training Bill 2004**

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

**Hon. Roy Bodden:** Mr. Speaker, I beg to lay on the Table of this Honourable House A Bill For A Law To Provide For Education And Training; And For Incidental And Connected Purposes.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Roy Bodden:** Yes, Sir. Thank you.

Mr. Speaker, this Bill, A Bill For A Law To Provide For Education And Training; And For Incidental Purposes, is the fulfilment of a commitment which I gave in 2002, to embark on a course which would culminate in giving the country a modern Education Law.

I remind the Honourable House that the drafting instructions for this proposed Law (and now the Bill), were laid on the Table of this Honourable House in June of 2004, with the objective that we would have a three-month period in which feedback would have been solicited. We extended that time and events were overtaken by Hurricane Ivan. Six months have passed and now we are giving a further discussion period with the hope that if events take their natural course and I am returned as Minister, we could have this Bill passed into Law for the June sitting of the Legislative Assembly – that is June 2005.

Before I go into the details of the discussion paper, Mr. Speaker, permit me to say that we have received a fair amount of suggestions and critical commentary, many of which have been incorporated in the Bill (or the "discussion paper" as I choose to call it) in bold or italicised. There are still some amendments to be made based on feedback we have received, but this, so to speak, is a last call for those persons who would wish to add any kind of concerns. The reason why we have left them in the circulated copies is to avoid duplication as I suspect leaving them in will aid those conscientious persons who would read the proposed discussion paper and study

it with a view to making amendments and suggestions.

The final observation on this matter is that conspicuous by its absence are any concerns proffered by an entity who shall remain nameless but who had so much to say concerning an extension when we first circulated the draft. It is now the last chance for them to offer commentary.

Mr. Speaker, let me elaborate. This proposal adheres to the concept of life-long learning as envisaged by me, and is in keeping and consistent with the document "Vision 2008". We arrived at this position through a mechanism led by the Education Council. We did not start with a blank slate but drew on results based on extensive consultation and comments on the old law before I took office.

Education Council also drew on eight years of inspection evidence on the effectiveness of gaps in regulation and policies. The CEO, the Chief Inspector of Schools and a representative of private schools consulted on specific issues with the staff and students on an ongoing basis as the drafting regulations were prepared. We also used an example of a law from a similar jurisdiction with ministerial system of government.

I believe that the discussion paper to date has had very wide consultation and it is almost unique in that we have extended the time for such a long duration. This is important in light of the fact that I would say this Bill is among the most important bills which has to do with the future of this country, particularly as it prepares not only young people but everyone interested in life-long learning for education and training so that they may fit into the Caymanian society on a constructive and productive level.

The proposed legislation presents many changes and I will attempt to summarise. However, I would wish to highlight from the very beginning what is obvious in that the sophistication of these proposals far outreaches what is covered in our present education law, which is a very thin document and which I argue has outlived its usefulness. While it may have been good for the years it has served, it is not the document to modernise and to deal with the 21<sup>st</sup> Century challenges that the education establishment and our education system now face.

The significant differences are (and I will attempt to summarise), this proposed legislation makes the Minister responsible for providing an education system that will promote the spiritual, cultural, moral, intellectual, physical and social development of the people of the Cayman Islands by promoting life-long learning and by ensuring that all students have equality of access and opportunities to the educational opportunities and advances provided for by the Government. The Minister, in this proposed legislation, is also responsible for establishing a system for evaluating and reporting on educational standards and the quality of education provided in our schools for the development of a national curriculum for Government

schools and for providing that such a curriculum is regularly reviewed and assessed. It addresses basic requirements for the curriculum in all schools and requires that in all schools the curriculum should be broad-based, balanced and relevant to the needs of all students, and that such a curriculum would promote equality of access and opportunity for all students and prepare them for the subsequent stages of education, training or employment and for the opportunities which follow therefrom.

The proposed Bill defines the key stages in education and provides for assessment at the end of each key stage in government schools and, in addition, for annual standardised tests of basic skills for all schools, whether public, private or private assisted. [The purpose of this is] so that we would be able, should the necessity arise, to come to a comparative standard measure according to a scientific scale of the children's capabilities and abilities, whether they are in a school whose system is different from that of the public schools or not. It defines the three types of schools: public, private or private assisted schools.

It provides for the establishment of a school's improvement unit within the Education Department, and this is a direct outflow of recommendations made in the Millet Report, as part of the responsibilities of the Chief Education Officer to help address areas of underachievement and poor performance including areas of priority identified through inspection.

It creates the responsibility for the Chief Education Officer to support school self-evaluation and school improvement planning within the policy frameworks established by the Ministry. As a corollary it provides for the formal establishment of the Schools' Inspectorate and gives the Chief Inspector the responsibility for inspecting all schools, educational institution and programmes within the remit of its independent office including pre-schools.

It creates the responsibility for the Chief Inspector to undertake research and to advise the Minister on key regional and international trends, developments and research findings on education. It also provides for the inspection of schools and other educational institutions as mentioned above, but the unique aspect of this process is that it is designed to offer support for the institutions as well as monitoring their performance. This process offers assistance to principals and teachers by identifying and evaluating against national standards and criteria for teaching and other key aspects of a school's work and by promoting self-evaluation as a key part of the inspection model.

Mr. Speaker, importantly, and I have gone on record many times during my tenure on the Back Bench as saying, the Education Council needed modernisation and streamlining and in this discussion paper we have such a modernisation and streamlining. The Education Council is given a more strategic role with responsibility for advising the Minister on policy relating to pre-school, primary, secondary and

post-secondary education. The licensing of teachers, the establishing of priorities for the educational system and for the disbursement of scholarship and grant monies, but, most importantly, Mr. Speaker, the modernisation and streamlining removes the Minister and the Chief Officer in the Ministry from the responsibility of chairing the Education Council, thus avoiding conflict of interests.

I say "thus avoiding conflict of interests" because I have always argued and it is a practice of mine for Ministers not to chair important boards, or even Statutory Authorities which fall under their Ministry because there is a sense in which it becomes difficult when situations arise where that Minister needs to extricate him or herself from certain positions taken by the Board. I have said many times prior that the Chairman of the Education Council should not be the Minister because the Minister would find himself in a precarious position in the event that he or she disagreed with a position taken by the Council.

I am happy to put into practice what I have preached in this proposed discussion draft by removing the Minister, so that the Minister and the Chief Officer becomes, in a manner of speaking, the "courts of last appeal" and are therefore in positions to review, rescind, overturn, amend or disagree with positions taken by the Education Council. Mr. Speaker, I believe that this is not only transparent but it is sensible in the 21<sup>st</sup> Century. Permit me to highlight how the Council is organised differently from what it was in the old law.

The old law says that there shall be an established Education Council whose duty it shall be to promote education in the Cayman Islands and the progressive development of schools consistently with the powers of direction and control vested in the Council by this Law. Of course, there were also extensive regulations which governed the conduct of the Council. The new law says that-

**"13. The Governor in Cabinet shall establish a body to be called the Education Council.**

**"14. (1) The Education Council shall advise the Minister on matters –**

- (a) connected to education as it thinks fit;**
- (b) concerning the performance of any of the Minister's responsibilities for the exercise of the Minister's powers under this Law as the Minister refers to it."**

It goes on to say that it shall advise the Minister on –

- "(a) policy relating to pre-school, primary, secondary and post-secondary education;**
- (b) examinations that may be adopted;**
- (c) matters relating to the licensing of teachers;**
- (d) matters relating to standards in all schools;**
- (e) the establishing of priorities...;**
- (f) the facilities and resources**

**required to ensure satisfactory standards...;**

**(h) the disbursements of grants..."**

And so on, much, Mr. Speaker, the same as with the Council as it exists under the present Law. However, the significant point is that the makeup of the Council is different. It is an expanded Council not chaired by the Minister or the Chief Officer and has additional members. Including as it does now, it retains representatives from the private schools. It has also the chairman of the Tertiary Education Council, Chief Education Officer, Chief Inspector, Director of the Employment Relations Board, Chairman of the National Training Board, two members appointed by the Governor in Cabinet in his discretion from among persons representing-

**"15. (a) (i) expert opinion in the field of education;**

**(ii) the Cayman Islands Students Association; and**

**(iii) a national parent teacher association;"**

**(d) the Chairman of the Sister Islands Education Committee...**

**(e) one representative nominated by an association of ministers of religion' from within their membership;**

**(f) one representative from the business and professional community; and**

**(g) one representative from each of the following -**

**(i) culture;**

**(ii) government health;**

**(iii) social services; and**

**(iv) one representative from a national pre-school association, if one exists."**

So, Mr. Speaker, you will see that [what] the Education Council proposed in this discussion paper is a far wider and more comprehensive council than the one which exists under the current Law.

The proposal establishes in Law professional responsibilities of teachers and principals and provides for disciplinary action for failure to perform the duties and responsibilities as required. It provides not only for students' rights to an educational programme appropriate to their needs, but also gives them responsibilities incumbent upon them under the Law. They must observe the codes of conduct established by the Ministry, as well as by each school. They must attend classes regularly and punctually, they must be diligent in pursuing the curriculum set out for them and must observe the stated standards of deportment. This proposal gives students the right to be treated fairly and with dignity and gives them the right to be free from discrimination of any type.

Let me pause here, Mr. Speaker, to say that this discussion Bill is predicated upon the promotion, inculcation and recognition of basic human rights, hence our emphasis on the promotion of rights and their accompanying responsibilities, because to main-



tain the balance there must be rights but on the other hand there must also be responsibilities. So this proposed Bill, while it clearly articulate the rights it also emphasises the accompanying responsibilities.

The Bill (this is very important, Mr. Speaker) abolishes corporal punishment in the schools; it clearly and unequivocally abolishes corporal punishment in our schools. It provides for the rights and responsibilities of parents, (and this is new and it should be emphasised) it specifically makes parents responsible for the attendance and punctuality of their children. It also, Mr. Speaker, makes them responsible for the actions of their children, especially when such actions cause injury to another. Parents are specifically given the right to have a voice in their children's education and to participate in classrooms when it is convenient with the teacher and principal and when it will not be disruptive to the education process.

Mr. Speaker, permit me to read regarding the abolition of corporal punishment. Section 62 of the proposed discussion draft says, **"In the enforcement of discipline in schools, corporal punishment is hereby abolished."** I will find that important section which has to do with responsibilities of parents. I think, Mr. Speaker, that these proposals are revolutionary in this regard, but I would expect that in spelling out these responsibilities we will be ensuring that the education process is a participatory process and that the parents understand their functions, because for education to be effective this should not be a one-way street at all.

Rights and responsibilities of students and parents, Part VI, section 20, "Rights of students".

**"20. (1) Every student has a right to be treated with respect and dignity, and in a fair and reasonable manner, and to be free from any form of unlawful discrimination.**

**(2) A student may express any religious, political, moral, or other belief or opinion, so long as the expression does not adversely affect the rights of education of other students, or the rights of other persons in the school.**

**21. (1) A student entitled to education in a government school shall –**

**(a) have the right to be enrolled in an educational programme offered by the Ministry responsible for education; or**

**(b) be directed by the Chief Education Officer to attend an educational programme offered by another educational institution where it is reasonable to do so."**

Before I go on to the rights and responsibilities of parents, let me mention the accountability of students.

**"26. (1) Every student shall be accountable –**

**(a) to the teacher for his conduct on the school premises during school hours and during such hours as the teacher is in charge of the student in class or while engaged in authorised**

**school activities conducted during out-of-school hours; and**

**(b) to the principal for his general deportment at any time that he is under the supervision of the school and members of the staff, including the time spent in travelling between the school and his place of residence."**

That, Mr. Speaker, is significant and I emphasise, students are accountable to the principal for general deportment at anytime that he is under the supervision of the school and members of the staff, including the time spent in travelling between the school and his place of residence. That means from the time you board the school bus in the morning until you reach school until you disembark from the school bus at the end of the school day or at the end of the formal school time, a student is accountable for his or her deportment to the principal and staff of the school.

It goes on –

**"(2) Every student shall be under the general direction and control of –**

**(a) the driver and warden of a school bus; and**

**(b) any person under whose supervision students are placed on the authority of the Chief Education Officer, a principal, a teacher or a duly authorized agent of the Department of Education,**

**in respect of the student's general behaviour and deportment...**

**Rights of parents –**

**27. (1) Subject to the provisions of this Law, parents may choose home schooling conducted in accordance with section 77 of this Law, private schooling or government schooling for their children.**

**(2) Parents of children attending school are entitled –**

**(a) to be informed of the standards achieved, progress, behaviour and the attendance of their children;**

**(b) to appeal decisions that significantly affect the education, health and safety of their children;**

**(c) to be consulted regarding the appropriateness of any additional, special or alternative educational arrangements for their children, and the setting in which they shall be taught; and**

**(d) to request that their children be evaluated to determine the existence of additional needs.**

**Responsibilities of parents –**

**28. (1) The parent of every child of compulsory school age shall cause him to receive full-time education suitable –**

**(a) to his age, ability and aptitude; and**

**(b) to any special educational needs he may have, either by regular attendance at school or otherwise, in accordance with the provisions of this Law and regulations made hereunder.**

**(2) Every parent shall inform the principal in writing of any medical or other condition peculiar to their child –**

- (a) on admission of the child; or**
- (b) as soon as the parent becomes aware of such medical or other condition.”**

Section 30 is new and sobering and reads: **“30. If a student, teacher, principal or other member of staff or of the Department of Education or of the Schools’ Inspectorate is injured due to the intentional act of a student, the parent of that student is liable to the injured party of any attendant medical expenses unless the student has attained the age of majority, in which case the student is liable.”**

Mr. Speaker, if the Minister had his way, I would make it compulsory that the parents of every student sign a contract of commitment with the school and, by inference, the Education Department and the Ministry to assume responsibility for the conduct of their children, as is done successfully in certain charter schools in the United States and three strikes and you are out. I see and I hear that there is sometimes, in a minority, an abnegation of responsibility on the part of some persons for their children’s behaviour or lack thereof. Therefore it is necessary in this partnership to ensure that if the Government or schools are being called upon to raise and maintain certain standards then it is only fair that the other side of the partnership live up to their responsibilities by seeing that their children attend school regularly, by seeing that their deportment and general conduct is in keeping with what is expected and also by ensuring that such charges are not a threat to fellow students, teachers or any other person.

This is serious business and I am happy that we have it proposed in this discussion draft. It is not by any means unique and revolutionary, this is the position taken by most modern jurisdictions now. We have the rights of the students but we also have the responsibilities. We have the rights of the parents but we also have their accompanying responsibilities. We have the rights of the teachers and we also have their accompanying responsibilities. I think that when we set it out this way there can be no misunderstanding because education is a serious business. I hear from the other side and from the many persons who call in on the talk show, if the Minister is to take blame then it is to the Minister’s credit and good sense that he has the best system in place to work with.

I am not saying that I am the kind of person who wants to legislate everything, but I think that this is important. On the contrary, I can happily report that over the past several years there has been a mark

and significant improvement in the behaviour of our children.

Certainly, we have not had any recent reports about them gravitating to gang criminal behaviour and gang violence in the schools, and at the same time we have to expect that, particularly where adolescents are concerned, people with that much high energies who are normal, we are bound to have differences of opinions. Lest anyone step out of line, section 30 should provide a sobering reminder as well it should, because parents have their responsibilities too.

The Law, Mr. Speaker, goes on to establish the posts and functions of attendance officers whose responsibility it is for the enforcement of compulsory attendance at school of all children of compulsory school age. It updates the legal parameters for suspensions, and I have to say personally that the business of suspension is a matter which arouses the utmost disquiet in me, under the present system. I have often queried and I have a certain moral reservation against it as it exists, but I am satisfied that we have to use suspension as a mechanism to curb certain kinds of mal-adaptation. However, in this proposed draft, I believe that the sophistication and the way it is laid out is significantly better than how we practice it at present.

So we have updated the legal parameters in this draft for suspensions. The discussion draft mandates that all school suspensions must be for a stated number of days, not exceeding seven days for any single suspension. I am happy about that because that is not the practice in some cases now.

The school’s obligation to provide education shall continue as long as the student remains on the role of the school and must be met, even during the suspension, which again is different from the current practice. In all cases where suspension exceeds one day, work shall be set and marked. Where a student is suspended for a total of fourteen days or more in a single school year, a review of the circumstances surrounding the suspensions and consideration of alternative arrangements, is mandatory.

The legal parameters for permanent exclusions, formally called expulsions, are also updated. I believe that these mechanisms should only be resorted to in the extreme of cases and that the student should be given as many chances as are necessary because not only from the point of me being an educator but I do not believe that we should write anyone off easily. As a matter of fact, I would go so far as to say that we should not write them off period! So I am happy to have included for our discussion where situations of permanent exclusions are: they shall only occur as a final step in a process dealing with disciplinary offences and that schools must demonstrate and I quote, **“That alternative corrective strategies have been used without success,”** so that expulsion can never be used as a cop-out to get rid of a student.

Mr. Speaker, the discussion, also significantly for the first time, in keeping with the sophistication of our society and the broadening of education makes the distinction between private-assisted schools, which is a school assisted by a grant or some form of similar assistance made from Government funds, and a private school, which is independent of any assistance or grants from the Government and establishes requirements for the licensing and operation of these institutions.

The proposal requires that parent teacher associations, now called home school associations, be established in all public, private, and assisted private schools and makes it incumbent upon principles to establish these where they do not now exist.

It also provides for early childhood education services suitable to the needs of children three to five years of age and provides for the inspections of these institutions and requires that they follow a curriculum prescribed by the Education Department and that they be insured for any loss whether personal or property. In keeping with this streamlining, the proposals provide for the appointment by the Minister of a council on early childhood education.

Over the time that I have been in the Ministry we have had several requests for permission to home school children. From experience it would seem that these kinds of situations are growing, so we have taken this into consideration by including, in the discussion document, the option for parents to home school their children.

It places conditions on the provision of this option and requires that an educational plan must be submitted which is based on an approved curriculum.

For children in junior high school and upwards, a licensed and certified teacher must be used for the home-schooling option.

Termination of this programme on an individual basis is provided for if the student is not meeting appropriate needs.

The Law also establishes a Tertiary Education Council to advise the Minister on related matters of tertiary education in the Council. I would like to draw Honourable Members' attention to section 77, pardon me, not 77. There is a section in the Law relating to tertiary education which has a specific institution mentioned and I do not— here it is!

Part X – Tertiary Institutions and Tertiary Council. 66(1). Immediately following 66(1) and between (1) and (2) there is a paragraph which reads: **“Provided that . . . and ends with, “. . . the University College of the Cayman Islands.”** That section is to be deleted. I do not know how that was included in the draft. It is an inappropriate, irrelevant and should be deleted.

We also have established, a National Training Board to advise the Minister on policy relating to technical and vocational education of which much has been touted recently and training in accordance with national policies and economic needs. The implemen-

tation of standards for technical and vocational education and training, training priorities, qualifications and accreditations, testing, safety and welfare, scholarships and grants assessing training providers and work-based initiatives and a national strategy and plans for technical and vocational education.

The draft also contains the term “additional education needs” to encompass the needs of a range of students with special needs including those with special educational needs, those for whom English is an additional language and those who may be termed gifted or talented.

Mr. Speaker, one of the handicaps that I, as Minister, and (I think I can speak also in this regard) the Education Council have experienced under the present system is that more frequently we are receiving requests to help with children with special educational needs: dyslexia, severe cases of attention deficit disorder, attention deficit hyperactive disorder and, alarmingly, autism, in all its various degrees. Right now the Law and Regulations do not cover specific provisions for the Government giving financial assistance to such cases. I would like to see in the new Law a section which specifically deals with these, and so that is why special educational needs have been identified.

I would also like to see (and this may be able to be done in the regulations) a special fund set up from which the Education Council, or some other similarly vested body can disburse assistance to the parents of these children when they are certified by the Education Department to have these kinds of problems, some of which our system, not even the Lighthouse School, is able to cater successfully to. Thank heavens in the cases of autism there are not a lot of children coming forward yet. So sometimes when we get severe cases we may have to make referrals overseas. I think a modern Education Law would have provisions which cover for that because I firmly believe that none of our children should be deprived of an education.

The discussion draft requires the Minister to establish a code of practice for the assessment of and provision for these students. That is, students with additional educational needs. It establishes that they have the same rights as their peers to a suitably broad and balanced curriculum that is relevant to their needs and interests.

Mr. Speaker, one revolutionary and modernising (but according to my opinion, fundamental) inclusions in this proposal is that it seeks to set up an education appeals tribunal for the settlement of any disputes related to education.

I hope that if I am the Minister I am not setting myself up for embarrassment, judicial review or worse. However, I believe that it is necessary in a modern system to have such a tribunal to consider such things as the educational interests of the student when such is called into question, as well as the impact of decisions on the class or school as the case

may be. A decision of the Education Appeals Tribunal will be final and will be filed with the Clerk of Courts.

I will read what it says about the establishment of this Tribunal. For the purposes of determining appeals under this Law the Governor in Cabinet shall appoint an education appeals tribunal, the chairperson of which shall be a qualified lawyer and a maximum of five other persons and a secretary who shall be a public officer.

The chairperson and members of the Education Appeals Tribunal shall be appointed for the terms and in the manner specified by the Governor in Cabinet.

The Governor in Cabinet may solicit and consider nominations for the membership of the Education Appeals Tribunal from groups interested in education in the Cayman Islands.

The chairperson and members of the Education Appeals Tribunal shall swear an oath of nondisclosure of information gained during an appeal and such an oath should be sworn before and in the form prescribed by the Governor.

An appeal referred to the Education Appeals Tribunal shall be heard by the chairperson and two or more members chosen by the chairperson. As much as possible, the qualifications of the members of the Education Appeal Tribunal shall be appropriate to the matter under consideration by the Tribunal. It goes on to say that parties to an appeal shall pay their own cost.

Section 160 is important. It says—

**“160. The Education Appeal Tribunal, in deciding a matter appealed, may make an order including but not limited to, one or more of the following –**

- (a) confirming or varying the decision that is under appeal;**
- (b) identifying a student as a student with special educational needs;**
- (c) determining that an individual education plan be prepared for a student;**
- (d) directing the Chief Education Officer to implement an individual education plan in a particular environment including, but not limited to, a regular class;**
- (e) directing the Chief Education Officer to enroll a student in a school named by the Education Appeal Tribunal;**
- (f) directing a determination to be made in accordance with section 92;**
- (g) defining the contents of a student record when the appeal under consideration is pursuant to section 52; or**
- (h) reinstating to school a student who has been suspended or expelled.”**

I want to underscore, Mr. Speaker, that appeals coming to this Board should not be frivolous or vexatious thus we have the deterrent that parties to

an appeal shall pay their own costs. It is only in the most important of cases that I would imagine matters coming before the Education Appeal Tribunal, such as the one I have cited, that of an appeal of a student who have been expelled.

The discussion document also contains a miscellaneous section, and in the section is a strong prohibition against the sale, use, distribution or possession of any illegal substance or paraphernalia on or around the premises of a school. The penalty is \$10,000 fine or up to one year in prison on conviction.

Mr. Speaker, the discussion draft is comprehensive and, most importantly, I believe it is implemental. The highlighted sections in the document are queries made by our legal council in taking the drafting regulations. I am tabling the document for discussion in anticipation that we will have additional constructive recommendations and, of course, Mr. Speaker, in anticipation that the political gods are going to be kind to me and return me as Minister.

The Education Council will be following up on these in finalising the Law. This is not the law, it is a discussion draft intended to elicit comment. For consistency, the document is open for further public consultation and will stand in its present form until June 2005. In the event that I am not returned as Minister you can take it as my last will and testament for Education.

Seriously though, I think that bold efforts are needed and I view my responsibility seriously – that is the responsibility to deliver to this country not only a practical and workable law but a practical and workable system which is beneficial to all spectrums of the society in this quest for life-long learning.

Mr. Speaker, I regret that I have to say that I have to say that I have not been a perfect Minister; hence this is not a perfect document. You know, Mr. Speaker, that being a son of Adam I suffer from the fallibility of man but I shall always endeavour to remain humble and open even in spite of the myriads of curses that I hear on the radio and elsewhere. I hope, Mr. Speaker, that the document can elicit discussion and even some emotion because I will be disappointed if it is just blasé and it does not arouse any emotion and discussion, being an emotional person myself.

I believe, Mr. Speaker, that the proposal attempts to deal with the challenges with which education in the Cayman Islands in the 21<sup>st</sup> Century is confronted, and all I can say is that I will work hard and pray long to see that my association with the document continues.

I thank you for your indulgence, Sir.

**The Speaker:** Honourable Members, I am well aware of the provisions of Standing Order 18(2) which states that a Member of Government presenting a paper may make a short explanatory statement of his contents but we have always accept in this Honourable House that short for a Member speaking is always

relative. I believe that the paper is of such importance that the time that has been taken by the Honourable Minister of Education to present it this morning is quite appropriate.

## STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE CABINET

**The Speaker:** Honourable Members, I have received no statements by Honourable Ministers or Members of the Cabinet.

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Order 46(1) and (2)

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

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 46(1) and (2) to allow the Health Insurance (Amendment) Bill 2005 to be read a first time.

**The Speaker:** The question is that Standing Order 46(1) and (2) be suspended to allow The Health Insurance (Amendment) Bill 2005 to be read a first time. 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 to allow The Health Insurance (Amendment) Bill 2005 to be read a first time.**

### FIRST READING

#### The Health Insurance (Amendment) Bill 2005

**The Speaker:** The Bill was deemed to have been read a first time and set down for a second reading.

#### Suspension of Standing Order 46(4)

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

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 46(4) to allow The Health Insurance (Amendment) Bill 2005 to be read a second time.

**The Speaker:** The question is that Standing Order 46(4) be suspended to allow The Health Insurance

(Amendment) Bill 2005 to be read a second time. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Standing Order 46(4) suspended to allow The Health Insurance (Amendment) Bill 2005 to be read a second time.**

### SECOND READING

#### The Health Insurance (Amendment) Bill 2005

**The Speaker:** The Honourable Minister for Health.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move A Bill for a Law to Amend the Health Insurance Law (2003 Revision) to Make Provision for the Imposition of Administrative Fees; and for Incidental and Connected Purposes be given a second reading.

**The Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. Gilbert A. McLean:** Yes, Mr. Speaker. Thank you for allowing me the opportunity to speak to the Health Insurance (Amendment) Bill 2005.

Mr. Speaker, recommending amendments to the Law and regulations is one means by which the Ministry of Health Services continues to work towards improving the health insurance system within the Cayman Islands.

It is my distinct privilege and great pleasure today, three years since the process of intense research and discussion began, to say that much has changed, not the least that health insurance coverage is now available to all Caymanians including the elderly, low income and health impaired.

When I became Minister of Health Services in November 2001, I found the situation in which individuals, including employers, were largely at the mercy of the private health insurance companies. No legal provisions existed to implement checks and balances on the types and designs of insurance plans offered to the public or on the cost of services.

Cayman's health insurance industry has grown in diversity and sophistication but has done so, in a number of instances, at the expense of the individuals who depend on health insurance for peace of mind. Often times, and often in times of greatest need, we find ourselves at the mercy of the very entity which is suppose to be dedicated to helping us heal the health insurance company.

As many people learned after the passing of Hurricane Ivan, the insurance market assumes a certain level of expertise or understanding from the public, such as understanding under insured, averaging

and the like, without providing any assistance aimed at informing and educating. This is also the case with health insurance. While the industry currently has a myriad of health insurance policies for the public to choose from, what is lacking is an effort by the insurance industry to educate our people on the way to properly use a health insurance contract. I am pleased to inform Members of this Honourable House that a public relations committee established by the Ministry will shortly be conducting a public awareness campaign with the aim of improving this situation.

Mr. Speaker, much has been accomplished since July 2003, starting with the passage of amendments to the Health Insurance Law and Regulations, aimed at streamlining the health insurance process and protecting the insured. Among other things, the law increased the length of time a person could keep their coverage after they left their job from one month to three months. It also took a major step forward towards reducing the practice insurance companies have of dumping uninsured persons just because they switch employers or health insurance companies.

The Health Insurance Commission Law was passed, creating the Health Insurance Commission whose job it is to monitor the industry and enforce compliance with the Health Insurance Law and regulations. As one of its primary tasks, Mr. Speaker, the Commission will publish the standard health insurance fees for all medical and clinical procedures in the Cayman Islands which will set the level that the insurance companies will be expected to use when determining payments for claims. This means that insured persons, health care facilities and medical practitioners will now know the base fee that all health insurance companies will pay for medical procedures and health care services. The fees will be published in the Gazette so that the general public can have easy access to those fees.

That coupled with changes to the Health Practitioners Law, requiring all registered medical practitioners to provide their patients with a list of all charges for all services offered, will help make the industry more transparent and more user friendly. No longer will persons have to walk into a healthcare facility and not know in advance the cost of services or the amount their health insurance will cover.

It should be noted, Mr. Speaker, that healthcare facilities and medical practitioners can still charge whatever they feel is reasonable or usual for the procedures and healthcare services that they provide. However, the health insurance company will only reimburse the level of fee that is contained in the published Gazette, minus, of course, any deductible or co-pay.

Globally, the governments of developed countries have a mandate to provide strong healthcare systems for their citizens, but this is not an easy responsibility to fulfil and to be frank, healthcare is in crisis everywhere. From densely populated countries such as United States and India to those with smaller

communities like the Cayman Islands, nations around the world are grappling with the provision of healthcare for the poor, sick and the elderly. We in Cayman are by no means alone in our struggles as we attempt to develop a health insurance programme that is workable, dependable and, most of all, affordable.

Governments throughout the world have a social responsibility to develop strong healthcare systems for their citizens, but we should make no mistake, this is not an easy responsibility for any government to fulfil, nor is it a problem that is likely to be solved in the foreseeable future. I can only reiterate that the provision for health insurance is a global issue and no one has any easy solutions. However, with the diligence and perseverance of the Ministry of Health, we believe that the improvements that have been made, along with the recommendations being made today, will bode well for the future of Cayman.

In reviewing these changes I offer no excuses that the primary concern was with the protection of the consumer and simplification of the process. This led the Minister of Health to make significant changes in the areas of portability and standardisation of contracts so that all Caymanians and residents of these Islands would be able to access the same type of policy and would have the same rights under the chosen policy.

Mr. Speaker, the Bill before this Honourable House includes amendments which will provide the Health Insurance Commission with the necessary authority to ensure adherence to the requirements of the Health Insurance Law. As mentioned earlier, the Health Insurance Commission was established in 2003 and its chief executive commenced duties on 1 March 2004. One of the main functions of the Commission is to deal with complaints or enquiries about health insurance.

Up to 31 January 2005 there were 337 complaints and enquiries and approximately 4.8 per cent of the complaints were unresolved due to inadequate enforcement powers under the Law.

The most prevalent contravention of the Law is the failure by employers to effect health insurance for their employees. Some employees have incurred healthcare costs only to find that employers have not effected health insurance. Further, a few employers have made deductions from employees' wages for health insurance premiums but have not paid the premiums. That leaves the employees and their families without health insurance and this may well be considered theft.

The Government has mandated health insurance. Unfortunately, the Health Insurance Law in its present form does not provide the Commission with sufficient enforcement powers. Persons who have suffered losses due to employer's non-compliance can sue for compensation but this is usually not viable. The following amendments to the Health Insurance Law are required to address these very serious

matters and I hope that this Bill will meet with the full support of all Members of the House.

In clause 2 it refers to the amendment of section 2 of the Health Insurance Law (2003 Revision). It includes the definitions of the "Superintendent" of health insurance and the health insurance "inspector".

Clause 3 makes provision for the imposition by the Health Insurance Commission of administrative fines for the breach of specified provisions of the Health Insurance Law and confers upon the Superintendent of health insurance responsibility for the administration of the principal law. Mr. Speaker, I add here that these fines and the way they are set out are similar to those powers and fines which can be levied under the Customs Law.

The Bill, Mr. Speaker, also provides a clause to enable the Government to effect a contract of health insurance on behalf of any person approved by the Governor in Cabinet.

Clause 6 provides for the insertion of 18A, administration of fines, procedures and process that the Commission will follow in respect of any failure to comply, or contravention of the health insurance legislation. It provides for an appeal against a determination of the Commission to a court of summary jurisdiction within 21 days next following the date of notification.

Clause 5 provides for the amendment of section 11A by repealing subsection (3) – the issuing of a certificate issued by the Commission as evidence of the facts specifying amounts of any benefit that would in the absence of any failure or neglect of an employer have been payable for benefits under the standard health insurance contract.

Mr. Speaker, in summary, those are the facts as relate to these amendments and I recommend this Bill to Honourable Members of this House.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

Unfortunately, in looking at the Bill at present I do not have the benefit of the original Law which exists, so it is difficult relying on memory to make comparisons. However, in listening to the Minister and reading the Memorandum of Objects and Reasons of the Bill that the Minister is piloting, it is clear to me that, as he said, the main objective is to protect the consumer in that regard and persons needing coverage. There is a section, Mr. Speaker, which might be obvious but is not obvious to me. However, as I said, not having had the benefit of reading the original Law, there may be a little difficulty in it being clear. That is section 4 which is seeking to amend section 3 and wanting to repeal subsection (4) and substitute the following subsection.

If I may be allowed to quote, Mr. Speaker-

**The Speaker:** Please continue.

**Hon. D. Kurt Tibbetts:** Thank you. What is proposed reads:

**"(4) Government may, on written application to it by or on behalf of –**

- (a) a seaman fifty-five years of age or older, his unemployed spouse and children;**
- (b) a widow of a seaman;**
- (c) a veteran, his unemployed spouse and children;**
- (d) a widow of a veteran; or**
- (e) any other person approved by the Governor in Cabinet,**

**where that person is not covered by a contract of health insurance, agree to effect a contract of health insurance with an approved insurer on behalf of such person on such terms and conditions as are specified in regulations made by the Governor in Cabinet in respect thereof."**

Mr. Speaker, there are two questions which come to mind, and I am confident the Minister will be able to reply during his wind up. When we look at the categories of persons proposed in this subsection, under normal circumstances they would be persons who one would expect that the Government would be making provisions for with regards health insurance.

We know that there is a Cayman Islands National Insurance Company (CINICO) and the way it is worded . . . I now have the benefit of the original Law. The original Law, Mr. Speaker, has similar wording to what I am going to refer to. The question is not cleared up by the original Law so I will proceed.

The existence of CINICO and the fact that it speaks to where that person is not covered by a contract of health insurance, agree to effect a contract of health insurance with an approved insurer. My question is: is it that the Law needs to be worded in that manner because you do not want to specify CINICO, or is it that CINICO might not be able to provide the health insurance that is needed for the individual that we speak to? I am not sure and I am asking the Minister to clear it up so that we understand.

I do not believe that we would want the Law to include the name of the existing insurance company because we do not know what is going to happen in the future with regards to what will transcend. If that is the case, then it is okay, it is just that if one reads it the way it is proposed we are not sure whether it gives the latitude of going to any approved insurer or whether it is simply because you want to leave the law in such a way without naming specifically what entity may exist at the time.

Mr. Speaker, it is good to hear the Minister say that there is a public relations programme planned where the citizens of the country can be educated in the realm of insurance. I am certain that the Minister's team of public relation experts will be very conscious of the fact that they would wish to disseminate the

information in a manner that is easily understood by the public because some of these things can appear to be complicated depending on how it is worded. It is important for those who may be, at any point in time, engaging in such an exercise to ensure that they do so in a manner in which all members of the public can clearly understand all of the ramifications.

While we are debating The Health Insurance (Amendment) Bill 2005, I am certain the Minister is very aware that insurance in general is a topic which the entire country needs to be well informed of. The fact of the matter is, there are Members of this Legislative Assembly (I cannot swear for all of us) that were not aware of several issues which affected individuals in this country after Hurricane Ivan because it affected some of us and that is what made us aware of certain ramifications. So it is those types of discoveries which we sometimes pay a price for, but at least it leads us to know what to do in the future. It is going to be important for us to find a way to work along with the private sector and work through this. The conclusion that one has to come to is, given the risks involved, either by God's elements or by happenings which may be beyond the control of individuals, it is going to be physically impossible for the average citizen of this country, let alone any other country, to be able to exist throughout their lifetime without insurance, whether it be health, property or life insurance. There are many types of insurances, but those three that I just mentioned are absolutely necessary for anyone's existence whether we speak to past, present or future.

Having established that, Mr. Speaker, it is obvious that the Bill is something the Opposition will support. We always find ourselves — and I crave your indulgence to spend just a few moments to speak generally on the topic because while my contribution in that regard is general, it also relates to this so it certainly will not be irrelevant. I would like to speak it in a way that it is not limited to the Health Insurance Bill.

Mr. Speaker, the disaster that happened in this country approaching six months ago now brought to light many circumstances under which many individuals existed. Some of those circumstances they were not even aware of because where they thought they were covered by certain types of insurance they were not, simple fact. You see, Mr. Speaker, the way life works is that we do not pay attention to that until something happens. If every day goes by and nothing happens to you, whether you are in the right shape or not you just go on, that is the tendency. Mr. Speaker, we look to the private sector (providers of insurance) presently and we hear where some of their problems are. As I said, I am speaking generally because although this is health insurance it affects other types of insurances and the providers of insurances.

Mr. Speaker, I do not profess to have full knowledge of the industry or to be able to give sage advice to that industry; that is not my suggestion. What I do know is that same private sector who are the providers of insurance, namely the industry pro-

viders, were caught unaware just like those who were being provided the coverage. They did not bank on the magnitude of such an event. Any business, little or big, if you can get away with certain costs during the course of your fiscal year and you can cut those costs, once nothing happens as a result of those cost-cutting measures to negatively affect your performance, then it shows you a better balance sheet. If you are going to be on an annual, quarterly or biannual basis declaring dividends, then it will make those dividends look better. You see, Mr. Speaker, such costs which are constant, as reinsurance and other matters, if the level of reinsurance are lessened then you pay a lesser premium, the cost of doing business is less and at the end of the day you have more money to declare dividends.

I raise that point not to castigate or chastise but to say that there was a lesson in the learning throughout the entire industry both for those who provide insurance and for us who seek to be insured whether with life, health or property.

The battle goes on and we see amendments such as this being proposed in the Legislative Assembly because it is the Government's responsibility (and Government meaning all of us as representatives) to ensure that the citizens are protected as best as possible and receive the best benefits as possible. Of course, it is also accepted by all concerned that it takes a partnership between the public and the private sector for any industry to be active and work. If we work on that premise and accept that principle, then we have to find a way for the citizens to be protected but at the same time for the private sector to be thriving and part and parcel of what we desire in the Cayman Islands, which is a buoyant and vibrant economy.

Mr. Speaker, I will now move back to the Bill. When we look at what measures we have to engage in with regards to health insurance and here the specific example is health insurance, long before Hurricane Ivan there was a huge problem with health insurance. When we had the law come into effect and we suddenly found where health insurance providers were refusing to provide health insurance for certain individuals because they were at a higher risk than the ordinary citizens, we come back to the universal principle of insurance.

An insurance company exists and must operate under the umbrella principle that insurance is a necessary commodity for all citizens. I will not say a necessary evil because it should not be an evil. However, if it is something that everyone needs we also have to accept that if we look each individual and his/her circumstances squarely in the eye, we will see that there are some who are at more risk than others, whether it is their property, health, or their life. We are not all in the same state of health and not all of us have the same quality construction houses, so anywhere you go you are not going to find everybody with the same circumstances but the principle is that because everybody needs it and because the risk level



varies you find a way across the board that it is shared by all and the few who have to make claims, in most instances, the cost of taking care of those and their problems is spread out throughout the entire population of a country.

The question is: where do you strike that balance that your entire population can survive with the cost and allowing at the same time for the providers to ensure that when the need arises the individuals who have to make their claims are taken care of.

I tried to explain that in layman terms because no matter what they tell you and no matter what fancy language they come up with, that is the whole business of insurance. That is it! Otherwise, there is no need for their existence. If nobody needs to claim you do not need to have insurance. Hurricane Ivan was an exception because the majority of people who had property insurance had to claim because it was, as I have heard some of the people in the industry say, a hundred-year storm.

While some of the premiums and conditions that are applied in the industry are based on track records, historical evidence and such the like, lots of it has to be done based on projections. The truth of the matter is, when you speak to . . . the actuarial sciences and actuarial studies done in the field, those people who are specially trained go on whatever evidence they have and make projections they can make that are reasonable to tell you within a period of time, *'This is what to expect so this is what you will need to charge,'* et cetera. That is why even with pensions and so on you have actuarial studies done. If we look at the Government's Public Service Pension Fund, the Law calls for regular actuarial studies to be done based on the historical evidence so you can know whether your rate of contribution is going to allow for it to be able to pay out and remain self-sufficient. So I used that comparison to say that all of those things have to be factored in when we speak to insurance premiums et cetera.

Mr. Speaker, in my view, what is wrong is when you have a situation which changes the financial position of an entity and to get it back to the state it was in before, whatever that state was, whether it was just doing okay or whether it was excellent or whether it was poised for expansion or for a merger or a take-over or whatever. Whatever the conditions were at the time, what is wrong is when you have a natural disaster such as Hurricane Ivan occur and you suddenly change all of the rules, the goalpost changes on a daily basis because you try to do everything you can to get it back to that state as quickly as possible, with nowhere near enough consideration for the customers whose premiums are going to keep you in business.

Mr. Speaker, the thing that cannot happen with any of these industries, including the insurance industry, is, it cannot be a situation where they have you by the *'short and curlies'*. It cannot be made to happen. While we want legislation which is protective to a point, we also want to ensure that whatever legis-

lation we create still allows for a level of competition within the industry which will give the benefits back to the consumer by way of the natural competition which occurs with premiums et cetera. It takes me to the point—and I know I run risks with what I say but I believe what I am saying to be the truth. What we need is to ensure that such things as the fancy word "collusion" cannot exist in such industries. We cannot have them arranging premium prices among each other to ensure that it makes no sense to shop around. That is something for us to think about. Maybe we do not want to be so bold as to say that we believe it has happened before now. However, at least we can all be bold enough to say that we want to make it absolutely clear that whatever it takes to prevent it from happening we are going to do it because as you see, Mr. Speaker, that in itself is what skews the entire arena and causes the consumer to suffer as a result.

Going back to the Bill and its intent, certainly people must be made aware that whatever is called for by way of any domestic legislation they need to adhere to it otherwise there are going to be penalties. What is proposed here in certain sections allows for the Health Insurance Commission to be able to perform certain tasks and to administer certain penalties without having to go into the long and drawn-out legal battles that could normally occur. It does have in it fair safeguards so that if someone is of the opinion that they are being judged wrongly, they have recourse to be able to represent themselves to produce evidence to say, *'You are wrong, I am doing what I am supposed to be doing, it is just that you do not have the right information'* or something like that. It also gives them the opportunity if there is a judgment made by this Commission to be able to use a court of law to make an appeal. The recourse, in my view, is fair in that it is not high-handed or draconian what is being proposed and it is not a situation which does not allow the individual or the entity to defend themselves if they believe that they are unjustly accused.

Mr. Speaker, I cannot at this time say that this in itself might not cause some hiccups, but in thinking it through as I read it, I could not picture any situation where it would unfairly penalise any operation. So at this point in time we have to give it our blessings and once the amendment comes into force, if it does create any situation which causes some imbalance in justice, then we simply have to look at it again. That is the situation that obtains with any piece of legislation that you bring because regardless of how good you are or how well-thinking you are, perhaps it is just impossible to envisage every situation that might obtain and you just have to live and experience it to be able to know.

Mr. Speaker, having said all of that I want to thank you for allowing me to walk a little distance away from the contents of the Bill. However, I believe that it is important and I will not go any further but suffice it to say that in the month and years to come, if I have any direct responsibility as a representative or

otherwise in this Legislative Assembly, I shall be promoting careful observation of all types of insurance, at the same time wanting to work along with the private sector. We have to get a handle on this, and if it is just left for individuals and their own ideas to work, it is not going to happen. We have to find ourselves in a situation where we have all the facts in front of us and we know the two sides of the coin, and a certain amount of trust has to be involved, Mr. Speaker. We have to know that the private sector is not telling stories, and I am not suggesting they are. They have to understand that a certain amount of trust has to be involved that we would not want to create legislation which would not allow them to have a thriving business. However, at the same time, it is one of these things where one premium can decide whether an individual or a family can survive or not, and you cannot have it getting to the point where families make conscious decisions as they have done in the past not to have insurance. Some of them are paying the price right now because they are still looking up at the stars and sun because they have no roof.

Mr. Speaker, I am tempted but I say no more. 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, would the Honourable Mover wish to exercise his right of reply?

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

Mr. Speaker, I thank the Honourable Leader of the Opposition who spoke for his views and others who have given their tacit support.

I think that what was said by the Leader of the Opposition is something which all of us share and have concern about. I certainly have serious concerns about what is happening in insurance generally. I am particularly concerned by certain situations that I am aware of where persons who incur expenses with healthcare do not have the coverage that they expect simply because they are told at that point in time, *'The policy you have does not cover this.'*

This, Mr. Speaker, is one of the main areas of continued concern in this country. Many people are caught in that web. That is why it is so essential to shine a light on the whole process so that everyone knows what is covered, to what extent it is covered and by that means there are no secrets.

Mr. Speaker, the Leader of the Opposition spoke of various insurance coverage—that is, property, life and health—and we have a situation in the Cayman Islands in many instances, if not all, where the same company which offers property insurance may be offering life insurance and may be offering health insurance. The real problem, Mr. Speaker, is where that company is not sufficiently capitalised or it does not have the level of reinsurance that it needs to meet the costs, particularly in catastrophic conditions

and that, Mr. Speaker, I postulate is the situation with some insurance companies in this country right now.

There are instances, Mr. Speaker, where huge amounts of money are owed by insurance companies to providers, both the medical practitioners and certainly the facilities. I am aware that is the case with the Health Services Authority (HSA) to a level that is of grave concern and long outstanding.

Mr. Speaker, what alarms me is that where insurance companies are not paying, or indeed are in a position where they cannot pay, they are still accepting premiums from people under the guise that they are insured and that they can pay. Where that is happening, in my opinion it is criminal, and it is most important that where this may exist with companies it is identified at the earliest possible time by the Cayman Islands Monetary Authority and they take corrective action.

Our situation is really serious when it comes to insurance generally. I visited Jamaica over the past two days and I saw in their newspapers concerns about their insurance companies that have insurance here in the Cayman Islands. The very questions that I am asking here in Cayman they are asking and stating in that country that the organisation which is supposed to monitor their conditions should do so and there should be transparency. I have an article which speaks to, in effect, certain losses which those companies took here in Cayman, but there are others and it is of grave concern.

Mr. Speaker, the types of concerns I speak to and were referred to by the Leader of the Opposition were what prompted the Cabinet to request the Cayman Islands Monetary Authority to undertake a full study of the insurance industry with the view of making recommendations for legislation in the immediate future. Mr. Speaker, it is of serious concern.

I have heard since I have been back on the Island (just last night) that there is an article which has levied considerable criticism at the Government, Health Services and me. I have not read it as yet so I am sort of shooting here in the dark. However, when it takes the Health Services Authority to task, it needs to remember (and the whole country needs to remember) that some of the problems encountered by the Health Services Authority were insurance companies not paying to the Health Services the fees which were due for the services which was given, and that is still the case right now.

There were other instances where monies were not collected, but certainly that was one area where in the amendments which this Honourable House took into account, if there is a so-called "clean bill" then it must be paid within 30 days. On the other hand, if someone just sits around and does not bill properly, then after 180 days the companies would not be required to pay unless there is just reason for it so we did our best to make sure that it worked both ways. It is a requirement, Mr. Speaker, that insurance

companies must pay on time and some are not doing so and there is reason for the public to be concerned.

In that respect I wish to make this statement: I was not elected by any insurance company, I was elected by the free will of the people of this country to represent them, and part of my duty must be to do whatever is reasonable and sound to allow businesses to function in a manner that they can do business and make a profit and so on. However, the people who purchase goods and services and who elected me must be protected, and one weighs that requirement against the commercial position one cannot sell the rights of the people to ensure the continuance of what might be an unhappy commercial situation at the time.

Mr. Speaker, I mentioned that there is being set up by the Ministry a public relations project to inform the public and this is critical. I often wonder: why is there internationally a collusion to hide from the attention of people who are insured the details of their insurance coverage in something called the "fine print". Why is that not bolded or highlighted or called the "big print"? I often wonder about that international conspiracy because we know there are clichés that have come up over the years, 'You must read the fine print,' or, 'They did not read the fine print.' Why is it not large print, Mr. Speaker? Why is it not a nationally transparency with insurance companies that everyone likes to talk about? So it is of greatest importance, Mr. Speaker, for the public to become aware of what insurance is about, what it covers and the means it uses to ensure that it stays in tact sometimes to the disadvantage of the insured.

Mr. Speaker, the Leader of the Opposition spoke about an approved provider and why it is so termed. It is a term which exists in the Law because an approved provider is one who is approved by the Cayman Islands Monetary Authority and indeed the Health Insurance Commission, and it leaves open that the Government would be in a position where they could actually take an insurance contract with a company other than its own, namely CINICO. It was felt that it should not be specific to CINICO.

Mr. Speaker, these amendments will make the requirements a little tighter, give the Health Insurance Commission a better opportunity to work with the day-to-day complaints which it receives and be able to act to the extent that it may fine a company that it finds offending. Of course, Mr. Speaker, it does not end with the Health Insurance Commission because a person has recourse to the courts and so does the Commission have recourse to the courts.

Mr. Speaker, I will end by saying to all Members of this Honourable House that among our many duties, I believe, is the one that we need to inform ourselves and this whole issue of insurance, be it health, property or life, and we have a duty to inform the people who have elected us. The Ministry of Health is setting up a programme to try to educate and we need to be conscious that at this time, per-

haps like none other, the question of insurance has become a major concern all over.

Mr. Speaker, I thank Honourable Members for their support of this Bill.

**The Speaker:** The question is that a Bill shortly entitled The Health Insurance (Amendment) Bill 2005 be given a second reading.

**Hon. Gilbert A. McLean:** Mr. Speaker . . .

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

**Hon. Gilbert A. McLean:** Would you just please allow me to mention that with your approval I have circulated certain amendments for Committee stage.

**The Speaker:** Thank you.

The question is that a Bill shortly entitled The Health Insurance (Amendment) Bill 2005 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 Insurance (Amendment) Bill 2005 given a second reading.**

**The Speaker:** The House will now go into Committee to consider the Bill.

### House in Committee at 12.49 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 Second Official Member to correct minor errors and such the like in this Bill? Would the Clerk please state the Bill and read its clauses?

## COMMITTEE ON BILL

### The Health Insurance (Amendment) Bill 2005

#### Clauses 1 through 5

**The Clerk:**

Clause 1	Short title
Clause 2	Amendment of section 2 of the Health Insurance Law (2003 Revision) – definitions
Clause 3	Insertion of section 2A – administration of this Law
Clause 4	Amendment of section 3 – compulsory health insurance
Clause 5	Amendment of section 11A – reporting to the Commission

**The Chairman:** The question is that clauses 1 through 5 stand part of this Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 1 through 5 passed.**

#### Clause 6

**The Clerk:** Clause 6 Insertion of section 18A – administrative fines

**The Chairman:** The Honourable Minister of Health.

**Hon. Gilbert A. McLean:** Thank you, Mr. Chairman.

In accordance with Standing Order 52(1) and (2) I the Minister of Health Services, Aviation and Works, give notice to move the amendments to the Health Insurance (Amendment) Bill 2005 that the Bill be amended in Clause 6 in the new subsection 18A proposed for insertion in the Health Insurance Law (2003 Revision).

May I just say this was inspired, to some extent, by consultation the Member for East End and I had this morning where he pointed out certain concerns he had that it was not clear as to the way it was stated. Since that the legal drafting department has been able to redraft this for me, and I would like to thank Mrs. Myrtle Brandt for coming to my rescue in times like these.

By deleting subsections (10), (11) and (12) of the newly proposed subsection 18A and by substituting the following subsections :

“(10) The Commission shall in writing notify any such person of its findings and determinations and any fine or warning, within a reasonable time not exceeding ninety days after its determination and, following the period provided for an appeal as specified in subsection (11), may cause its findings and any warning and the quantum of any fine imposed to be published in any manner and in its discretion.

“(11) An appeal against a determination of the Commission made under subsection (9) shall be made to a court of summary jurisdiction within twenty-one days next following the date of receipt of the written notification made under subsection (10).

“(12) Where no appeal against a determination of the Commission has been made under subsection (9) or where such an appeal has been unsuccessful, the fine imposed by the Commission shall be paid in full by the person fined, following the period provided for an appeal as specified in subsection (11) and, where there is a failure to pay the fine, the fine may be recovered by the Commission in a court of summary jurisdiction as a debt from that person.”

**The Chairman:** Honourable Members, there is a correction to the first part of the Committee stage amendment just for the records and I would ask the Honourable Minister to repeat the section. It reads that the Bill be amended in clause 6 in the new section 18A proposed for insertion in the Health Insurance Law (2003 Revision) by deleting subsections (10), (11) and (12).

**Hon. Gilbert A. McLean:** Thank you, Mr. Chairman. I certainly am happy to do that and I am glad that you picked it up, Sir. It would thus read that the Bill be amended in Clause 6 in the new section 18A proposed for insertion in the Health Insurance Law (2003 Revision) by deleting subsections (10), (11) and (12) and by substituting the following subsections which I have read.

**The Chairman:** The motion has been duly made. Would any Member wish to speak thereto? If not, the question is that the amendment forms 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 the clause as amended forms 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 amended passed.**

**The Clerk:** A Bill For A Law To Amend The Health Insurance Law (2003 Revision) To Make Provision For The Imposition Of Administrative Fines; And For Incidental And Connected Purposes.

**The Chairman:** The question is that the title forms part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Title passed.**

**House resumed at 12.58 pm**

## REPORT ON BILL

**The Speaker:** Please be seated.

### The Health Insurance (Amendment) Bill 2005 report thereon

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

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to report that a Bill shortly entitled A Bill For A Law To Amend The Health Insurance Law (2003 Revision) To Make Provision For The Imposition Of Administrative Fines; And For Incidental And Connected Purposes has been 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.

#### Suspension of Standing Order 47

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

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 47 to allow the Health Insurance Bill 2005 to be read a third time.

**The Speaker:** The question is that Standing Order 47 be suspended to allow the Health Insurance Bill 2005 to be read a third time. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Standing Order 47 suspended to allow The Health Insurance (Amendment) Bill 2005 to be read a third time.**

### THIRD READING

#### The Health Insurance (Amendment) Bill 2005

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

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move that a Bill shortly entitled The Health Insurance (Amendment) Bill 2005 be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Health Insurance (Amendment) Bill 2005 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 Health Insurance (Amendment) Bill 2005 given a third reading and passed.**

### PRESENTATION OF PAPERS AND OF REPORTS

#### Report of the Standing Public Accounts Committee on the Auditor General's Summer 2001 Report, together with the Auditor General's Report

**The Speaker:** The Second Elected Member for West Bay and Chairman of the Standing Public Accounts Committee.

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

Mr. Speaker, I beg to lay on the Table of this Honourable House the Report of the Standing Public Accounts Committee on the Auditor General's Summer 2001 Report, together with the Auditor General's Report.

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

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

Mr. Speaker, following the last General Election it has been my distinct pleasure to serve, at the will of this Honourable House, as the Chairman of its Public Accounts Committee. This Report that has just been laid on the Table of this Honourable House is the Report of the Committee, but before my remarks on the Report it is important that I give explanation as to why one Member of the Committee was unable to sign the Report.

Mr. Speaker, as was the case in a number of previous reports that dealt with matters that covered the term of the Third Elected Member for Boddan Town's tenure in the Executive Council, quite properly, he made the decision to not be party to signing the Report as there could be a perceived conflict that he would have been a Member of the Executive Council at that time and now serving in a new class of legislators would have been a Member of the Committee and signed the Report.

Mr. Speaker, all Members of the Committee support the Honourable Third Elected Member's for Boddan Town decision and position on this matter and we fully agree with it. I might go on to add, Mr. Speaker, that that gentleman having the experience that he has, has been an invaluable Member of the Committee. He has been an exemplary in his participation and I have appreciated over these last four-plus years the guidance and sound wisdom that he has brought to me as Chairman and to the Committee.

Mr. Speaker, as that Member of the Committee knows (and as I believe all other Honourable Members of this Honourable House know and might not necessarily want to admit), when it comes to these sorts of things and my role as Chairman of this Committee there are no sides. This is not Government/Opposition, this is this House and representing this House well, to the best of our abilities.

Mr. Speaker, our reports have consistently been supported by the verbatim record of the witnesses that have come before us in conjunction with the findings in the Auditor General's Reports. Our reports do not have conjecture or supposition. They are based and grounded on facts. That is the reason, Mr. Speaker, I believe it has been easy to always elicit unanimous support for the reports of the Committee and to not have had any minority or dissenting report during my tenure.

Mr. Speaker, the functioning and reasoning of this extremely important Committee is founded within the Standing Orders of this Honourable House, and I believe in our time we have done well to carry out our important function. However, that has certainly not been without challenge. While the Standing Orders clearly outline the Committee's role, function and I believe all Honourable Members of the Committee clearly understand its mandate, there will need to be a continued emphasis on modernising the practices of the Committee. It will also have to involve taking a look at the services provided to that important Committee by this Honourable House.

In that vein, Mr. Speaker, I thought it appropriate to mention up front and to convey my thanks and the thanks on behalf of the Committee for the important step that has been made in these last four years in regard to the functioning and working of the Committee by the Legislative Assembly staff.

Mr. Speaker, we have been afforded the good fortune of having had assigned to us a staff member of this Legislative Assembly who principally deals and works with the Committee. While that is not her only function, when the Committee meets she has been assigned to work along with it. Mr. Speaker, I believe it is important for the record, and indeed I am in the final stages of preparing a modernisation document that I will be calling the Committee briefly for, to present to them and to have contained in our records which we hope that the next group of legislators after the next Election and the next Public Accounts Committee would take up and perhaps add to. A part of that would naturally involve getting the Committee to the stage that it does have a staff member that is assigned to it full time, that can do research on behalf of the Committee and write reports on behalf of the Committee.

Mr. Speaker, as I have explained at least once before upon presenting a report (but I will say it again because sometimes memories can be short and certainly as we all grow older they fade), it is quite important that we enhance that aspect of the functioning of the Committee, because part of our mandate is that we, the Committee, would consider the Auditor General's Report and if we think fit, call witnesses to better be informed to formulate our own report. As it currently stands, we do have the Audit Office provide us with a first draft of our report. However, unlike as we understand it at prior times, where that office would also be involved right up to produc-

ing the final report, we took a decision from day one that we would accept that existence which is very invaluable to us as legislators who are busy with our constituents and other legislative matters. However, once that first draft is received we get the electronic copy and we then consider, deliberate, amend and produce the final draft ourselves. So the task of having to do a lot of editing has inevitably fallen on me as Chairman of the Committee. While I have happily done that over the past four-plus years, I think all of us would agree that the better system would be for us to have a staff person assigned to that important Committee and carry out those sorts of what would be considered secretarial functions to the Committee.

Mr. Speaker, I have one other bit of house-keeping that I think is pertinent and necessary before delving into this first report. That is my great surprise and disappointment several weeks ago when two Honourable Members of this House, namely the Leader of the Opposition and the Second Elected Member for George Town found it necessary and prudent to go to the Press and to be quoted as saying that they had lost faith in this important Committee.

Well, I, as Chairman, took great umbrage to those charges because as Members of the House I would have expected that those Honourable Members would have had the courtesy to write me as Chairman to express their concerns and to explain why they had lost confidence in the Committee. Was it lack of confidence in the Chairman, or the Committee generally which includes two Members from the Opposition, namely the Elected Member for East End and the Third Elected Member for Bodden Town. Mr. Speaker, I would therefore had anticipated coming to this sitting of the House a no-confidence motion to have been brought in the Committee if they saw it fit to say in the press that they had lost confidence in the Committee. However, I should not have been surprised to have seen no such action.

Mr. Speaker, I believe that being that the Election is close we will see this sort of grandstanding and we will see the sort of charges laid without people taking up all the responsibility and obligations that they have to do something about it. Mr. Speaker, it may be said that a Motion was not brought because the Government has the majority and it would not have passed, but I believe that if any Honourable Member of this House does not have confidence in any standing committee of this House, it is important for them to inform the House and have the matter debated and aired, reasons given and a resolution to the matter sought, not to have those sorts of comments made in the press.

Mr. Speaker, I believe this has been a good Committee. I believe we have worked well together. I believe that I have always ensured that politics remain outside the doors of the Public Accounts Committee. Perhaps they may wish to discuss that matter with their colleagues, and I believe that will be the

same thing said to them by their colleagues who serve on the Committee.

Mr. Speaker, I want to remind Members of this House and members of the public that it is not just this Committee that can ask for investigations by the Audit Office. Any Honourable Member of this House has the right to request a report or an investigation by the Audit Office. In fact, we have had instances where the Audit Office has taken up special investigations on the basis of information that has been provided to them by the general public. So I believe that the state of the Public Accounts Committee and its workings with the Audit Office are alive and well and robust.

Mr. Speaker, to end on that note, as Chairman I apologise to the Honourable Member for East End and the Third Elected Member for Bodden Town for those charges that were made in the press because I believe that any reflection that those comments would have had on them would be what is deemed "friendly fire" and them being caught in the way of such.

Mr. Speaker, I am yet to hear officially from any Member of this House in regards to the functioning and workings of the Public Accounts Committee, and therefore I express to this House my concern for Members of this House who would see fit to go to the press and lay what I believe to be unsupportable charges and allegations toward the Committee, which I believe to be principally directed toward me as Chairman but being done in such a way as to not care about how those charges would reflect upon all Honourable Members of this Committee.

Mr. Speaker, turning to the Report of the Standing Public Accounts Committee on the Auditor General's Summer 2001 Report of the Cayman Islands Government, Members will find the usual and customary information on the first five pages. However, the Report starts in earnest on page 6 and I might also indulge Members for me to repeat, as I have done before, that in conformity with the National Strategic Plan for the Cayman Islands/Vision 2008 the Public Accounts Committee is committed to strategy 8 – open and accountable Government, in particular action plan 2 – to ensure that public finances are managed prudently and that disclosure and reporting standards provide timely, reliable, relevant and understandable information to legislators and the community.

Mr. Speaker, this Report (which I might add had work started in it by the Audit Office from 1999) had bits and pieces that had already been completed when we were elected. So the information contained in the Report focuses primarily on 1998, 1999 and 2000. Mr. Speaker, the significant findings and recommendations of the Committee start on page 7. I must say that Part I, which deals with the Department of Tourism, was a very difficult audit report for us to report back to this House. By the time we got our

hands on the actual Auditor General's Report which I just tabled—

**The Speaker:** Honourable Member, I enquire as to whether you propose to be speaking for a while longer, and if so, I would recommend that we take the luncheon break at this time since you have another report to lay.

Honourable Members, we will take the luncheon break at this time and I ask that you return at 2.45 pm.

**Proceedings suspended at 1.25 pm**

**Proceedings resumed at 3.19 pm**

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

Honourable Members, you will notice that Inspector Blackman is filling in for Mr Walsham this afternoon. It is nothing new for Mr. Blackman and he seems to have caught onto it very quickly. Just to let you know, Mr. Walsham is not feeling too well this afternoon, so he has gone to get treatment and Inspector Blackman will be filling in for the afternoon. We have taken him through the drill, so I am sure that he will be able to take care of anything that comes up that falls under his duties.

The Second Elected Member for West Bay continuing.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. It would be remiss of me, being the Member speaking, if I did not wish Mr. Connolly a speedy recovery on behalf of my colleagues in the House.

Continuing with the significant findings and recommendations of the Public Accounts Committee. Part 1 of the Summer 2001 Report of the Auditor General.

### "PART I

#### DEPARTMENT OF TOURISM

**This was a most difficult audit report to have to report on. It had everything, "he said – she said", finger pointing, senior level staff not speaking to each other, Executive Council directives, contracts not being tendered, contracts awarded but [not] in writing, accusations of high level corporate espionage, accusations of sexual harassment being covered up, subversion of the Legislative budget process and [accusations of] gifts and other expenditures being hidden. Put bluntly in certain instances it was impossible for the Committee to conclusively report to the House on a number of important points. It was felt that the safest course of action was simply to report what the Auditor General's Report stated and what the various witnesses said.**

The Committee was amazed at the depth of the problems uncovered by this audit. The main items that are expounded upon late in this report were:

1. Unclear authority within the Department of Tourism
2. Incorrect Tourism Arrival Statistics
3. Entry into Argentina by the Department of Tourism
4. Contracts being awarded outside the requirements of the FSRs [Financial and Store Regulations]
5. Lack of accountability in relation to the PR [Public Relations] Agency used by the Department of Tourism
6. Spending outside the spirit of the budget
7. Ineffective public relations
8. An expired Tourism Management Policy
9. Cost of attracting visitors
10. Location for global Department of Tourism meetings

As result of this report and the testimony of the witnesses it was clear that the Department of Tourism was in desperate straits during the late 1990s through 2000. The then Minister of Tourism, Mr. Thomas Jefferson, OBE, JP nor the then Permanent Secretary, Mr. Harding Watler was able to solve these problems. In fact the intervention of the then Minister of Tourism only seemed to make a bad managerial situation worse.

Due to the controversial, and sometimes incredulous, nature of the report we invited the then Director of Tourism, Mrs. Angela Martins, the then Permanent Secretary with responsibility for Tourism, Mr. Harding Watler and the then Director of US Sales and Marketing, Mr. Phil San Filippo to appear before the Committee as they were the public officers responsible for the items contained in the report. Though an unusual practice it was felt that this was necessary for ascertaining the facts and allow the Committee to meaningfully report to the House.

All three appeared before the Committee and each offered invaluable testimony. The then Director of US Sales and Marketing, Mr. Phil San Filippo travelled from overseas to appear before the Committee.

The Committee has had to provide names of individuals, versus their titles, more often [than] it would have liked, but this was the only way to avoid confusion with the persons who now occupy those posts and carry these titles, given that some four years has passed.

#### Summarized Background Information

In the Auditor General's 1995 Report on the Department of Tourism [DOT], he mentioned

that a Director of Tourism was appointed and additional specialist support staff engaged. In addition joint Government-private sector promotions were being undertaken, something that had not been done in the past. One of the main objectives at that time was to return strategic control to the Grand Cayman head office and to develop adequate management systems in all DOTs' offices.

During 1998 through 2000 DOT was in the process of recruiting a new Director of Tourism, and the Deputy Director, who had recently joined the organisation, had vacated his post. In addition, the Director of Sales and Marketing for the US region was fired and a Caymanian was appointed to the post.

Strategic control, previously transferred to Grand Cayman head office in 1995, seemed to have shifted gradually back to the Miami Administration Office in 1999. A public relations audit was carried out on the DOT by a consultant in 1999. The consultant reported a communication breakdown between the key players in the DOT and friction between the Ministry, the DOT and the Miami Administration Office 2001. Private sector partners had recently learned that the tourist arrival figures reported by the DOT since 1994 were overstated. The Department faced challenging times ahead, and with the slowing US economy in 2001, the performance of our main market was of major concern to the incumbent Government.

Policy and administrative responsibility for tourism is assigned to the Ministry of Tourism, Environment and Transport ("the Ministry"). The Department of Tourism (DOT) was established by the Tourism Law, 1974 (1995 Revision). DOT is the executive agency of government charged with the responsibility for the implementation of tourism policies established by the Government through the Ministry. The Department is responsible for the marketing of the Cayman Islands as well as product regulation and development, information management and research and policy advice to the government. Its mission was: *"To foster sustainable tourism development, which ensures a lasting high quality of life for all who live in and visit the Cayman Islands"*.

#### Location and Staffing

The main office for the Cayman Islands DOT is located in Grand Cayman and consists of six units, namely Marketing and Promotions, Tourism Development Services, Public Relations, Research and Statistics, Information Systems and Finance and Administration. At the time the Department also had five regional offices and five resident representatives / sub offices in the United States and one regional office in the United Kingdom, plus representations in Canada, Germany, Italy, France, Argentina and Spain. The Depart-



ment also had an office in Japan which was closed in 1998. Regional offices in the USA comprised Miami, Chicago, New York, Los Angeles and Houston; USA sub-offices were Tampa and Atlanta, Dallas, Boston and Baltimore and San Francisco (closed in 1998). DOT also had representative offices in a number of countries.

The Department is headed by a Director of Tourism who reports directly to the Permanent Secretary, Ministry of Tourism, Environment and Transport. She is assisted by the Assistant Director Finance and Administration. The Director of Tourism was also assisted by the Assistant Director Marketing and Promotions. This post became vacant in March 2000. It was upgraded to Deputy Director of Tourism and was filled in January 2001. The new Deputy Director of Tourism resigned from the post in June 2001. The Department employed approximately 85 individuals, 30 in Grand Cayman and 55 in the overseas offices.

#### Administrative Control

The Miami Office served as the administration centre for the U.S. sales offices and therefore handled all their administrative functions. Prior to May 1999 the heads of regional offices reported to the Assistant Director, Marketing and Promotions who in turn reported directly to the Director of Tourism in Grand Cayman. Advertising and public relations firms also reported directly to the Assistant Director, Marketing and Promotions at the Grand Cayman office. A new Director of Sales and Marketing, Mr. Phil San Filippo, was employed from 1997 for the US region and the Ministry delegated these functions to him. This post was vacant during the preceding two years. The Director of US Sales and Marketing was fired from this post in January 2001. This post was filled by a Caymanian, Ms. Pilar Bush, in February 2001. She was forced to work from the Grand Cayman head office for some time due to work permit delays in the United States.

#### Expenditure Profile

The Department's cash operating expenses for 1999 and 2000 were \$20.6 million and \$21.6 million respectively. Budgeted 2001 expenditure was \$19.8 million, of which \$5.3 million was allocated to the overseas offices for operating expenses. In addition, the Miami Administration Office was in charge of the advertising budget of \$7.3 million.

#### Main Issues

##### Administrative and Budgetary Control within DOT

In April 1999, the Ministry of Tourism decided that to provide for a more effective and efficient implementation of its policies, it was necessary to integrate the marketing, promotions, advertising and public relations activities of the Department world-wide. To achieve this, the Ministry developed ten objectives for the Department, two of which directly affected the relationship of the overseas offices with Grand Cayman:

- "The Ministry expects that the overseas senior managers in the USA, Canada and the UK & Europe would be given the freedom to direct the public relations and advertising programmes in their respective areas of responsibility."
- "The Ministry expects that Head Office in Grand Cayman would therefore concentrate on the global picture, leaving the details of each particular region to be managed by the respective senior manager, with them being held fully responsible and accountable to the Head Office."

The decentralisation of the marketing functions of the Department meant that the then Director of US Sales and Marketing, Mr. Phil San Filippo effectively gained control over the advertising, collateral and photography budgets in addition to the funds in the budget for overseas operations. As a result, the Director of US Sales and Marketing controlled a budget in excess of \$16 million since 1999. This control over the major part of the budget, coupled with the increased level of autonomy given to the Director of US Sales and Marketing, led to a transfer of strategic control to the Miami Administration Office.

In essence the Director of Tourism Mrs. Angela Martins had a greatly diminished role. Approximately 80% of the department's budget now resided under the firm control of the Director of US Sales and Marketing. He also had the freedom to direct public relations and advertising programmes in the US.

When asked directly whether this transfer that was articulated in the Auditor General's report was an accurate representation of the facts, the Director of Tourism confirmed this. She also confirmed that there was open tension between herself and the Director of US Sales and Marketing. It was also revealed that the Director of US Sales and Marketing did not report to the Director of Tourism or the then Permanent Secretary, Mr. Harding Watler. The Permanent Secretary also pointed out that he had a multi-subject Ministry to run along with other crises such as Pedro Castle, for which he acted as Manager at one point! He

was emphatic that senior level managers should be professional enough to sort out their own . . . personal issues. The management of this Ministry was fraught with weaknesses and significant failures.

The Permanent Secretary made it abundantly clear that he was not responsible for this shift in authority and budget control. He stated categorically that it was the “political” side of the Ministry that made these decisions via EXCO. The Minister at that time was Mr. Thomas Jefferson, OBE, JP.

The Director of US Sales and Marketing had a very different story to tell as he insisted that he reported to the Director of Tourism and that was “his boss”. He reported during his tenure with the department he was often left out of major decisions and was not consulted over matters within his remit. He acknowledged that the Minister of Tourism did indeed intervene. His interpretation of the intervention was principally to ensure that regional managers had authority over their areas, but ultimately required final approval from the Director of Tourism. He reported that the Director of Tourism was extremely angry over this directive from Executive Council.

Neither of the two senior-most managers at the Department of Tourism knew who was in charge after this directive. Obviously someone had to be in charge and someone had to execute tourism business.

The successor Permanent Secretary, Mr. Charles Clifford, confirmed that the current arrangement is quite clear and conforms to the Tourism Law 1974 (1995 Revision) and what is accepted practice. He stated that, “ultimately the minister is responsible to the country for his tourism policies, but as far as implementation is concerned, administratively, the permanent secretary is ultimately responsible”.

He stated that the minister initiated policy and that in his tenure the director of tourism was responsible for the implementation of this policy. He testified that the Director of Tourism reported to him, that is during his tenure. He went on to explain that despite the language in the Tourism Law, he felt that the current arrangement conforms to this Law.

#### Tourism Air Arrival Statistics

In April 2001, the Audit Office found that tourist air arrival figures had been materially overstated since 1994, mainly through the misclassification of returning residents as tourists. Management was aware of this problem since 1997 but the then Hon. Minister, Mr. Thomas Jefferson, OBE, JP instructed the DOT to take no action.

It should be noted that this issue runs much deeper than just giving the public false in-

formation. Many people who make their livelihood in the tourism sector utilize these figures to make business decisions.

The then Director of Tourism, Mrs. Angela Martins indicated that the issue was one that actually involved the programme utilised by the Department of Immigration and that she had brought the issue to the attention of the Ministry.

Some of the arrival traffic that was counted was persons visiting friends or family (VFRs) who are residents of the Cayman Islands. They make a positive contribution to the economy of the Islands.

Revised air arrival figures have been produced and disseminated to the public. Currently such information is available on the DOT’s website.

#### Failed Investments

The decision to enter certain markets by the DOT came as a result of directives from the “political” side of the Ministry of Tourism. The then Director of Tourism, Mrs. Angela Martins reported that she was not consulted on the final decision to enter the Argentinean market. The lack of a feasibility study along with directives coming from non-technical staff resulted in entering a market that proved to be non-viable and a poor investment for the Cayman Islands. The DOT was unable to quantify the amount of expenditures in the Argentina and Spain and Portugal markets or to quantify the effectiveness of its public relations, marketing and promotional efforts there.

This again pointed to a lack of strategic leadership. The then Minister, Mr. Thomas Jefferson seemed to take on key decisions without tangible consultation with the Director of Tourism. The then Permanent Secretary, Mr. Harding Watler also made it abundantly clear that . . . neither the administrative side of the Ministry nor the DOT was responsible for this decision to enter this market. It was decided at the policy level.

The Director of Tourism reported that she was again not adequately consulted or involved in the final decision as to whom the Cayman Islands would engage, that is hire, as the agency to direct its efforts in Argentina.

The then Director of US Sales and Marketing, Mr. Phil San Filippo was given responsibility for the Argentina market.

The Director of US Sales and Marketing reported that the idea of opening an office in Latin America, specifically Argentina, was mentioned to him during his first week on the job in September 1997. He stated that the then Manager of Promotions for the US had submitted a proposal for opening this office to the Director of Tourism. He also stated that the Director of Tourism instructed him to arrange a fact finding mission to Argentina.

They were very impressed with S&S Representatives who [were] used as they were recommended by the then Manager of Promotions for the US.

None of the technocrats took responsibility for the decision to enter Argentina. Ultimately the buck stops at the policy level.

#### Non-Compliant Awarding of Contracts

Generally, controls over the awarding and management of contracts were weak. Prime examples are the Fulfilment Contract, the Romance Brochure Contract, the Magazine Advertising Contract and the Co-operative Advertising Arrangement.

The then Director of US Sales and Marketing, Mr. Phil San Filippo made it quite clear that he was not familiar with the FSRs nor specifically their requirements related to the award of contracts. He claims that he was often instructed as to how matters were to be handled on a case-by-case basis.

The Director of Tourism, Mrs. Angela Martins testified that he should have known as she arranged workshops on FSRs and Cayman Islands practices for all overseas staff.

#### *The Fulfilment Contract*

By way of background, this contract was one that resulted in the outsourcing of the storage and distribution of Cayman Islands tourism collateral material. This by no means was an insignificant shift in policy.

The then Director of Tourism, Mrs. Angela Martins reported that she had no authority over the contract and was not involved in its development or award. The then Director of US Sales and Marketing, Mr. Phil San Filippo testified that the Director of Tourism approved the final product. It was he who actually signed the contract with the service provider.

This contract was awarded absent any tendering process.

It should also be noted that there were no control mechanisms in place that would allow DOT to monitor the actual distribution of any collateral material by the service provider. They were at the mercy of the honesty of the service provider when it came to the quantities that they distributed, and ultimately billed DOT for.

This system cost US\$673,039 from February 1999 through March 2001, which is an average of some US\$25,886 per month!

#### *The Romance Brochure Contract*

This contract was awarded to a company owned by the wife of the then Director of US Sales and Marketing, Mr. Phil San Filippo. To compound

matters this work was carried out without a written contract in place and it was not awarded through the formal tendering process

The Director of US Sales and Marketing testified that this project was ongoing when he arrived at DOT. He went on to say the then Director of Tourism, Mrs. Angela Martins approached him in regard to using his wife's company. Be that as it may he will have been aware that any contract granted to a related party, especially as close as his wife, would at a minimum be subject to scrutiny and raise suspicions.

He stated that the Grand Cayman Head Office negotiated the contract and he took a hands off approach.

It should also be noted that the audit office noted that during their work the payments made to a subcontractor of this work was made with his signature as approval. These payments were extremely large (US\$ 70,092 and 70,781) and caused significant cash flow problems as they flowed through the imprest float account.

Once again the governmental administration of Tourism was clouded by suspicion and poor judgement.

#### *Co-Operative Advertising Contract*

Again there was [no] tendering process and no written contract in place. Between 1997 and 1999 a local hotel operator was paid CI\$89,317 for television advertising for certain charter flights. In fact the audit revealed that there was a verbal arrangement between the then Minister of Tourism, Mr. Thomas Jefferson and the beneficial company. This was verified by the then Director of Tourism, Mrs. Angela Martins.

Proper invoices were not submitted to DOT. Payments were made based on letters from the operator and copies of television advertising invoices. To make matters worse the audit work lead the Auditor General to conclude that an overpayment occurred as the letters received from the operator stated that 50% should be paid but in fact the entire amount was paid.

This was a highly unusual and inappropriate arrangement. This demonstrates poor financial management for the Minister to instruct the expending of public funds under such cloudy circumstances.

#### No Formal Evaluation of the Advertising Agency

One media house had represented the DOT over the past 12 years and business to the value of approximately \$78 million was placed with this agency. Based on audit work carried out, there was no evidence to indicate that the performance of the advertising agency was ever evaluated to determine the effectiveness and

whether the country was achieving good value for money.

This again demonstrates a lack of good management practice.

#### Lack of proper accounting

Based on audit enquiries, the audit office believes that the total cost of travel, subsistence and entertainment may be approaching \$1.5 million each year. DOT staff, both local and overseas spends a significant amount of their time on official travel. It was noted that official travel was being incorrectly budgeted and coded under other expenditure headings, grossly understating the true expenditure in this area.

Given the fact that this sector relies greatly on relationships significant travel is expected. What was unfortunate was the lack of accountability and transparency in this area. The Legislative Assembly voted certain sums of money and was not aware of the true expenses incurred in this area.

The then Director of US Sales and Marketing, Mr. Phil San Filippo testified that he was told to pay for certain expenditures for members and staff at the Grand Cayman Head Office as they would not be able to get them approved otherwise. This was an obvious attempt to circumvent the rules good governance and transparency in the budget process.

#### Ineffective Public Relations

An audit of the DOT public relations program revealed this program was generally ineffective. However, most disturbing from the audit findings was the fact that there existed open conflict between the US DOT office and the Grand Cayman Head Office.

As previously mentioned the budget and strategic direction of approximately 80 percent of the department's budget had been transferred from Head Office in Grand Cayman without the approval or input from the then Permanent Secretary, Mr. Harding Watler. It was also found that the Public Relations ("PR") Unit of DOT had a dysfunctional working relationship with the PR Agency!!

This dire state of affairs would have likely contributed to the state of tourism in 2000.

#### Lack of Updated Tourism Management Policy

The 1995-1999 Tourism Management Policy documents, which provided policies, strategies and implementation guidelines for the management of tourism in the Cayman Islands, expired in 1999. The new five-year tourism policy was only approved in February 2003.

When the then Minister demitted office in 2000 there was no formal process for updating the all important Tourism Management Policy.

#### Cost of Attracting Visitors

The cost of attracting visitors to these Islands have been on the rise since 1996 and with the exception of Bermuda, the Cayman Islands showed the highest cost per visitor in the region. Given all of the other issue[s] outlined above this is an expected by-product.

This number in and of itself is not meaningful. It must be reviewed in the context of this type of visitor we try to attract to these [I]slands and the manner in which you have to go about marketing to them.

#### Location for Global Meetings

The meetings for the DOT global meetings were not strategically located. In fact the then Director of US Sales and Marketing, Mr. Phil San Filippo testified that the decision to go to Lake Tahoe was made when he, on a whim, recommended this to the then Minister of Tourism, Mr. Thomas Jefferson and the then Director of Tourism, Mrs. Angela Martins. He reported that he was stunned when they agreed with no thought or research going into such an important decision.

This is a significant weakness in the decision making process.

#### CAYMAN ISLANDS RESERVATIONS SYSTEM (CIRS)

None of the Committee's recommendations made previously were considered or implemented by the DOT. Considerable sums continued to be expended on CIRS each year, without much regard to securing value for money and the avoidance of waste. Over the period 1986 to 1999 the CIRS has made losses of approximately \$3.4 million. Only a few properties realistically rely on CIRS services to generate hotel bookings. The entire CIRS business process is outdated, inefficient and ineffective.

#### RECOMMENDATIONS

The Committee makes the following recommendations:

1. *That the tourism management policy should always be current so that the policies, strategies and implementation guidelines can be used effectively for the management of tourism in the Cayman Islands.*
2. *That tourism statistics are accurately reported since the Government and the business community rely upon this in-*

formation for decision-making purposes. The DOT also uses this information to measure and evaluate their performance against their budget and how these compare with other similar destinations.

3. That systems and procedures are put in place to report expenditures in the various markets to attract visitors (cost per visitor) so that this information can be compared with other destinations to determine the effectiveness of DOT's activities.
4. That feasibility studies are carried out before entering any new market and accountability arrangements are in place to assess the performance of these market.
5. Controls over the awarding and management of contracts are observed so that value for money is realised on these arrangements by the Government.
6. Reporting lines and accountability arrangements are made very clear to all employees of DOT so that the possibility of communication breakdown can be kept to a minimum.
7. The cost of travel and subsistence expenditures should be properly budgeted and reported against so that legislators are made aware of these amounts. The Ministry and DOT pay special attention to this category of expenditure in future years with the objective of securing value for money.
8. The necessary financial and operating controls should be implemented in the new administration office in New York so that it is properly directed, controlled and held to account.
9. That all major arrangements entered into with service providers be supported by a written and signed contract
10. Any significant global meetings held outside the Cayman Islands should be held in a strategic location that would offer other benefits related to our tourism product.

The Committee is aware that the operation of the CIRS has been closed. Information relating to tourists coming to these Islands is valuable to our competitors and this asset must be protected. This should be taken into consideration when entering into arrangements with contractors in future.

Continuing on, "Part II, Public Works Department – Roads"—

**The Speaker:** Honourable Member, if I may ask. Is it your intention to read the whole report of the Public Accounts Committee into the *Hansard*? I understand that it is the will of the House to adjourn at 4.30 this afternoon and return on Wednesday, so I am just letting you know what information was passed on to me, if you could just say how much more you plan to read into the *Hansard*.

**Mr. Rolston M. Anglin:** Mr. Speaker, I am going to read the remainder. I think I have been going at a reasonable pace and I might be able to finish in that time.

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

**Mr. Rolston M. Anglin:**

## "PART II

### PUBLIC WORKS DEPARTMENT - ROADS

Expenditure on roads forms a significant portion of Government's capital budget. These expenditures have increased from \$5.2 million in 1996 to \$16.7 million in 2000, representing 43.3% of capital expenditures in that year. This was the highest over a five year period. The effect of the lack of planning was evident in 1999 when rushed prepayments were made for roadwork in November/December. Some of these works were not completed until late in the year 2000. In the latter part of 2000 new resurfacing projects in excess of \$7.0 million were approved. These jobs were executed in a rushed manner. Failure to plan roadwork properly – resurfacing and development – may result in inefficient expenditure on such projects. There are also social costs involved with traffic disruptions, business interruptions, etc.

The Committee acknowledges that road works is an essential part of the infrastructure of these Islands which must be improved and maintained. However such improvements and maintenance must be properly planned, costed and included in the annual budget documents for approval by the Legislative Assembly. Road works that are rushed lead to many problems including incurring excessive costs, poor workmanship and not carrying out work where it is most needed.

The lack of a National Roads Plan has also contributed to significant problems.

#### Main Issues

##### Lack of National Roads Plan

This was mentioned in the 1999 Auditor General's report. It is repeated this year as a result of unplanned roadwork executed during the year. As a result, there was no comprehensive and

documented strategy for the development of roads infrastructure in these Islands.

The following problems are a direct result of the lack of a National Roads Plan:

- Work is not planned and carried out in a phased manner;
- The magnitude of roadwork, the timing of these and indeed the specific work to be carried out are not known beforehand;
- Jobs are not budgeted for and are executed in a rushed manner;
- There are limited opportunities for effective negotiation with the sole supplier, resulting in payment of higher unit prices; and
- The Legislative Assembly is not provided with an opportunity to properly review, debate and finally approve road projects.

#### Inadequate Project Details

The Annual Estimate does not provide adequate project details. For the purpose of public accountability, each major project should be disclosed in the annual estimates, not just general descriptions like *Main Roads Resurfacing Program*.

#### Deficient Contracts Awarded

Paving contracts awarded in 2000 were deficient in content and wording. Based on a review of the contracts by [the] Legal Department it was determined that a couple of paving contracts awarded in 2000 were not sufficiently worded to protect Government's interest.

- FSR's governing the tendering of works were breached. In one case of paving and several aggregate purchases, materials/services valued in excess of \$100,000 was purchased without having gone through the tender process. The tendering process is an important financial control and failure to adhere to the laid down procedures can result in:
  - government paying higher than necessary prices for goods and services
  - procurement of inferior quality good and services and
  - financial impropriety.
- Execution of unplanned expenditure valued at almost \$7,000,000 took place during the year 2000. In October of 2000 a contingency warrant was issued to cover the cost of an island-wide resurfacing program. This item was not budgeted and does not fall under conventional definitions of contingencies. There was also

inefficient spending due to unrealistic deadlines as a result of this unplanned work.

- Items not deemed capital in nature were charged to roads expenditure account in the Capital Development Fund. There were several items charged to the roads vote which should have been expensed in the General Revenue Fund. These include capital acquisitions, road maintenance, fuel, vehicle repairs, etc.

The Harquail Bypass was completed in 2000. There were several negotiations leading to the payment of the contribution by the two private developers. The developers, whose lands this loop passed through, negotiated with the previous ExCo to pay a contribution in exchange for a re-design of the loop as well as number and locations of access points. There was a series of rounds of negotiations and it is not certain what the final agreed contribution was or how the amounts were calculated. The Clerk to Executive Council was able to confirm that neither matter was discussed or approved by Council. The commercial aspects of this innovative arrangement were apparently negotiated direct by members of Executive Council. However there is no documentation to record how the terms of the contribution were established. This is unusual and not consistent with the principles of open and accountable government. The adequacy of the compensation arrangement could not be determined. Part of this arrangement is tied into the authority given by Government to one of the developers for dredging of the North Sound. This is a controversial issue and the environmental impact of this arrangement to these Islands was not assessed.

#### RECOMMENDATIONS

The Committee makes the following recommendations:

1. *The formulation of a National Roads Plan.*
2. *The detail of appropriation items shown in the annual estimates for road development should be expanded to show specific projects and related costs. This should facilitate better management and planning of roadwork and would give some indication whether the work could be undertaken during the current year. More importantly, the Legislative Assembly will be fully aware of the details of the specific projects and the total estimated cost. Proper disclosure would also satisfy the current demands for improved transparency and accountability. This is now done under the new PMFL [Public Management and Finance Law]. The estimated total project cost is also included, along with the expenditures to date (in addition to the current year's budget appropriation request).*

3. *PWD [Public Works Department] should request a thorough review be performed by Legal Department with a view of ensuring all contracts are complete and accurate in their terms and conditions. PWD should also ensure that any individual acting as agent of the department in a contractual arrangement receives written authority from the Financial Secretary for doing so.*

4. *Government must ensure that the requirements of FSRs relating to the tender process are strictly observed. The CTC [Central Tenders Committee] should be particularly diligent in single source procurements to ensure that Government's interest is adequately protected. There needs to be independent assurance that major non-competitive procurement prices are fair and reasonable and represent value for money. Proactive steps must be taken to prevent any recurrence. This could involve Treasury officials checking that payments over \$100,000 are made only on tendered contracts or, if not, that CTC has waived the requirement to tender.*

5. *Proper approval should always be sought for all projects prior to the commitment of funds. The use of Contingency Warrants should be kept to an absolute minimum and should be restricted to "exceptional circumstances and urgent need" in accordance with the Law. The PAC [Public Accounts Committee] stresses the importance of proper scheduling and planning of roadwork in order to avoid situations like this arising. It would appear that substantial savings could have been achieved if the work had not been restricted to the 31 October deadline.*

6. *PWD should develop proper cost allocation principles that will allow appropriate and relevant expenses to be charged to the CDF [Capital Development Fund]. In view of the plan to migrate to accrual accounting, it would be useful for the Department to adopt the principles contained in International Accounting Standard 16 as soon as possible.*

7. *Important commercial agreements should be properly documented and a legal agreement executed before physical concessions are granted. Landowner contributions should be considered as a potential source of funding for the recommended National Roads Plan. Revenue and expenses should be reported gross in the financial statements and not offset against revenue classifications.*

### PART III

#### HEALTH SERVICES DEPARTMENT

The Auditor General reported that the Health Services Department ("HSD") has had certain deficiencies for several years. It was noted

that the Ministry has done work in more recent years to address these deficiencies.

#### Main Issues

- The Caribbean Home Insurance Company Limited health insurance contract with government is under dispute. Subsequently a Health Advisory Committee was established to deal with the collapse of the health insurance contract.
- Insurance companies delaying payments to the HSD.
- Inadequate fee structure and services not properly costed by the HSD.
- Overseas medical advances balance continues to grow at an alarming rate.
- Upgrade or replacement of the HSD's accounts receivable system is needed.
- Claims from the Health Insurance Fund are not being distributed to Government coffers in a timely manner.
- Faith Hospital operations billing system is ineffective.
- 1999 Draft Report on Health Services Revenues was never issued as the AG did not receive a response from management.

The Committee appreciates the challenge of improving the financial performance of the HSD will not be an easy task. The formation of a Committee to support the efforts of the HSD is commendable.

The Committee recommends that:

- (i) *HSD must develop efficient and effective revenue capture, billing and collection systems because the HSD is leaking many millions of revenue dollars each year.*
- (ii) *Of equal importance, is the need to determine the cost of services provided and to implement a fair and equitable fee structure. In many ways the HSD has failed to grasp the opportunity offered by the introduction of health insurance. The Department still does not have adequate systems in place. Under the present budgetary system, departmental revenues are dislocated from departmental expenses. Revenue collection is not taken into account when determining the HSD's expenditure budget. This process should change dramatically in July 2004, under the new Public Management and Finance Law 2001. This is the single most important financial issue facing government as a whole. Government cannot afford to delay revenue issues any longer. Failure to address this*

*problem promptly and effectively will have a major impact on Government's ability to continue providing quality medical services.*

*(iii) The Committee has dealt with the matter of overseas medical advances before. These recommendations remain the same and are repeated below:*

*(a) That the accounting treatment for recording Overseas Medical Advances should be changed to concur with the Auditor General's recommendations.*

*(b) That the Overseas Medical Advances be brought to account as soon as possible. These amounts should be expensed to the General Revenue Fund without any further delay so that the Government's true financial position is disclosed in future financial statements.*

*(c) Appropriate criteria should be established to determine beneficiaries' ability to pay*

*(d) Loan accounts should be established and be brought to Finance Committee in respect of those individuals in (c) above.*

*It should be noted that subsequent to the Auditor General's report the Ministry of Health submitted certain accounts to Finance Committee for write-off and these were approved.*

## PART IV

### POSTAL ADMINISTRATION

Over the years the Cayman Islands have managed to upgrade their post office facilities in the Islands in an effort to improve the quality of postal services provided to the public.

Postal services are critical to the personal and economic life of the Cayman Islands.

#### Main Issues

##### Inadequate Segregation of Duties

The review of the accounting systems revealed inadequate segregation of duties surrounding the collection, recording, deposit and reconciliation of cash resulting in a number of discrepancies in the recording/reconciliation of revenue going unnoticed.

##### Weak Internal Controls

- A senior officer does not regularly check balancing of indents and cash floats. This has been attributed to staff shortages. The location of officers collecting cash and

preparing deposits can also be considered a security risk.

- Control over the opening and recording of incoming mail for Postal Administration was weak, as the mail was opened and recorded by one officer. There was also a delay between receipt of monies via mail at General Post Office ("GPO") for Philatelic Bureau and International Mail Accounting and actual deposit which comprises passing these monies on to the relevant accounting officers for receipting, recording/accounting and deposit.
- Inventory of stamps and other post office stock at GPO and Airport Post Office is not checked on a regular basis and reconciled with inventory records. Checking of a sample of inventory items at GPO revealed a number of differences between inventory records and physical stock.
- Obsolete stock at GPO checked and sealed by the Audit Office between 1987 and 1990 is still awaiting destruction. A number of the seals were found to be broken/dry rotted. The listing of this stock as verified by audit could not be located by the Post Office.
- The Post Office Box rentals computer system was fraught with problems resulting in numerous errors such as missing counter-foil receipts, repeated or non-sequential receipt numbers and discrepancies on the payment transactions report. Since the time of the audit, the problems with computer system[s] have reportedly been corrected.

##### Inadequate Technology

The custom-written *PeriNet* computer program in use at the mail-processing centre does not cater to the processing, accounting and record-keeping needs of the International Mail Accounting Section, necessitating reversion to a manual system. Audit was informed that *PeriNet* would no longer be supported by British Postal Consultancy (who implemented the system).

### RECOMMENDATIONS

The Committee makes the following recommendations:

1. *There should be adequate segregation of duties within the cash collection, deposit, recording and reconciliation process. Segregation of duties is a basic, key internal control. It is used to ensure that errors or irregularities are prevented or detected on a timely basis by employees in the normal course of business. Segregation of duties provides two benefits: a) a deliberate fraud is*



*more difficult because it requires collusion of two or more persons, and b) it is much more likely that innocent errors will be found. At the most basic level, it means that no single individual should have control over two or more phases of a transaction or operation. Management should assign responsibilities to ensure a crosscheck of duties.*

*2. The balancing of indents and cash floats should be done on a daily basis and this should be rechecked by a senior officer.*

*3. Two officers should perform the opening of the mail and cash received should be banked intact on a daily basis. This aspect of operations should be monitored by a senior officer.*

*4. Inventory of stamps and other post office stocks should be checked on a regular basis and reconciled with the inventory records.*

*5. The obsolete stock of stamps should be destroyed by the Post Office. In addition, the quantity of stamps ordered should be adequately controlled so that excessive amounts are not on hand that lead to obsolete inventory and losses to the Government.*

*6. The Post Office should carry out a study to determine its Information Technology needs so that the majority of its operations can be computerised. This should result in efficiency gains and the Post Office may be able to offer new services to the public including the payment of bills for a fee.*

## PART V

### OFFICE OF TELECOMMUNICATIONS (OFTEL)-

#### INVENTORY OF TELECOMMUNICATIONS EQUIPMENT

The radio telecommunication system supports both Type I (older models) and Type II (newer models) analogue radios only. The Office of Telecommunications (OFTEL) hopes to upgrade the system to support wide area capability and digital radio communication for the Police, Fire and Health Services. This will allow for digital encryption and better quality transmission with the elimination of 'black spots'. In light of the existing scaling of telecommunications equipment, this is likely to involve a substantial investment for the whole of government. The Telecommunications Officer stated that the existing system is over 11 years old and has become obsolete, therefore necessitating the upgrade. The upgrade will not support the Type I radios. The Telecommunications Officer indicated that the Type I radios have been replaced (with the exception of a small number of RCIP radios which are slated for replacement this year) and anticipates that they will be

used for special events (using the back-up system) or for cannibalisation.

In the past, purchase of radios was driven by departmental requirements and available budget. In view of the substantial numbers of equipment in service compared to established posts and group employees, there are preliminary indications of excess equipment. The Telecommunications Officer disagreed that there is any surplus equipment. However, it would require consultation with controlling officers and expert analysis to verify this or determine the extent of any excesses and areas for potential cost reduction.

OFTEL does not maintain information on departmental equipment that does not operate on the government system such as marine radios. Also, although OFTEL does provide guidelines for acquisition of equipment for operation on the Government system, departments are free to acquire equipment on their own without consideration of the government's overall telecommunications plan. In fact, the existing plan for radios appears to cover only the Motorola system and excludes the special radio communication needs of certain departments. OFTEL does however provide assistance and guidance to departments in developing and engineering for special radio communication requirements.

The Committee notes that OFTEL was established to protect the integrity of Government's radio system which needs to be properly maintained and protected. The security of the Islands depends on the integrity of this system. However based on the findings in the AG's [Auditor General] Report and the Committee's deliberations the integrity of the system is questionable since many radios are unaccounted for.

#### Main Issues

- No comprehensive database of telecommunications equipment exists
- No reconciliation of equipment inventory to OFTEL records is done by departments resulting in differences going unnoticed
- A number of radios and pager equipment have been either lost or written off by Departments. The majority of these items were not reported to OFTEL for disabling or to the Auditor General as required by Financial and Stores Regulations.
- Departments are free to purchase telecommunications equipment without consultation with OFTEL or consideration of Government's overall telecommunications plan
- Information provided by Cable and Wireless on cellular phones in the Government service and total billings during 1999

proved to be unreliable. Very large billings were reported for some agencies in error.

- Significant discrepancies were noted between Departmental/Agency returns and OFTEL/C&W records relating to radios, pagers and cellular phones.
- Irregular arrangement for Cable and Wireless' use of the telecommunications bunker, tower and amplifier at Northward.

### RECOMMENDATIONS

The Committee makes the following recommendations:

1. *A master list of telecommunications equipment should be compiled and maintained. It should be held at both OFTEL and by Departments. The master list should cover all telecommunications equipment whether or not they run on the government system. This would provide useful management information for looking at the overall government telecommunications capabilities and needs and aid in asset management and in OFTEL's role as telecommunications service provider to the Cayman Islands Government.*

2. *Periodic physical checks and reconciliation of master inventories should be performed by an officer independent of the inventory maintenance function. Consideration should be given to the creation of an on-line fixed asset inventory package (in IRIS) to facilitate proper recording and accounting of fixed assets. Telecommunications inventory could then be easily monitored and compared to OFTEL's records regularly.*

3. *Effective asset management includes proper accounting for lost and damaged equipment. Departments should ensure that lost and unserviceable items are reported and the asset registers adjusted.*

4. *Government's telecommunications programme and plan should encompass the telecommunications needs of the whole of government. This would aid in ensuring cost effectiveness and enhance accountability while facilitating access to more complete information regarding telecommunications equipment in the government service.*

5. *These discrepancies raise concerns about the accuracy of billings for cellular phones and telephones, and warrants investigation by departments and statutory bodies.*

6. *As a matter of priority, OFTEL should coordinate a reconciliation of radio and pager equipment inventory between its departmental records, and of cellular telephone equipment and lines between Government as a whole and Cable and Wireless. A complete audit of the telephone and cellular bill payment system should be done in view of the risk of Government being billed for*

*invalid lines or the risk of significant misuse by departments.*

7. *The financial provisions of this agreement should be revised. Rental of telecommunications facility should be charged to Cable & Wireless in CI\$ [dollars] and recognised as income in the government accounts. Cellular telephone lines/airtime required by government departments should be budgeted for, rented/paid for in the normal course of business and charged to expenditure in the accounts. The contract with C&W should be renegotiated forthwith and a cash rental payment determined on the replacement cost of capital assets plus equitable share of all operating costs. The opportunity cost to C&W of planning, constructing, commissioning and operating . . . [its] own independent antennae should be established as a starting-off point for re-negotiation of rental.*

### PART VI

#### GOVERNMENT INSURANCE – THE PRISON INSURANCE CLAIM

The Committee is concerned that Government does not have a documented risk assessment and valuation of its properties done, along with an approved insurance strategy based on the risk assessment and valuation of its properties. The insurance strategy would be used to negotiate the insurance policy, which would adequately cover the risks faced by Government.

The Committee notes that Government has not documented and approved an overall insurance strategy based on the level of risks it is willing to take. However, Government has set up a Risk Management Advisory Committee (insurance committee) and has looked at the insurance policy and risk retention factors. Presentations were made to the insurance committee members and Risk Management for both the 2000/2001 and 2001/2002 insurance policy renewal periods. This is a good start to developing an overall insurance strategy, but Government must take overall responsibility and approve the level of risk it is willing to take.

The Committee commends the Government for having an appraisal of its properties. This not only provides Government with a good source for the replacement costs of these properties, but it has also helped in the negotiations of the insurance policy. Currently, the Government insures for all properties at their full value based on the BCQS 1999-2000 appraisal. However, some properties do not include any value for contents and therefore the Government may be underinsured and at risk if there is a major catastrophic event. Government's policy is not to insure its contents in buildings, except computers, medical equipment and

other major electronic equipment. However there is no written evidence of this policy or any formal approval found.

Without evidence of a documented risk assessment and an approved insurance strategy, the Committee cannot conclude whether Government has agreed to accept the risk of being under-insured (i.e. agreed to a specific level of self-insurance) or not. An insurance strategy based on how much risk the Government is willing to accept will help determine what negotiation strategies the Government can use when renewing its insurance policies and the level of premiums it will have to pay.

The Committee is concerned that no system exists to track expenses in order to submit a claim for insurance purposes. Without a proper system in place to identify and record expenditures incurred relating to a specific incident there is a risk that the total dollar loss may not be recovered through the insurance claim.

#### Main Issues

- Insurance coverage may be inadequate for government
- Documented and approved insurance strategy needed by government
- Inadequate systems to submit insurance claims

#### RECOMMENDATIONS

The Committee makes the following recommendations:

1. *Develop and approve an overall insurance strategy to cover the risks it is willing to accept or not accept on the properties, contents and equipment it owns.*

2. *Negotiate an insurance policy based on this insurance strategy.*

3. *Determine or estimate the replacement values of all buildings, contents and equipment it owns. The contents and equipment for each building should be valued or estimated by Government to make an informed decision on whether these assets should be included in the all risk insurance policy property listing. This will help ensure there are no misunderstandings between the insurance company and Government. As well, this will ensure Government is not underinsured if a major disaster is to strike, unless that is the risk it is willing to take.*

4. *Develop an adequate system to process and record significant insurance claims that involve multiple departments. Government needs to have a system in place before another significant event occurs requiring a major insurance claim to be made. The Risk Management Office and Treasury Department need to develop an ade-*

*quate system to identify and record expenditures incurred when processing an insurance claim. Specific steps should be documented of what needs to be communicated and take place when dealing with multiple departments in order to submit a major insurance claim. The Risk Management Office and Treasury need to have defined protocols on how they will handle the processing of expenditures that are required for insurance claims and the storage of the invoices so that they can be easily accessed to support the claim. These invoices should be batched separately from the other regular expenditures so that the insurance claim can be easily supported. Communication from the Risk Management Office to departments needs to be clear and concise in what their expectations are in order to be able to submit an insurance claim."*

#### **Moment of Interruption**

**The Speaker:** Honourable Member, you have two minutes remaining until 4.30. I do not know if you wish to start and be interrupted during the process. We could take the adjournment at this point and you can continue on Wednesday.

Honourable Deputy Leader of Government Business, could you move the adjournment motion please. If it is the wish of Honourable Members that the Second Elected Member for West Bay is allowed to continue until he is finished, I would be very pleased to entertain that.

#### **Suspension of Standing Order 10(2)**

**Hon. Gilbert A. McLean:** Mr. Speaker, there seems to be a consensus that we should allow the Member to finish the Report he is presenting, and so I would move the relevant Standing Order 10(2) to continue until such time as the Report is finished this evening.

**The Speaker:** The question is that Standing Order 10(2) be suspended in order to continue the item now before the House, to allow the Second Elected Member for West Bay to complete the PAC Report that he is now presenting. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Standing Order 10(2) suspended in order to allow the Second Elected Member for West Bay to conclude the PAC Report.**

**The Speaker:** Proceedings will continue. The Honourable Second Elected Member for West Bay continuing.

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

Mr. Speaker, moving on to Part VII of the Report, entitled "Government's Use of Consultants".

## "PART VII

### GOVERNMENT'S USE OF CONSULTANTS

The Chief Secretary in Circular #4 of 2000 indicated concern over individuals being employed by Heads of Departments against established posts without the approval of the Governor and that there was a number of other unusual employment arrangements. In response, the Audit Office decided to review the Government's use of consultants.

The Committee noted many consultants hired by Government were for periods in excess of one year. These long-term or continuous renewals of contracts concerns the Committee because it indicates some Departments have become dependent upon the consultant's work. Technically, these consultants are holding what could possibly be a civil servant's job since they are long term in nature. In addition, Departments who hire consultants over the long-term may be circumventing both approved staffing levels and the normal requirement to hire staff through the Public Service Commission. In so doing, the Departments are not restricted by the salary grades or other benefits that can be offered.

The "Use of the Consultant's Guide" (the "Consultant's Guide") ensures departments obtain consultants in the most economical manner and the work would be carried out to the department's satisfaction. As well, the Consultant's Guide helps to ensure compliance with the Financial and Stores Regulations, 1986. Not one department used the Consultant's Guide. Many departments did not know the guide even existed. If the Consultant's Guide had been used, many weaknesses identified such as the absence of competitive tendering for contracts; the absence of contract documentation; and inadequate monitoring of the consultants' work could have been alleviated.

It was noted that departments did not carry out an economic analysis on whether there was someone internally in government who could provide the required services cheaper or that the job could be met more economically by establishing a temporary or permanent post. The consulting jobs were not advertised or tendered, to determine who could provide the best value for public moneys expended. Government regulations have been created to ensure that contractors are treated in an open and fair way when awarding contracts. Awarding contracts competitively helps to ensure fairness and the best value is obtained.

Due to general absence of tendering, it is uncertain whether Government is paying reasonable rates for these consultants and whether the Government obtained the services provided in the most economical means and received the maximum value for public money spent.

In several instances some of the consultants were previous employees of Government. This concerns the Committee because the impression given is that some departments are using this method of hiring to reward current employees with higher salaries and other benefits, which would not be available to a typical civil servant. In so doing, Controlling Officers are able to circumvent rules regarding established posts.

### Main Issues

- Length of consultant's tenure was longer than expected in several cases
- The Consultant's Guide is not being used or followed by departments to help ensure consultants are hired in the most economical manner.
- Consultancy jobs are not tendered out to ensure value for money was obtained
- Previous employees being hired as consultants, which appears to circumvent rules regarding established posts.

### RECOMMENDATIONS

The Committee makes the following recommendations:

1. *Where a consultant's work is of a continuous nature a permanent post should be established, if this is the most economical choice to fulfil these requirements. Government will also accrue long term benefits through skills development and retention of specialists.*

2. *Work to be completed by consultants costing over CI\$10,000 should be advertised/tendered to ensure Government receives maximum value in the most economical means, and that is an open, fair and equitable process. The threshold limits of CI\$10,000 and CI\$100,000 should be reassessed to ensure there is a balance between fairness and efficiency when procuring consultants.*

3. *Ministries should ensure staff are aware of and follow Government regulations for awarding contracts.*

4. *There should be promotion of the Consultant's Guide to help ensure consultants are hired in an open, fair and equitable manner.*

5. *Requests by the Auditor General to complete the consultant's questionnaires should be complied with by the Ministry of Finance and Economic Development, and the Ministry of*

**CASWYAC [Community Affairs, Sports, Women, Youth and Gender Services].**

6. All expenditures incurred for consultants should be coded consistently across Government to professional services. By doing so, officials will be better able to assess the value and impact of consultant services within Government.

## PART VIII

### TOURIST ACCOMMODATION TAX

Tourist Accommodation Tax ("TAT") receipts represents a significant part of Government's annual revenues. It is important that adequate systems and procedures and trained personnel are in place to properly account for this revenue.

The Committee is concerned that not all TAT due to Government may have actually been collected, since inspection of property records was not carried out.

The Committee was most concerned that some properties are operating without a license, which may give rise to liabilities to the Government should a guest be injured at one of these properties. In any event, the fact that properties are allowed to operate without meeting the Hotels Licensing Board requirements may prove counterproductive to the work carried out by the DOT to promote these Islands as a premier destination.

#### Main Issues

- Although a Collector of Taxes (Revenue Accountant) was appointed the records of properties were not inspected to verify the accuracy of TAT paid.
- Treasury does not compare TAT paid to documents (guest folios) submitted by properties (some properties submit these documents with their TAT payments) to ensure correctness. In addition, the mathematical accuracy of the TAT payments is also not rechecked by Treasury.
- Reduced Tourist Accommodation Tax is earned by the Government when rooms are sold at discounted prices to tour operators.
- The software program used to record TAT receipts is not integrated with the IRIS module. In addition, total TAT receipts for particular properties could not be obtained and receivables are not properly recorded.
- As at the end of December 2000 three properties were operating without a hotel licence.

The Committee makes the following recommendations:

1. All efforts should be made to commence the inspection of properties' records as a matter of priority. Guest folios used to verify the correctness of TAT are not submitted to Treasury due to storage problems. This places a greater emphasis on the need for the inspection of property records. Treasury Department intends to institute random checks of guest folios submitted by properties commencing immediately.

As an alternative, Government should consider certification of TAT returns by independent accountants paid for by operators. This arrangement would place both the responsibility and the cost of submitting correct TAT returns with properties.

2. Treasury should stipulate to all properties the format in which the TAT information should be submitted so they can quickly recheck the mathematical accuracy of these amounts and corroborate information if required, with guest folios. This is important as the TAT revenue collected from properties contribute to a significant portion of the overall revenue of Government at the end of each year.

3. One suggestion is that the guest pays the 10% on the actual rate paid for the room, instead of the discounted rate paid to the proprietor. This would ensure that the full tax is earned and will increase TAT revenues paid in to Government.

Another option would be to change the basis of tax assessment from an ad valorem rate to a standard charge per visitor night or per room night. This would make tax assessment and collection much simpler and reasonably effective. The standard charge could be graduated for varying standards of accommodation to relate to the room tariff. A fixed charge would eliminate revenue loss through discounting. Further research is required to assess the impact of such a change.

4. Given the magnitude of TAT receipts, Government should use a proper accounting software package to account for TAT.

5. Government should consult with the Legal Department to determine their liability, if any, should a guest be injured at an unlicensed property."

Part IX, Mr. Speaker, is an issue that is behind us but nonetheless in this Report.

## "PART IX

### FARMERS MARKET

The Committee agrees that food safety is important and that it would be beneficial to consume locally produced products. Government has been assisting the Farmers Market ("FM") since 1988 and has contributed approximately \$1,760,402 to February 2001. However, the gov-

ernment's involvement with the Farmers Market is not limited to the cash subsidy. The government has also provided capital grants from time to time to assist with the purchase of equipment and has also guaranteed a loan from a local bank on behalf of the Farmers Market. As at 31 December 2000, the loan stood at \$86,472. The Civil Aviation Authority owns the land on which the Farmers Market operates and no rental is charged. The government has also provided management expertise to the Farmers Market by seconding Department of Agriculture's Extension Officer to the Farmers Market since December 1992. The payroll expenditure of this officer from January 1993 to February 2001 totalled \$295,693 and this amount should be viewed as part of the indirect subsidy to the Farmers Market. It is evident that members of the Farmers Market seem to be increasingly dependent on Government and the grant from Government.

It is encouraging to know that the audited financial statements of the Farmers Market for the years ended 31 December 2001 and 2002 were received by the Ministry in May 2003.

#### Main Issues

- Government continues to provide funding for the FM but clear objectives have not been set and the intended benefits of this funding to the country in the short to medium term are not clearly stated. So far as can be established \$1,760,402 has been provided in cash (including \$295,693, for extension officer's salary) up to December 2000. Grants for 2001 and 2002 were \$101,957 and \$100,000 respectively.
- The future financial viability of the FM is uncertain and it seems that the members of the co-operative are becoming more dependent on Government. It is of notable interest that one of the main objectives of the five-year Business Plan was specifically to obtain immediate cash injection from Government amounting to \$1 million. In addition the Market would require a subsidy of \$ 120,000 per year for the next four years. Throughout the business plan and as gathered through discussions with the Farmers Market, there is a cash flow deficiency.

The Committee makes the following recommendations:

**1. *Farmers should take over the responsibility of owning and operating the Farmers Market. If there is a need for funds, land, buildings, equipment or personnel from Government then a request should be made by Farmers comprising management of this entity. Clearly Government***

***does not own this entity and this point is very important for the future operations of the Farmers Market.***

**2. *The Farmers Market should carry out their own study to determine whether there is any financial future for the entity as it now stands, or whether farmers should instead operate independently.***

**3. *All future grants to the Farmers Market should be tied to performance which should be clearly documented indicating quantity, quality, timeliness and location measures as set out by the Public Management and Finance Law (2003 Revision).***

Part X, the final part, Mr. Speaker.

#### "PART X

#### SEAMEN'S PENSION

The provision of social services to those in need in these Islands is a responsibility of the Government. That service however must be targeted at those persons most vulnerable so that the intended beneficial effects can be achieved. The Committee is most concerned that Government did not determine the long-term financial effect of this programme." That is, Seamen's Pension. "Also there may be persons who are receiving the benefits that are not really in need. There may also be persons in society who really need this service but have not applied—"

**Ms. Edna M. Moyle:** Mr. Speaker . . .

**The Speaker:** Would the Honourable Member say what Standing Order—

#### **Point of Clarification Standing Order 34(b)**

**Ms. Edna M. Moyle:** Mr. Speaker, it is on a point of clarification from the Honourable Chairman of the PAC Committee.

**The Speaker:** Honourable Member, the Member for North Side is interrupting under 34(b) for you to elucidate for clarification, if you wish to allow the clarification.

**Mr. Rolston M. Anglin:** Mr. Speaker, [during] a discussion that we had at the luncheon break, I agreed that when I was presenting this section I was going to make it clear as to when these particular issues were being raised, and I think perhaps if the lady Member waited until I am finished and if she was not then satisfied that things were clear that perhaps then we would get to that stage.

**The Speaker:** Please continue.

**Mr. Rolston M. Anglin:** Mr. Speaker, it has been a long Report. The items contained in Part X of this Public Accounts Committee Report which deal with the Summer 2001 Report of the Auditor General were looking back at the creation of the pension which, of course, took place before the November 2000 General Elections. Therefore, out of an abundance of caution and clarity, this particular item would have dealt with matters as they existed before the Member for North Side became the Minister responsible for this subject. Mr. Speaker, in fact, throughout this presentation we all need to be reminded, and the record needs to be reflected, that the points raised were pre the 2000 General Election situation as it related to all of these departments and all of the findings in this particular Report.

Mr. Speaker, it is always good to be of assistance to my good friend, the Member for North Side.

**The Speaker:** Honourable Member, you have six minutes remaining.

**Mr. Rolston M. Anglin:** The main issues as they relate to this section are:

**“Main Issues**

- Policy documentation involving this Plan was lacking
- The initial eligibility criteria seemed too vague with certain definitions (Caymanian; seaman) not properly stipulated. Criteria were subsequently revised.
- Proper financial procedure in seeking Finance Committee’s approval for a supplementary appropriation was not sought. A new service was established without an opportunity for legislative discussion and approval.
- Full financial impact and long term liability were not established before the scheme and eligibility for pension was approved
- Approximately 184 persons who received this seamen’s pensions also received some other form of state assistance or personal emoluments

The Committee makes the following recommendations:

**1. Government should stop the misuse of Contingency Warrant and Finance Committee should meet more regularly. The Committee is aware of the PMFL and the requirements therein and hope that Government will adhere to these.**

**2. Consideration should be given to controlling the award of ex-gratia and other discretionary pensions and allowances through administrative rules or regulations, which have been passed by the Legislative Assembly.**

**3. An actuary should be engaged to evaluate the total long-term liability of the seaman’s pen-**

**sion programme over its expected life. This evaluation could usefully be extended to veterans’ pensions.**

**4. Consideration should be given to re-evaluating recipients of permanent financial assistance who are also receiving seamen or veteran’s pension.**

**5. Pensions eligibility criteria is a policy issue. Accordingly, no explicit recommendations are made regarding changes to eligibility, or whether eligibility should be as of right or subject to individual financial assessment. If eligibility criteria are to be reviewed it is suggested that consideration be given to withdrawing or reducing pension to individuals who are still gainfully employed (e.g. civil servants), who have a recognised business or who otherwise are not regarded as being retired. Continuing receipt of pension would be conditional upon the recipient remaining in a retired capacity.**

**6. Consideration could also be given to including domestic and external pension benefits if eligibility is assessed on the basis of need.**

**7. Consideration could be given to restricting pensions to persons permanently resident or domiciled in the Cayman Islands.**

**8. The seamen’s database should be further enhanced and all missing data captured and entered. It is recommended that the following information should be collected:**

- ♦ Details of spouse, date of birth, date of marriage
- ♦ Permanent residential address of pensioner and identification of recipients not permanently resident in the Cayman Islands.
- ♦ History of pensions payments
- ♦ Procedures should be introduced to attest to continuing pension entitlement in order to avoid payments to deceased persons or others who loose entitlement (e.g. an annual “life certificate”).

Points 2, 4, 6 and 7 are now included in the Ministry’s amended guidelines.”

Mr. Speaker, before I go on to the “Acknowledgements” I would like to report to the House that this Report was one that not only proved, as the Report has stated, great difficulty for the Committee in reporting on (because of the controversial nature of some aspects of the Report and the inconsistencies of evidence given by some of the witnesses), but if we take our minds back, we attempted to complete this Report during very stressful times—

**The Speaker:** Honourable Member, your time is really up so I take it that you are winding up now.

**Mr. Rolston M. Anglin:** Yes, Sir . . . during very stressful times not only for the House but also for the

staff of the House, as you and all of us well know that the Legislative Assembly has moved three times during our term. In fact, Mr. Speaker, between the last day that we took evidence and finally getting the verbatim report (which is required, of course, for us to deliberate because we need the written evidence before us of what witnesses actually said), between that was one of the times we that we moved from Kirk House to Cayman Corporate Centre, but through that the staff of the Legislative Assembly worked as best they could to assist this Committee. The Committee met as often as it could under the circumstances and paid great cognisance to the state of the Legislative Assembly and the staff and had to bear that in mind in terms of us making any burdensome demands.

Mr. Speaker, it was quite ironic that the first draft of this Report was produced on 6 September 2004. Before I could get it out to Members, things changed dramatically for us here in the Cayman Islands and hence the reason we picked up the task of putting together the final Report and meeting to approve the Report paragraph by paragraph, as is required under the Standing Orders, in January and February of this year.

Mr. Speaker, finally:

#### **“ACKNOWLEDGEMENTS**

**The Committee wishes to record its sincere gratitude and appreciation of the co-operative spirit exhibited by all the witnesses appearing before it. The Committee is most appreciative of the efforts of the Auditor General in presenting a very fair, concise and informative Report on the Summer 2001 operations of the Government and for the support, assistance and constructive advice given throughout its deliberations. Further, for the support, advice and information provided by the then Financial Secretary, Hon. George McCarthy, the then Assistant Financial Secretary, Mr. Ken Jefferson and the then Accountant General Mrs. Sonia McLaughlin. To the members of the Committee I thank you for your time and dedication in making it possible to table this Report.**

**Finally I wish to thank the Clerk, and the staff of the Legislative Assembly for the assistance provided. I make special mention of Ms. Kathleen Watson who is assigned to the Committee . . . [and] has been so diligent, faithful and professional . . . [in] carrying out her duties. I am certain that the next Committee will find her as we have.”**

Mr. Speaker, on behalf of the Committee, I wish to thank you, Sir, and I wish to thank all of our Honourable colleagues and Members of this House. I wish, Mr. Speaker, that this Report, though not as timely as I wanted it to reach this Honourable House, will be one that will serve as an impetus to have corrective actions taken if they have not been taken already but, more importantly, to serve as a deterrent to

ensure that some of the “fall-downs”, if you want to call them that, and some of the weaknesses identified would not reoccur.

So, Mr. Speaker, I thank you and I thank all Honourable Members of this House.

#### **ADJOURNMENT**

**The Speaker:** Honourable Deputy Leader of Government Business, would you move the adjournment motion, please?

**Hon. Gilbert A. McLean:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Wednesday, 2 March 2005.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday 2 March 2005. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**At 5.04 pm the House stood adjourned until 10 am Wednesday, 2 March 2005.**





**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**2 MARCH 2005**  
**2.17 PM**  
*Tenth Sitting*

**The Speaker:** Prayers from the Honourable First Official Member.

**PRAYERS**

**Hon. George A. McCarthy:** Let us pray:

*The law of the Lord is perfect converting the soul, the testimony of the Lord is sure, making wise the simple. The statutes of the Lord are right, rejoicing the heart. The commandment of the Lord is pure, enlightening the eyes. The fear of the Lord is clean, enduring forever. The judgments of the Lord are true and righteous altogether. More to be desired are faith than gold yea than much fine gold, sweeter also than honey and the honeycomb. Moreover by them Your servant is one and in keeping them there is great reward. Who can understand these errors? Cleanse us Heavenly Father from secret faults. Keep back Your servants also from presumptuous sins. Let them not have dominion over us, then we shall be blameless and we shall be innocent of great transgression. Let the words of our mouths and the meditations of our hearts be acceptable in Your sight, Oh Lord, our strength and our redeemer. Eternal God and Father, we glorify Your Name. We thank You for giving us health, strength and life to come into this Parliament this day, Father God, to conduct business of the Country.*

*Father God, we pray that You will guide our minds and our thoughts. We pray especially for our Country at this time, Heavenly Father, and pray that Your peace which transcends all understanding will guard our hearts and minds in Christ Jesus. Especially today, Father God, we pray and ask Your blessings upon 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 humility 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 Cabinet and all Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

All this we ask in the Name of Christ Jesus who taught us to pray by saying: *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 are resumed.

**Proceedings resumed at 2.21 pm**

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

**Apologies**

**The Speaker:** I have received apologies for the absence of the Honourable Leader of Government Business.

**PRESENTATION OF PAPERS  
AND REPORTS**

**The Health Insurance (Amendment) Regulations  
2005**

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

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to lay on the Table of this Honourable House The Health Insurance (Amendment) Regulations 2005.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

Mr. Speaker, having recently spoken on the Health Insurance (Amendment) Bill, I now have the opportunity to present to Members of this Honourable House The Health Insurance (Amendment) Regulations 2005.

Mr. Speaker, while I have not hesitated to correct through legislation many health insurance issues that were directly impacting the people during this process, I have also been mindful of the need to create an environment where the industry could continue to exist in the Cayman Islands. This is why, following my directive, the Ministry staff embarked on a consultative process seeking input from the health insurance industry on how best to streamline the process of administering health insurance programs within the Cayman Islands.

I am pleased to note that some of the recommendations of persons very familiar with insurance business have been incorporated into the proposed amendment regulations before this Honourable House today.

The recommended changes to the regulations will expedite the process whereby approved insurers can obtain approval to increase a standard premium rate. However, we have also protected consumers by requiring insurance companies to justify their rate increases to the Health Insurance Commission (HIC). We have done so in such a way as to make it as simple as possible for the insurance companies.

Any rate increases will be submitted to the Commission on a file and use basis, meaning the insurance company can immediately use the rates after they are filed. The Commission will review the rate filings and take action retrospectively if it is determined that the rate increase is excessive or unfair.

I understand that no one likes an increase in their insurance premiums, but I also understand that insurance companies have to adjust their pricing in order to stay in business. This file and use provision for health insurance rates accomplishes two goals: it protects people from unfairly excessive rate increases; and it allows insurers to implement necessary increases in an efficient manner.

In accordance with the Health Insurance Law, the Minister of Health can recommend to Cabinet the appointment of Health Insurance Inspectors to carry out all duties pertaining to the monitoring and regulation of the Health Insurance Industry in the Cayman Islands. These inspectors are to operate from the office of the Health Insurance Commission.

Regulation 17 defines the powers of Health Insurance Inspectors and states the procedures that must be adhered to when conducting investigations.

Regulation 7 now requires that there be no breaks in insurance cover exceeding 60 days of continuous medical coverage under a standard contract. This is necessary for an employee to retain their health insurance benefits after changing employers. This amendment is also a safeguard, Mr. Speaker, to prevent persons from changing jobs for the purpose of commencing a new contract of health insurance to provide benefits that would have been depleted under the previous contract.

Also, in accordance with amendments to the regulations, patients will no longer have to be insurance specialists. It will now be the responsibility of the medical practitioner to complete claim forms and submit them to the insurance company for reimbursement.

Patients will still be responsible for paying any co-pays, deductibles and co-insurance, but no longer will they have to pay out-of-pocket for all

services, submit bills to the insurance company for reimbursement, hope that their claims were submitted properly and then wait for their refund.

Although we realise that this may be a bit of a burden on the medical practitioners at first, we also recognise the fact that they have tools, the knowledge and the training to properly record and code claim forms for submission to the insurance companies. I believe that taking this task from the patients and placing it in the hands of the healthcare specialists will eliminate patients' added worry and inconvenience and will allow them to focus on their own healing. Furthermore, if practitioners want to get paid they will submit their claims completely, correctly and in a timely fashion.

The amended regulations also included minor changes to the three additional standard insurance contracts, bringing the total number of standard contracts to four. These four standardised health insurance contracts will be offered by locally approved health insurance companies at a date to be determined by the Governor in Cabinet and will allow physicians and patients alike to know what services are covered under each contract of insurance.

This will also make the purchase of health insurance simpler and more transparent as all insurers will offer the same plans and all customers will know what they are purchasing. However, this is a contentious point with the private insurers of these Islands. We have met and discussed this matter on many occasions, to listen carefully to their views, but their view is simply that they should be allowed to offer whatever they feel. I simply disagree.

Having four options will give the people the opportunity to choose the policy that best suits their needs and they will be able to clearly see the differences among the contracts. By having any one of these standard contracts the insured person and the healthcare provider can readily see what is covered and what is not covered. Further, the consumer will easily be able to compare prices between one insurance company and another.

I realise that not all persons will agree with these changes. Insurance companies argue that no other country limits health coverage to a fixed number of plans. However, this statement is not true. In the United States alone, Medicare Supplement Regulation and New Jersey Individual Small Group Regulation both established a fixed number of available plans. These programmes have been in place for years and have been successful in simplifying consumer choice.

Another common criticism is that the proposed health insurance reform is a danger to the economy. This is another extreme point of view that has no basis in fact. The Ministry simply believes that the proposed reform is modest and necessary for creating a healthy free market for health insurance in the Cayman Islands.

International investors will value the fact that we have stable, healthy work forces that have access to good healthcare. This can only enhance our reputation in the business community. We have made every effort

to obtain input from the private insurance industry in designing a programme that is workable for all, while eliminating past problems with affordability, dumping and coverage for underserved populations.

Mr. Speaker, in addition to what I have outlined, let me remind Members of two other achievements – that is, the establishment of the Health Insurance Commission and the formation of the Cayman Islands National Insurance Company (CINICO) to take responsibility for Cayman's underserved population.

Many improvements have been made to the health insurance system and although I realise that not everyone will agree with all of them, I ask that we all give them time to work. I believe that they can work and will work to the benefit of everyone in the Cayman Islands.

Mr. Speaker, I am confident that the private industry can adjust to the new higher standard of performance of the health insurance system in the Cayman Islands, and I promise to work with them to ensure as smooth a transition as possible.

Mr. Speaker, in conclusion, allow me to remind Members of this Honourable House why I think all of this matters. It matters because each resident of the Cayman Islands is worth the time and energy it takes to provide quality healthcare in a manner that is affordable and available to them. We have taken every precaution to keep the regulations as simple as possible so as to not over regulate the market. However, it must be understood that health insurance is unique and unlike any other type of product or service. Health insurance involves the health, the quality of life and oft times the very survival of the people who depend upon it. Therefore, it is in everyone's business and better interest that we pay closer attention to an industry that we rely upon so much for our health and for our future.

Mr. Speaker, the people can be proud of our new health insurance system. It is modern, fair and extends coverage to all. It is on par with systems of the United States and other developed countries. Having this system in place will enhance our reputation in the Caribbean and in the world and will make the Cayman Islands attractive to international business who seek to do business in a jurisdiction that offers a stable, healthy workforce with a government that fulfils its responsibility to all of its residents.

I sincerely thank the staff of the Ministry of Health Services for sharing and implementing my vision of accessible healthcare for all and for supporting the consultants and other professionals who have been involved every step of the way with the amendments to the Health Insurance Law and regulations.

I also urge employers, employees and healthcare providers to do their part by being re-

sponsible in their demands on our healthcare delivery system. I hope that insurance companies will join the Ministry of Health Services in taking a more active role in educating our people about health insurance.

Only through education can we expect to fully and efficiently utilise this improved system of health insurance. I truly believe in personal responsibility and ask each person to remind themselves of the impact their actions have put upon our healthcare sector. Through our continued collaboration I am confident that the regulations and operation of healthcare will steadily progress for the benefit of one and all in the Cayman Islands. Our objectives continue to be grand, but, then again, so is our determination to achieve them.

Mr. Speaker, I would now like to invite Honourable Members of the Legislative Assembly to support the passing of the Health Insurance (Amendment) Regulations 2005.

Thank you, Mr. Speaker.

**The Speaker:** Before taking the next item, I would like to apologise to the Honourable House for the late start today, which as I understand was due to a very urgent meeting that was called by Cabinet. Also, to inform Honourable Members that it is the wish of the House that we should complete the Order Paper before the adjournment today.

Madam Clerk . . .

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

**The Speaker:** I would call on the Honourable Minister of Health to move the suspension of Standing Order 23(7) and (8) to allow questions to be taken after the hour of 11.00 am.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 23(7) and (8) so that questions may be taken past the hour of 11.00 am.

**The Speaker:** The question is that Standing Order 23(7) and (8) be suspended to allow questions to be taken after 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 to allow questions to be taken after 11.00 am.**

### **QUESTIONS TO HONOURABLE MEMBERS AND MINISTERS OF THE CABINET**

**Question No. 7**

**No. 7:** The Second Elected Member for Cayman Brac and Little Cayman asked the Honourable Minister re-

sponsible for Health Services, Agriculture, Aviation and Works when is the Dialysis Unit expected to be operational on Cayman Brac.

**The Speaker:** The Honourable Minister of Health Services.

**Hon. Gilbert A. McLean:** The Health Services Authority expects to offer dialysis service on Cayman Brac by the end of April 2005.

### Question No. 8

**No 8.** The Second Elected Member for Cayman Brac and Little Cayman asked the Honourable Minister responsible for the Ministry of Health Services, Agriculture, Aviation and Works when is the expected commencement date for the Little Cayman Airport.

**The Speaker:** The Honourable Minister of Health Services.

**Hon. Gilbert A. McLean:** Work on Phase I of the Little Cayman Airport commenced in August 2004. The overall project consists of three phases, namely:

clearing and preparing the site of the proposed runway;  
paving of the apron, taxiway and the installation of airfield lighting; and  
construction of the terminal building, car pars and access roads.

Work on Phase I was scheduled to be completed in December 2004. However, due to the passage of Hurricane Ivan, all available resources were redirected to repair the Owen Roberts International Airport. Therefore, works on the Little Cayman project was temporarily suspended. However works are now underway as the process for the pre-qualification of contractors is almost complete. Furthermore, all the documentation in preparation for the tendering process has been finalised.

### Supplementaries

**The Speaker:** Are there any supplementaries? The Second Elected Member for Cayman Brac and Little Cayman.

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

Could the Honourable Minister provide this House with an expected period for full construction of the three phases?

**The Speaker:** The Honourable Minister of Health Services.

**Hon. Gilbert A. McLean:** Mr. Speaker, if I understood the Member's question correctly he was asking for the completion date for the whole project. Mr. Speaker, it is expected that the entire project will be completed in March 2008.

## STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE CABINET

**The Speaker:** I have received no statements from Honourable Members or Ministers of the Cabinet.

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Order 46(4)

**The Speaker:** The Honourable Minister of Health Services.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 46(4) to allow The Electricity Regulatory Authority Bill 2005 to be read a second time.

**The Speaker:** The question is that Standing Order 46(4) be suspended to allow The Electricity Regulatory Authority Bill 2005 to be read a second time. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Standing Order 46(4) suspended to allow the Electricity Regulatory Authority Bill 2005 to be read a second time.**

## SECOND READING

### The Electricity Regulatory Authority Bill 2005

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the second reading of the Electricity Regulatory Authority Bill 2005.

**The Speaker:** The Bill has been duly moved. Does the Honourable Mover wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, thank you, Mr. Speaker.

Mr. Speaker, as indicated in the Bill's title, the purpose of this Bill is to form a Regulatory Authority to

monitor the electricity industry within the Cayman Islands.

Mr. Speaker, before I get too far into my contribution, at this juncture, on behalf of the Government, I wish to thank you for the role that you, in fact, played when you were the Minister responsible for communication, in formulating and announcing the liberalisation process, not only for communication companies on the Island but also for the utility company. For this I wish to convey my gratitude and that of my colleagues.

Subsequent to that visionary movement on your part, Mr. Speaker, the Government then put together a team which was led by me and chaired by my colleague, the Member for West Bay, Mr. Cline A. Glidden, Jr., with assistance from the Second Elected Member for West Bay, Mr. Rolston M. Anglin.

The negotiating team began its series of negotiating meetings with Caribbean Utilities Company Ltd (CUC) late 2003, to formulate a new licence between the Cayman Islands Government and CUC, with the hope, Mr. Speaker, of replacing the existing licence which was granted to CUC in January 1986, for a 25-year period. That licence, Mr. Speaker, as you would have known, gave CUC the exclusive right to generate, distribute, and supply commercially electric current for public and private purposes throughout the whole area known as Grand Cayman.

Mr. Speaker, Honourable Members will no doubt be aware that that licence guaranteed CUC a return of 15 per cent per annum on a rate base of assets. I believe this licence was the most appropriate licence in the 1980's and 1990's, when Grand Cayman needed to build its infrastructure and a dependable electricity supply was needed to assist with the tremendous growth and development that Grand Cayman was then experiencing.

Mr. Speaker, in my respectful submission, the licence worked extremely well for many years, but CUC themselves felt that a 15 per cent rate of return on assets was no longer appropriate and approached this Ministry, suggesting a 12-point list that they would like to see incorporated within any new licence that may be agreed with the Cayman Islands Government.

This 12-point list suggested by CUC included the elimination of the 15 per cent rate of return on investment—that is, the rate base—as a cornerstone of setting electricity prices and replacing them with a price-cap mechanism. It was therefore agreed, Mr. Speaker, by the Cayman Islands Government that the time was appropriate to begin negotiating with CUC the terms of any proposed licence that may be issued to them.

Indeed, Clause 12 of the 1986 license states that the licence shall come into effect on the date hereof and shall run for a period of 25 years, with the undertakers having the right, after a period

of 20 years—that is, 2006—to enter into negotiations with the Government for the renewal of the license upon the expiration of the said 25 year period.

The Cayman Islands government then felt that in any new license negotiations it was imperative that competition be introduced into the electricity generation industry in the Cayman Islands to lower electricity prices to the public. After several months of negotiations between the Cayman Islands Government and CUC in June 2004, a Heads of Agreement was reached between the two parties outlining the terms of any new licence that may be issued.

This Heads of Agreement included, amongst many items, that an Electricity Regulatory Authority (ERA) be established to encourage competition with the electricity industry within the Cayman Islands jurisdiction; that it would have full and final control over the generation capacity, solicitation process, including but not limited, Mr. Speaker, to the review and approval of all licences, criteria, evaluations and contracts.

The ERA would also review and approve the price-cap frameworks for transmission and distribution rates, review and approved adjustments for street lighting and that all transmission and distribution licences, and all forms of generation comply with relevant planning, safety and environmental standards.

Mr. Speaker, by September 2004 the Cayman Islands Government and CUC had almost reached an agreement on the terms of the new licence to be issued to CUC that would allow for immediate price reductions in electricity rates, as well as the introduction of competition within the electricity generation industry within the Cayman Islands and the formation of an Electricity Regulatory Authority.

However, as we all now know, Hurricane Ivan intervened on 12 September 2004 and caused considerable damage to CUC's transmission and distribution systems and, to some extent, its generation facility.

Talks to conclude the terms of the licence consequently fell away. Indeed, CUC, in several press releases, has stated that discussions would only resume at a more appropriate time when it has all costs associated with the damage caused by the said Hurricane Ivan being known and that they would be applying for a rate increase as determined under the existing licence.

Mr. Speaker, the Cayman Islands Government was disappointed to say the least that CUC did not wish to continue discussions. However, in a proactive fashion, the negotiating team was instructed to continue with the legislation to establish the Electricity Regulatory Authority.

The Electricity Regulatory Authority Law 2005 is a comprehensive piece of legislation in content and substance and it will, I believe, Mr. Speaker, with certain amendments to the current Electricity Law bring the Cayman Islands Electricity Legislation up to date and inline with most other Caribbean islands and other major countries where the electricity regulatory authorities have been firmly established for many years.

I wish now to turn my attention to the proposed legislation by explaining the content of the sections as proposed therein. We will see in the "Memorandum of Objects and Reasons" for The Electricity Regulatory Authority Bill 2005 the following:

"1. The Bill seeks to restructure the operation of the power industry of the Cayman Islands by introducing new principles for regulating the generation, transmission and distribution of electricity. This new administrative configuration is intended to be presided over by the proposed Electricity Regulatory Authority and will supersede the existing arrangements currently supervised by the Electrical Board of Examiners established by the Electricity Law (2003 Revision).

"2. Part I of the Bill provides for the short title and commencement and also sets out the definitions of words and expressions used therein.

"3. Part II of the Bill and the First Schedule provide for the establishment of the Electricity Regulatory Authority with the status of a body corporate entitling it to perpetual succession, a common seal and all the powers of ownership and disposition of its property of every kind. In addition a Board of directors responsible for the policy and general administration of the affairs and business of the Authority is created with specifications as to the mode of appointment and resignation. Also set out in this Part is the extensive scope of the Authority's powers of governance as well as the concomitant checks and balances. Contained in the First Schedule in considerable detail is the procedure of the Board.

"4. Part III of the Bill outlines the rules relating to the application for, and the grant, renewal, duration, suspension, modification and revocation of, a licence. It places restrictions on the transfer of licensees' shares as well as on the assignment of licences. Provision is also made for the maintenance by the Authority of a register of all applications made and the issuance of all licences granted under this Law and the Authority is further required to make available for public inspection all such applications and licences.

"5. Part IV of the Bill empowers the Authority to issue directives to licensees requiring them to desist from practices that are inimical to environmental preservation, the continuity of the supply of electricity, the interest of other licensees, or practices that are otherwise contrary to the tenor of this or any other law. Sever penalties are prescribed for non-compliance with any such directive.

"6. Part V of the Bill seeks to discourage indulgence in anti-competitive practices. Behav-

**our by a licensee that is likely to disturb commercial equilibrium or conduct that would amount to the abuse of a significant position in the market place is prohibited, although the Authority is invested with the power to grant exemptions in certain cases."** I would advise Members to take some time to look at Part V of the Bill. "These prohibitions, are referred to as "section 37 prohibitions" and "section 41 prohibitions" and relate in particular to agreements, arrangements, or practices that—

- (a) directly or indirectly fix buying or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development or investment;
- (c) share consumer bases or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other parties, thereby placing the parties or one of them at a competitive disadvantage in the market;
- (e) make the conclusion of contracts subject to acceptance, by the other parties, of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts; or
- (f) use revenues attributed to a particular service or activity to cross-subsidize unfairly or affect competition for another service or activity.

"The Authority is possessed of wide powers to investigate anti-competitive practices at the instance of any party or on its own motion. Included among these, are the power to require the production of documents, the provision of information and the right to enter premises and search and remove documents.

"7. Part VI of the Bill provides for cease-and-desist orders to be issued by the Authority in circumstances where a licensee engages in conduct that is in contravention of this Law or of a licence granted under it. It also stipulates that in the event of failure to observe such an order the Authority may apply to the Court to exercise its powers under section 58.

"8. Part VII of the Bill sets out a procedure for administrative action to be taken by the Authority against a licensee who has failed to comply with or has otherwise contravened this Law. The Authority may initiate action on mere suspicion of non-compliance or contravention but the licensee has an opportunity to challenge the allegation and even where this first challenge fails, redress may still be sought through the Court by way of appeal.

"9. Part VIII of the Bill makes provision for inter-connection and infrastructure sharing among licen-

sees.” This is a very necessary provision which we have learned from the experiences of the past liberalisation process, once again, thanks to your vision and leadership in that aspect, Mr. Speaker. **“The terms and conditions attaching to services relating to connection to the transmission and distribution system are set out in some detail as are provisions relating to access to fuel pipelines and infrastructure. In the interest of harmonised utilization of resources and infrastructure, requests for these facilities are to be generally accommodated and may be refused only for good cause.**

**“10. Part IX of the Bill focuses on consumer protection and highlights the need for the implementation of service standards in the industry which are to be conjointly regulated by the Authority and the Governor in Cabinet. Provision is made for the maintenance by licensees of a high quality of service to its consumers and those who are dissatisfied with such service are entitled [to] seek redress from the Authority. The concept of high standards does not stop at consumer service in its narrowest sense but extends to the quality of equipment used in the generation or transmission and distribution of electricity as well as to the certification of technical personnel within the industry.**

**“11. Part X of the Bill, in recognition of the extensive powers of the Authority to make decisions in relation to various types of applications, provides some measure of balance by setting up a mechanism for the review of such decisions. A person aggrieved by the decision of the Authority may, in the prescribed manner, apply to have that decision reconsidered by the Authority in the first instance and if necessary, appeal to the Court.**

**“12. Part XI of the Bill creates a number of offences and prescribes the penalties to be imposed for their commission. This Part also provides for the Court to make an order for the payment of compensation to persons who have suffered loss as a result of the offence having been committed. Power is also given to the Governor to enter upon and take possession of the premises and facilities of a licensee who is no longer able to provide the services specified in the licence.**

**“13. Part XII of the Bill empowers the Governor in Cabinet to make regulations for carrying out the purposes of the Law. It extends immunity and indemnity to the Authority and its directors and also deals with transitional provisions.**

**“14. The First Schedule outlines the procedure of the Board.**

**“15. The Second Schedule deals with the enactments that would be amended as a conse-**

**quence of the coming into effect of this measure.”**

Mr. Speaker, I am sure that Honourable Members will agree that this Bill, though comprehensive in its content and with the introduction of the legislation and in formation of the Electricity Regulatory Authority, the Cayman Islands Electricity industry will now be brought inline with regulations as seen in many other countries.

Mr. Speaker, I believe that this proposed piece of legislation is timely in that under the current licence there is a provision, which was sought to commence the negotiation process some six years before the expiration of the licence which is but a few short months away. Therefore, irrespective of what government was in power at the time, be it us or another government, we believe that the prudent thing to have done was what you initiated a year and a half ago which was continued in policy as was promised. We believe that all Members should not only have taken the time to carefully peruse it but to lend their support to it. Otherwise, it would be, in my respectful submission, an implied consent for the continuation of the current contract without any amendments.

Seeing that the time is so close for the commencement of negotiation, I believe that we are acting prudently by setting the mechanisms and the framework in place for a regulatory body to be put there, regardless of who the government is, to ensure that the process is done and that CUC, as well as any other competitor who wishes to enter the market according to the process, will have an equal and fair, level playing field to continue business within this jurisdiction.

I now sit, Mr. Speaker, and wait for comments from my Honourable colleagues, and those that I can respond to I will be more than happy to do so in my reply.

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.

Mr. Speaker, I rise to make a contribution to the Bill that is before us. Mr. Speaker, I was somewhat surprised . . . but before I speak to that maybe I should say that the Bill is a law to establish an electricity Regulatory Authority and to vest property in that authority, to give power to the authority to regulate the generation transmission and distribution of electricity for reward in the Cayman Islands.

Mr. Speaker, I was a little surprised to hear from the Minister, in introducing this Bill, that negotiations between the Government and CUC, who is the incumbent, had fallen away since the hurricane and that CUC had decided not to continue discussions at this time because it was not thought that it was an appropriate time, or they would prefer for it to be recommenced at a later date.

I was a little surprised at that because, as I recall, on 16 June 2004 there was a joint press release between the Government and CUC that was on joint letterhead. The Minister made a statement in this Honourable House (I think we were over at the Corporate



Centre) discussing those points of agreement, not necessarily that they were laid but they were discussed in brief detail.

Mr. Speaker, I know that we have had some trying times and so has CUC during and after the hurricane, but I am a little concerned, if discussions were going so well, that CUC would now decide not to come to the table at this time. I am wondering if that is an indication that they will not return. As I recall, CUC has an exclusive licence until 2011.

Mr. Speaker, when I saw this Bill I was under the impression that this was sponsored jointly by the Government and CUC because on page two of that press release it says: **“Regulatory Authority**

**“A Regulatory Authority will be established with the overall responsibility of regulating the electricity industry in the Cayman Islands. The Regulator will oversee all licensees, establish and enforce licence standards, review the proposed price cap mechanism and ensure a level playing field for all. The licence standard will be designed to ensure that Grand Cayman has adequate generating capacity, that continued sound business and engineering practices are employed in the electricity industry and that established standards for the protection of our natural environment are enforced.”**

That is just one subsection. Then it goes on, under “Licences for T&D and Generation”, and says: **“The Government will issue non-exclusive licences for transmission and distribution (T&D) and Generation providers.”**

This part is very important: **“While the T&D licence to be granted to CUC will be non-exclusive, duplication of the T&D infrastructure and facilities is not desired nor to be encouraged.**

**“Competition for generating capacity will, however, be encouraged to provide a market-based incentive for suppliers to offer low prices for power.”**

Under “T&D” it says: **“The term of T&D licences will not exceed 15 years, except in the case of CUC, which will be granted an initial licence for 20 years, and 15-year terms thereafter for any future renewal. An “evergreen provision” will allow for automatic renewal of the T&D licence if no action is taken not to renew it.”**

Therefore, Mr. Speaker, when I compare this with the proposed Bill and see in there where this Authority now has the right to issue T&D licences and competition within the T&D, my concern started then as to why or how this was going to work. The incumbent has an exclusive licence and a contract with the Government of this country for the next six years. The Authority would be coming in place with the authority to grant distribution li-

cences. I know one may say, *‘Well, this is the Government,’* but when we look at the transitional provision, which I believe is section 93, Mr. Speaker, that is where it becomes even more concerning. Yes, the “Transitional provisions”.

**“93. (1) A licence or other enabling instrument issued to a person to provide any aspect of generation or transmission and distribution of electricity in the Islands and which is valid immediately before the commencement of this Law, until a licence is issued to such person under this Law, shall continue to be valid except to the extent inconsistent with this Law.”**

Now, that came straight out at me, Mr. Speaker, because there is much that the incumbent would be in consistence with this Law. I believe one of the Members will elucidate on this matter, but I wanted to get this out of the way so that we could understand where I am coming from. My concern is that this Authority is going to have a lot of authority over the provisions in this country for electricity. I want to make a couple of things abundantly clear.

Firstly, this Member also believes in having some kind of regulatory body, and I am going to address in short order. Secondly, 15 per cent is unreasonable, so before I get into the meat of my debate I want that to be made abundantly clear (as your good self, Mr. Speaker, would have said many years ago). Thirdly, my concern is about the eventual benefits to the consumer, which includes me. I have to pay an electricity bill also. Fourthly, I hold no brief for anyone. I hold no brief for anyone in this country other than the members of the general public, who also happen to be the consumers. I want those four things made very clear.

However, I am a little concerned that the Electricity Regulatory Authority which is the regulatory body, which the Government is proposing, is going to have such broad-reaching powers and we have an incumbent who has five years left on their exclusive contract. The question can be asked, why form the Authority now? Why not wait until there have been successful negotiations: 1) to break that; or 2) which commences in 2006 which is a year away or wait until we commence negotiations with these people?

Negotiations started some two years ago with the same incumbent and evidently it was going well. While I was not privy to the full negotiations, I believe it was going well. In the press release of June 2004 there is a section which says:

**“The following reductions by rate class for retails rates will take effect from the later of the date of the new CUC licence or October 1, 2004:**

<b>Residential</b>	<b>4.7%</b>
<b>Large Commercial</b>	<b>2.3%</b>

The next sub-caption is “CUC Price Cap and Rate Freeze”: **“CUC T&D rates will be subject to a price cap mechanism,”** which is something that we do not have now. For negotiations to have gone that far, I am sure we were on the right foot in the right direction. **“The price-cap mechanism will adjust the CUC T&D**

base rates in accordance with a formula that takes into account inflation as measured by a blend of U.S. and Cayman Islands consumer price indices. Under the formula, rate increases would normally be significantly less than the rate of inflation.

“CUC and the Cayman Islands Government entered into negotiations on November 1, 2003, with the objective of restructuring the electrical industry here and creating an alternative to CUC’s “rate-of-return formula” that was employed, under the current licence agreement, to establish pricing.”

Then it went on to say that it was commenced initially under your good self, Mr. Speaker, as Minister.

Now, if we were at that distance, I am a little bit concerned and I think that it requires further explanation from the Government as to why it did not continue. I understand the storm, but why did it not continue and what effects will the Regulatory Authority now have on that licence? Will we see the Authority exercising its powers and breaking that contractual agreement with CUC, and then we get back to the, ‘*He said,*’ or, ‘*I said,*’ or the threats of going to court and the like?

Mr. Speaker, what I am concerned about is, if on 16 June 2004 we were that close and everyone was in such nice agreement, why is it that we now run the risk of the possibility of the Authority breaking the contract? Further on in the Bill we will see where the Minister can give instructions to the Authority. Mr. Speaker, it could be anybody, it does not have to be this Minister. However, later on it could be other ministers—and there will be other ministers certainly in this life. What I am saying, Mr. Speaker, is that there are provisions in there that could certainly affect the relationship between the incumbent and the Government. It takes something away from the discussions and the negotiations.

I do not know whether that goodwill was broken on the Government’s part or CUC’s part, or it was broken unintentionally, but if it was not completed prior to Hurricane Ivan and the Government has now decided to go ahead and bring the Bill, something tells me that CUC was not a part of the final stages of the Bill and I do not know what their position would be at this time. It would be unfortunate for us to have lost such an opportunity to have the incumbents onboard. It would really be unfortunate.

Mr. Speaker, I am only throwing it as I see it, and I am sure that the Minister or the Chairman of that committee will get up and . . .

#### Point of Elucidation

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker . . .

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

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, I am just wondering if the Member would give way for a point of elucidation.

**The Speaker:** The Honourable Member for East End, will you give way?

**Mr. Arden V. McLean:** Yes, Mr. Speaker.

**The Speaker:** Please continue, Fourth Elected Member for West Bay.

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

Mr. Speaker, as chairman, I may be able to assist the Member with the continuation of his debate. The Member seems to be asking the question, what happened to the great progress that had been made prior to Hurricane Ivan in July, when the joint press statement (as he correctly stated) was made and what has happened since then.

Mr. Speaker, as the Minister rightly stated, as part of that agreement it was agreed to restructure the current pricing. The method currently used is a rate of return, which gives a guarantee of 15 per cent. As a part of the agreement, we were going to a price-cap mechanism that the Minister referred to.

Prior to the hurricane the rate of return on assets employed would have been significantly different than what it would have been after the destruction that was caused. For instance, as a company you are guaranteed a 15 per cent rate of return, and you are willing to change to a price-capping mechanism, but during those negotiations you sustain significant damage which would negatively affect your assets. You can see why a company would be not be inclined to continue with that change to a different pricing structure when it would be more advantageous to continue on the existing rate of return.

Suppose you now have to make an investment in your asset base of another \$50 million and under your current agreement you are going to get a return of 15 per cent. Expecting you to continue down the current path with the price-cap mechanism could potentially limit what your increases could be and it would mean possibly losing the opportunity to get that 15 per cent return. That could have been a significant reason why being in a condition of acceptance prior to Hurricane Ivan and non-acceptance after Hurricane Ivan would have been made.

**The Speaker:** Thank you. The Elected Member for East End continuing.

**Mr. V. Arden McLean:** Mr. Speaker, I have been knocked flat. If, for any reason, that was the explanation given by the incumbent, then I will say that that is something I really did not expect from the professionals that run that company.

**The Speaker:** Honourable Member, I hate to interrupt you at this point, but if I may. My understanding was that the Fourth Elected Member for West Bay was giving his opinion as to what could possibly have happened and not what, in his knowledge, did in fact happen. Is that correct, Honourable Member?

**Mr. Cline A. Glidden, Jr.:** That is correct, Mr. Speaker. No reason was given except, like the Member said, we had an agreement prior to the storm and shortly after that CUC said that they no longer wanted to continue down that path. So it was simply an opinion.

**The Speaker:** Please continue, Honourable Member for East End.

**Mr. V. Arden McLean:** Yes, but, Mr. Speaker . . . Now, the Fourth Elected Member for West Bay and I are good friends, but he got up here on a point of elucidation as the chairman of that committee. Certainly, Mr. Speaker, it is as important for him as the chairman of that committee as it is for me as a legislature while proffering our opinions to be extremely careful how they come across. I honestly hope that that was an opinion. To my good friend and colleague, the Fourth Elected Member for West Bay, I would only say maybe we should not voice our opinions if we are not sure of the facts. That is a serious position to be in.

I am not talking about us ridiculing each other here as other sides of the House, or that it is my belief or my opinion that someone is not capable as a legislator. However, we are talking about one of the biggest companies in this country with a contract with the Government to provide electricity for this country.

Further, I believe the success of this country has come as a result of two utility companies in this country – Cable & Wireless (CI) Ltd and Caribbean Utilities Company Ltd (CUC). That is my opinion, but certainly I can voice that as an opinion as to how this country developed in the last 40 or 50 years. Certainly, Mr. Speaker, when Chevrolet is “the heartbeat of America” these two companies have been the heartbeat of this country for many years.

I am going to leave it after this, Mr. Speaker, because I have to be extremely careful how I approach this. Knowing the professionals that I know, I would be extremely surprised if that would be a reason, because the incumbents (like any other incumbents, and if we get competition in the future) will certainly have the right to recover their assets from any natural disaster. So I hope that was not the reason for their withdrawal. I am wondering if the Government committee is trying to push this through to ensure that we get competition during the time that CUC is at its worst. That may be the

other side of this. Anyway, Mr. Speaker, I have to be very careful with that. That is not a very good thing.

Mr. Speaker, since no explanation cleared that up, as I said earlier, I am for a regulatory regime to ensure that there is control and that there is a fair level playing field and so on. Mr. Speaker, let me bring us back to where we were a few years ago.

For many years almost all legislatures have been preaching about a utilities commission. Mr. Speaker, I personally have spent some 18 years in the utility industry so I have some knowledge of it. When the idea of a utilities commission arose many years ago my first reaction was that I trust that we will not make it into some all-powerful authority because you do not need a sledgehammer if you are doing a hammer’s job. My other concern was the operational cost of a utilities commission. Most utilities commissions are set up with experts as consultants on a regular basis to review rates and the likes. No utility commission would ever be able to hire the types of experts needed on an ongoing basis (they consist of professors and the likes), you may hire them on a retainer basis.

Mr. Speaker, I saw the Water Authority come into being, which is not really the same type of Regulatory Authority that we have here. Then I saw the Information Communication and Technology Authority (ICTA) come into being, and now I see the Electricity Regulatory Authority come into existence. Mr. Speaker, I believe that it is going to be counterproductive to have all of these authorities as regulatory bodies and I am going to explain that.

Mr. Speaker, I believe that what we need as a country is a utilities commission, and under that utilities commission we have the different disciplines. Now, here is my explanation.

As Electricity Regulatory Authority and an information communication (ICTA) we have two separate entities and they require the same amount of staff. They require the same number of directors on the boards. They require the same amount of monies to run. Now, let us look at the electricity authority that we currently have for a minute. We have one electricity provider in the country, and in most cases, if we are to believe that we are only going into generation, we will probably only get two. It does not make sense to get three, four, and five because it then becomes cost prohibitive to the consumer.

Let us say that we get two, and remember that the authorities will cost almost the same thing to run. While ICTA has the radios, the telephones which include internet and cell phones, different people want to apply for licences and they get them and they can charge them fees to run that authority. That authority will be self-sufficient. However, when we get electricity it is an animal of a different colour. You cannot have 20, 30 or 40 electricity companies out there that you would expect to get fees from for it to be self sufficient. One of two things is going to happen: we are going to increase costs through these fees to those one or two utility companies to such an extent that someone is going to pay for it and

the cost of electricity is not going to go down, which is the ultimate objective.

Then the Water Authority . . . right now I believe we have maybe four companies in the country that are producers of water. If the Water Authority was but a regulatory body, take the generation and distribution of water away from the Water Authority, make it a regulatory body and it would be impossible for them to also be self-sufficient.

Now, Mr. Speaker, suppose we had a utilities commission with one CEO down the line and we were regulating and then we had a specialist for water, a specialist for electricity, one or two for telecommunications (that is for the different disciplines such as radio and telephone). We could have consultants on a retainer basis to come and review rates at different intervals. In a lot of instances, the same people who review electricity rates and set rates and consultants have been cross-trained and can review telephones as well. We could put them on retainer and then once a year, or once every three years or whenever the need arises, you bring them in and they charge you a price to do the review.

Mr. Speaker, there is nothing for members of staff of an electricity authority to do other than to take complaints from the public and every now and again check on the bills. That may be a frivolous comment, Mr. Speaker, but what I am trying to say is that there is not that much work to justify employing a whole range of people. If the Authority is not able to be self-sufficient from the fees that are charged, in that instance the Government is going to have to subsidise it, because it does not make sense for the Authority to borrow the money when they cannot collect it from the people. It does not make sense.

If we had one utilities commission, then we would have all the disciplines under there and have control over everyone. One board of directors and one set of regulators. Therein has always been my problem. I know we are on the eve of an election, but regardless, Mr. Speaker, of whether I am here or not I think it needs to be addressed in the interest of our people.

Now, we are trying to legislate in here that there should be no cross-subsidisation (but that is not to say that a utilities commission could not cross-subsidise) in the interest of furthering the reduction of costs to our people. That is my hope, my dream, that one day we will see that and, Mr. Speaker, it is not too late, because the same electricity regulatory authorities can fall under this one commission, even though there may be a reduction in staff because of overlapping and so on.

We need to ensure that not only do we legislate laws with a heavy hand to control the companies that provide for the consumers, but we also have to show that we are interested in supporting the consumer and giving them the benefit of the

doubt. We need to ensure this in the same way that we are trying to ensure that anyone we issue a licence to is under some direct control, and we will not have any shenanigans and we will be totally in control.

Mr. Speaker, when I was going through this Bill and making my notes for today, one of the first notations I made was that we are yet to see the Attorney General's special review of CUC. As I got up to speak the Serjeant placed it on my desk.

**The Speaker:** Might I inform the Honourable House that the document that was circulated remains a confidential document until it has been dealt with by the Public Accounts Committee, at which time it is dealt with and debated in the House.

**Mr. V. Arden McLean:** Mr. Speaker, I thank you for that explanation, but as I recall when your good self was Minister and it was proposed to undertake a special review of CUC, it was to be laid here on the Table. Now, I do not know if that has changed but that was what I recall it to be. Nevertheless, it remains in the confines of our minds until it has been reviewed.

**The Speaker:** I would just clarify that point, Honourable Member. You are correct that as far back as early 2004, or earlier than that, the Auditor General had, in fact, prepared a summary report on CUC, but this was not approved for laying on the Table of the House before. Thus the reason it is just reaching here at this point in time. Please continue.

**Mr. V. Arden McLean:** Mr. Speaker, if I may ask. Is this report a different one from the one that was commissioned in early 2002? This was another one that was commissioned since then; am I correct, Sir?

**The Speaker:** This report is a summary report of October 2003. Minister for Communications, would you care to comment as to whether the report that the Honourable Member for East End is referring to was the summary report for October 2003.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I almost have a similar question as my friend from East End, in that I received an envelope stamped 'Confidential' from the Legislative Department. I am now for the first time seeing this report which is labelled 'Confidential', so I am not able to enlighten him any further because I do not know the contents of this. Hence I am not in a position to compare it to another report that I have seen back in the Ministry.

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

I think it is fair and proper that I should advise the House that I have, in fact, today received from the Auditor General the special report of the Auditor General on CUC and that this report seems to have been prepared by him from October 2003. It seems that he might have submitted this in confidence from January 2004,

but due to certain delays, legal and otherwise, this is reaching the Legislative Assembly on today's date, which is 2 March 2005.

I am not able at this point to comment on this further because, as I said, the document has been submitted and is still of a confidential nature. It is only available to Members of this Honourable House and may not be made public until after it has been dealt with by the Public Accounts Committee.

The Honourable Minister of Communications.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, as I said, I cannot say at this stage whether this is the same report as I have not had an opportunity to compare it because I have just received it. However, what I can say is that the report that I had sight of in the Ministry was not laid because negotiations were ongoing with CUC. As part of that agreement CUC themselves agreed that there would not be any press releases or any statements made unless they were joint.

The negotiations did break down and Members will recall seeing at least one, possibly two, releases by CUC which were not joint releases, which is again evidence of the admittance that negotiations had broken down.

**The Speaker:** Thank you, Honourable Minister. The Member for East End continuing.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker, for that explanation but I was under the impression that there had been one commissioned some time ago. I know as a member of the Public Accounts Committee that the Public Accounts Committee did not request one. I thought it was the Government who had requested it.

**The Speaker:** On that point, Honourable Member, you are correct, it was the Government. It was the Minister in 2002 that actually requested a special audit to be carried out by CUC on the electrical department. As the records will show, the present Speaker was the Minister in 2002.

**Mr. V. Arden McLean:** Thank you, Sir. I thought that was what it was. I did not have a chance to look at it either. My understanding then (and I am going to go off of this now) was that one of the conditions of the report was that it would be laid on the Table of the Legislative Assembly.

Getting back to the Bill before us, as I said earlier, the Authority now has the right to issue licences for T&D, even though the Government and CUC had agreed that while their T&D licence would be non-exclusive the Government was not going to encourage T&D competition.

Under the Bill, Part II section 9, "The

Functions of the Authority":

**"9(2) Without prejudice to the generality of subsection (1) the principal functions of the Authority shall include—**

- (c) to establish and enforce regulations and standards regarding the granting of licences and the generation solicitation process and, in that context, review and approve separate licences for—**
  - (i) transmission and distribution; and**
  - (ii) generation;"**

Mr. Speaker, that says to me that we are going to be granting licences in the generation and distribution field. What it further says to me is that this Regulatory Authority is going to regulate and govern electricity throughout the Islands. It is not only Grand Cayman. We have a situation where Cayman Brac Power & Light Co Ltd was just granted a licence extension of 15 years. What is going to happen to Cayman Brac Power & Light Co Ltd? Are we going to see competition in that arena also?

Certainly if we believe that competition in this environment (that is, Grand Cayman) will benefit the consumer, then if it is going to benefit us here it should benefit those in Cayman Brac and Little Cayman.

Mr. Speaker, the laws must be legislated to cover all. How are we now going to modify or vary these licences? One is for five years, and the other is for 14 years. I think that it was last year that the other one was issued. Are we going to require that they give up these licences and then fall under this Law? Because, if we are not, that proves my point this is for naught. It will be five years before we can use this Bill. It will be five years before we can use the Law if we are not going to say, '*You have to break your licence*'.

Therein lies the concern that I have, and further, I do not want the next Government (whomever that may be) to fall into a situation where we are in the courthouse with two different utility companies. That is a very real possibility. I am concerned whether the consumers are going to benefit overall for having an authority. How much benefit will be derived for the consumer? Mr. Speaker, I trust that the Fourth Elected Member for West Bay will assist us in that regard.

Mr. Speaker, one of the things missing from this country is energy management. It should be a part of a Regulatory Authority, or if we had a utilities commission it could very well be under that. Very little is said about energy management in this Bill other than for the producers and distributors of electricity. Nothing is said about the protection of the consumer, things such as the efficiency rating of appliances coming in to our country. Therein lays the majority of the savings to the consumer. That is what we also need to protect, absolutely nothing is here.

Yes, Mr. Speaker, one may say that this regulates the generators, but it does not make sense no matter how low the cost to the consumer is and we may keep that down. That is but one part of it and that is not

even 50 per cent of it. The biggest part in all of this is that we do not regulate the importation of energy efficiency products.

Mr. Speaker, in the absence of those we can regulate as much as we want with regard to fuel efficiency, the generation and the distribution efficiency, the overall efficiency of a provider. That is but a drop in the bucket. I certainly support that being part of it, Mr. Speaker, but where we really have the problem is in the end product because that is where it is consumed. The consumption is done in the consumer's home and when we have inefficient equipment in the homes that is where the consumer starts squealing. Immediately we start squealing and say that it is the provider and to some extent that is true.

Mr. Speaker, again staying with section 9, subsection (3) reads: **"9. (3) The Authority shall also—**

**(a) upon receipt of any direction given by the Minister pursuant to section 11, develop and implement a system of contracts and other arrangements, including appropriate rights and obligations pertaining to the electricity industry in the Islands;**

**(b) engage in a public consultation process on the procedures to be adopted by the Authority to implement the system developed under paragraph (a);"**

It would be interesting to know who we think the Authority is going to consult. I would like to hear from the Government to see who they think the Authority would be consulting, that is, public consultation.

One I really have to address, Mr. Speaker, is section 9(5): **"9. (5) In carrying out the duties imposed by subsections (2), (3) and (4) the Authority shall have regard to— (d) the need to ensure that applicants and licensees are capable of financing the activities they are, or seek to be, licensed to undertake;"**

That is very important, Mr. Speaker. I have serious concerns about some of the people that have been mentioned that want to go into the generation of electricity in this country. Keeping in mind, Mr. Speaker, that I hold no brief for anyone, I want to ensure that we maintain a good, safe and reliable electrification system. There are other areas in here where the Authority has a right to prevent someone from unfair commercial practices and the like, which is welcome. However, Mr. Speaker, here is where I know that we are going to run into trouble in this country if the Authority is not extremely vigilant.

I really did not see anything in here requiring efficiencies on these, and I suspect that will be done in the regulations and so on. We absolutely

cannot, Mr. Speaker, afford to have less than we have. Without a doubt, this country has enjoyed one of the best electrification systems in the western hemisphere and certainly the best in the Caribbean. I have visited all of the Caribbean and some may say that Jamaica has IPP's (independent power producer). Sure Jamaica has IPP's and it is working well, but what Jamaica had before the IPP's was not working at all. Mr. Speaker, we need to ensure that efficiency is kept over that 99 per cent mark.

There are people who have I have had audience with whose names I do not want to and will not call. Mr. Speaker, many generators and electricity generating equipment are available on the market, particularly in the diesel and gas-turbine section. Many of them are available not only as new but certainly as secondhand. One of my hopes and my dreams is that this country will not accept second-best.

Mr. Speaker, there are alternative methods of generating electricity such as solar. However, the problem that we are going to have with that in this country is that the population cannot support it. On a small scale, I support and encourage people to use it in their homes because it will certainly reduce the ultimate cost to you on energy consumption.

Mr. Speaker, I believe that if we find someone in the electricity-generating field who may make application to the country for a licence to generate (I am talking about generation in particular), we need to ensure that those people are solvent, secured and that they are not going to bring us junk. There are too many rogues out there in these fields. I have been there, I have seen them and I have seen them operate in Third World countries.

We must be very careful because you understand, Mr. Speaker, if someone is going to come in here and the Government, the Authority, gives licence for incremental increases in the electrification system—because I think in that press release that I read from earlier, under "Generation" it says, **"CUC will also be granted a licence in respect of its existing generating capacity at an agreed price. Competition in generation will be introduced through competitive PPA solicitations for required incremental capacity. CUC will be responsible under the terms of its T&D Licence for determining the need for future generation based on load growth and operating reserve requirements . . ."** which is fine. **"CUC will work with the Government to solicit for 28 to 32 megawatts as the next increment of generation capacity, to be operational not later than May 1, 2007 . . ."**

Mr. Speaker, that is where I am talking about incremental. That means we have determined from the projected load growth that is what will be needed within the next few years and that is what would be sent out to bid.

I know that under CUC's licence, which I was quite familiar with before I left there, there are certain formulas which require certain sizes, or you cannot go over a certain size of generator. I think it is based on the

largest-sized generator. That is primarily for reliability and the Minister spoke of how when the current licence was issued it had served us well, and it did, particularly in that regard.

However, Mr. Speaker, there is a need to maintain certain requirements on size in order that we do not lose our whole generating capacity on one fell swoop from some kind of catastrophic failure or something of that nature. There is some talk afoot about someone wanting to install 50 megawatts. If we ever thought that we had put our foot in our mouth, we can do that. We can allow someone to install 50 megawatts with, say, a reliability of 90 per cent operating, and then put 50 megawatts online and let it drop offline without backup. Then we are really in trouble.

Mr. Speaker, when I left and came into politics, diesel generation was somewhere around US\$1 million per megawatt. I do not know what it is now. I am sure it is much, much more now. Gas turbines are probably around the same thing. Now, the only difference is that gas turbines can be installed much more quickly and easier than diesel generation. Mr. Speaker, as I said before, there are a lot of those on the market that have been rejected by other countries because of the lack of efficiency and I know that they will try to throw them off on what they consider Third World countries.

Mr. Speaker, one of the areas that I really welcome in this is section 37, because I know it is going to be a part of our existence from hereon in. Perhaps if the Minister of Health had looked at this he would have agreed with me. Section 37 reads: **“37. (1) Agreements, arrangements or practices by or between licensees or between one or more licensees and any other person that have as their object or effect the prevention, restriction or distortion of sustainable competition in the electricity industry in the Islands are prohibited.”**

The first thing that came to mind, Mr. Speaker, was that maybe we need to apply that same thing to the banking and the insurance industry.

Mr. Speaker, I go back to when I spoke of the T&D in the press release of CUC. Now the Bill is before us, and if the Authority does not grant exemption for one person, section 36(4) says: **“36. (4) For the avoidance of doubt no single legal entity shall be permitted to be both a T&D licensee and a generation licensee at the same time unless validly exempted by the Authority pursuant to this Law.”**

Mr. Speaker, I am not saying that the Law will not exempt the incumbent, but in the event that it does not, we are going to see another set of poles strung across our country. As I recall the Minister, when she spoke on this agreement that CUC and the Government was negotiating, was very concerned about the aesthetics of that. In fact, Mr.

Speaker, I think your good self was one of those who were concerned about it also.

The country is too small for us to have competition in the T&D. It is a different ballgame from the telecommunications. It is a different ballgame! There is no way telecommunications can take a cable that is maybe 2 inches in diameter and have maybe 100 fibre-optic cables in there which each can carry \$1 million or \$2 million conversations. The electricity industry is completely different. You can string that four-inch cable for a telecommunication company in airspace of some 40 inches. Forty inches I believe, is what Cable & Wireless (CI) Ltd use on CUC poles. In the meantime, the electricity industry is completely different. You have to put poles up.

Mr. Speaker, I was one of those who advocated underground cables too, until I entered the electricity industry. Shortly thereafter I did a study on George Town and it was over \$800,000 a mile. Who is going to pay it? That was many, many years ago. There will be aerial intervention, but then you have to put down transmission and transmission is going to be even worse when you have two people competing for the same customers.

I know, Mr. Speaker, that this is the concept that people have; that you want competition and I am living next door to Tom Jones and because he is getting his cheaper that is what we should do with electricity as well but it will never work. The approach must be to control efficiency and through proper generation licence and competition within the generation industry, the generation arena, it is very real, very possible and should be encouraged. However, certainly it should not be encouraged to the point where we will get one supplier installing a 50 megawatt and then the incumbents have to shut off 50 megawatts. Who is going to pay for the 50 megawatts, the same consumer? Now, I believe that incremental competition is the way to go.

However, the country is too small to have two transmission and distribution providers. It is too small. We already have telecommunication, we started with some 15 or 20 of those and we are down to some four or five and the majority of them do not even have lines up. It is all well and good to have competition, Mr. Speaker, but we are not going to do it in the transmission and distribution, it is impossible. I do not know how allowing IPP's in this country would do unless there is someone who is generating their own power which would require that they be allowed to go on to anywhere else in the world. Many of the universities in America and England generate their own power and they are considered the IPP's. You get agreements with them to tie into the grid and it is sold to the distributor. These are the areas that we need to look at, but I guess maybe many of us may say that the likelihood of IPP's is slim in those areas.

**Moment of Interruption—4.30 pm**

**Suspension of Standing Order 10(2)**

**The Speaker:** Honourable Member, we have now reached the hour of 4.30 pm, and as previously mentioned it is the desire of Honourable Members that we should continue proceedings until all items on the Order Paper today have been completed. Accordingly, I would call on the Deputy Leader of Government Business to move the suspension of Standing Order 10(2) to allow for business to continue beyond the hour of 4.30 pm.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 10(2) so that business of the House may continue beyond 4.30 pm and until such times as the business on the Order Paper is completed.

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow proceedings of the House to continue until the items on the Order Paper have been completed. 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 Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I was touching on competition in the transmission and distribution arena. There is quite a lot more that I would like to say on the Bill, but I know time is limited. Section 38(3) "Exemptions" states: "**38. (3) The Authority may grant an exemption which has effect from a date earlier than the date on which it is granted.**"

I know all of those provisions are in there, I have seen them. I am just trying to bring to the Government's attention that we have to be extremely vigilant and absolutely careful and whom-ever that is we will have to see.

Another area that I must bring to the Minister's attention that needs to be looked at is section 55, in particular subsection (2). I am absolutely confused and I ran it by someone else who became confused as well, but I think it is merely drafting. Section 55, "Agreements notified to the Authority":

**"55. (2) The Authority may not impose a penalty under this Part in respect of any infringement of the section 37 prohibition after notification but before the Authority determines whether an exemption shall be granted."**

Now if you think, Mr. Speaker, that is not mouthful . . . It just does not read right. It just does not spell right because if we look at section 55(1): "**55. (1) This section applies to the period of time prior to a person entering into an agree-**

**ment where that person is of the opinion that the agreement may infringe the section 37 prohibition and he has notified the Authority of the intended agreement and has requested a decision to whether an exemption can be granted..."**

Now subsection (2) says that, "**The Authority may not impose a penalty ... in respect of any infringement..."** and subsection (3) says:

**"55. (3) Where the Authority determines not to grant an exemption with respect to the intended or completed agreement, subsection (2) ceases to apply from the date on which that determination has been made and notified to the applicant.**

**"(4) The fact that an intended agreement has been notified to the Authority does not prevent the investigation of that intended agreement under this Part."**

So you cannot penalise a man for an intention. He is going into an agreement with someone else and he notifies the Authority and says 'I am going into this. Can you give me an exemption on that?' So there should not be any penalty until the Authority has decided only if they have already gone into the agreement, but on the intended one you cannot penalise them. If an agreement has already been reached between the two parties, then I can understand not penalising them until a decision has been reached. That needs to be looked at, Mr. Speaker, and I would encourage the Minister to look at it.

Mr. Speaker, there are a number of conflicts with regard to notification which I believe someone needs to look at also. Just the other day I brought The Insurance (Amendment) Bill to the attention of the Health Minister which has conflicts of notification, also noted here on "Part VII - Administrative Fines". When we look under section 59 subsections (9) through (14): "**59. (9) The Authority shall within twenty-eight days of its determination notify the licensee in writing of its findings, determinations and reasons therefor and any fine, directive or warning and following the period provided for an appeal as specified in subsection (10), may cause its findings and any warning and the quantum of any fine imposed to be published in its discretion.**

**"(10) An appeal against a determination of the Authority made under subsection (8) shall be made to the Court within twenty-eight days next following the date of the notification pursuant to subsection (9).**

**"(11) The notification of a fine under subsection (9) shall be deemed to also be notice of an intention to suspend any and all licences of the licensee at the expiration of twenty-eight days following notification as specified in subsection (9) unless the fine imposed by the Authority shall be paid in full by the licensee within that same period of twenty-eight days of notification and the reasonable time to rectify specified in subsection (8)(b) shall similarly be deemed to be that same period of twenty-eight days.**



**“(12) Failure to pay a fine imposed by the Authority within the period specified in subsection (11) shall be deemed to be a contravention of this Law and is sufficient grounds for the suspension of any and all licences of the licensee by the Authority.**

**“(13) Representatives appearing on behalf of a licensee need not be persons having legal qualifications.**

**“(14) The power to impose fines under this Part is in addition to or in the alternative to any other penalty or remedy provided under this Law.”**

Mr. Speaker, section 60(3) says: **“60. (3)**

**A T&D licensee to whom a request is made in accordance with subsection (2) shall respond in writing to the request within a period of twenty-eight days from the date on which the request is made and, subject to subsection (5), shall provide the interconnection service in a reasonable time thereafter, not to exceed two months unless formally extended by the Authority in writing for cause being shown.”**

Mr. Speaker, I think that I need to . . .  
[Pause]

**The Speaker:** Honourable Member, are you sure that you are using the latest version of this Bill?

The Honourable Minister of Communications.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker, for being so alert with that question because, with the leave of the Honourable Member for East End, I would like to know that response as there is only one version of the Bill that has come to the Legislative Assembly. The drafted versions were within the ambit of the committee and CUC.

**The Speaker:** Honourable Member for East End, would you refer to the section and subsection you were just reading?

**Mr. V. Arden McLean:** Mr. Speaker, I hope the Minister is not implying that I got anything from (CUC). I am using the same one that I received from this Honourable House which was circulated to me last Monday.

**The Speaker:** Would you please refer to the section and subsection you were just reading from?

**Mr. V. Arden McLean:** Mr. Speaker, I believe what happened there was that I said subsection (59).

**An Hon. Member:** Sixty-three. You said 63.

**Mr. V. Arden McLean:** Sixty it was, that was supposed to be 3. Sixty (3). Sixty, subsection (3). I did not say 63.

**An Hon. Member:** You did.

**Mr. V. Arden McLean:** I said 60(3).

**The Speaker:** Okay, I think that's clear, Honourable Member. It was section 60 subsection (3).

**Mr. V. Arden McLean:** Yes.

**The Speaker:** Okay, please continue.

**Mr. V. Arden McLean:** That is my fault, Mr. Speaker, because maybe I should have said section 60 subsection (3) but I said 60(3).

**An Hon. Member:** Very clear.

**Mr. V. Arden McLean:** So maybe the Minister is telling us that the one at CUC is different from the one that was circulated, but I am sure she will reply to that when she replies. Mr. Speaker, I will come back to that because there is an area in there that I really want to discuss.

Mr. Speaker, the other section that I wanted to touch on was section 64 subsection (1), and I trust that we all have the same one, "Access to fuel pipelines".

Mr. Speaker, while I understand what the Bill is trying to do, nevertheless, I believe that there should be some independence when it comes to fuel. I am saying this because if we go through, or have to go through, what we just went through, if one utility/electricity company is cut off the other one is gone also, and if we are going to go into the generation regime for competition, that is where that would be in the generation.

If they are in close proximity to each other (they do not necessarily have to be, you can interconnect anywhere on the lines) and if there is any truth to the rumors, then I believe that there is a need for some independence, particularly in fuel supply. I know that it is costly to put in fuel lines, but we have to look at it and think what if both companies are reliant on those pipe lines. Then we face some serious consequences. We faced serious enough consequences as it was during Hurricane Ivan in that we could have very well been out of power for a very long time. Mr. Speaker, I do not have a problem with making provisions for an interconnect with fuel to ensure that we never have a problem with fuel being supplied, but I believe there should be some independence. One of the things that I also saw is section 65(1), "Estimate of capacity, forecast flows and loading": **“65. (1) On and after the commencement of this section, and at such intervals as the Authority may direct, each T&D licensee having a transmission and distribution system shall prepare a statement (hereinafter referred to in this section as a “forecast statement”) based on the information available to it in a form approved by the Authority.”**

What grabs my attention, Mr. Speaker, is subsection (3): **“65. (3) A T&D licensee may revise from time to time the information set out in each forecast**

**statement and may, with the approval of the Authority, alter the form of and shall, at least once in every year, revise such statements.” ... with the approval of the Authority...** Now, Mr. Speaker, here again I have difficulty with the Authority having a heavy hand. It is needed because from one year to the other you do not know what your forecasts are. You hope that when you do your five-year forecast that that is what it is going to be based on. In the many years that I prepared those there is no way that you do not have to do it every year, every year without fail.

Very seldom would you find that your forecast was within a reasonable area that you did not have to look at it again. You have to look at it and it is absolutely necessary that there be no need for approval from the Authority. I think the Authority should demand that it be revised every year. You should not have to get approval from the Authority. Mr. Speaker, one hotel can come online and your whole T&D, if you had not prepared for it . . . Many times, Mr. Speaker, you are prepared for a certain amount and more come online. Many times that has happened. I have seen it happen before. So I think that the Authority needs to say, *‘We need you to review this every year, on a yearly basis. Even though you set it out for five years’ projection we need to review it every year.’*

Mr. Speaker, I know that there are others who want to speak and if we are trying to get out of here tonight maybe I think I have laid out sufficiently my concerns for the Minister to reply to. Mr. Speaker, let me close in saying that I support regulatory commissions. I do not support anything that is heavy-handed. I am extremely concerned about that because if we do, then we get ourselves involved in oppositions to what we tried to put in place. I am not trying to defend anyone, but we need to ensure that the consumer benefits. That is the ultimate. The consumer must benefit.

Anyone would want a fair return on their money if they invest in anything, and I think that once there is clear indication that there is a level-playing field, I think the country needs to be extremely cautious of people who would come to this country and would want to get into the electrification industry. You just have to ensure that they are going to give us exactly what we have or better. It has to be better and at a cheaper cost because that is the objective. If it is not then we must send them along their way.

I will be watching because of my interest in this particular subject, and again, I appeal for a utilities commission to govern it all, to remove the Water Authority from selling and being a regulatory body. I love the people that work there to death and they do a splendid job, but they cannot regulate themselves either. That is not how this goes. Neither one of the utilities should have the right to regulate themselves, none of them, but we cannot

do it hodgepodge and put it all over the place. Every time another utility comes in we form another authority. It costs us too much. It is going to cost the country too much. Those are my concerns, that it eventually cost us too much. The consumer will not benefit in the long run. Yes their electricity bill may be a little lower but taxes are going to be applied to them somewhere else to subsidise these Authorities. It just does not make sense to turn it to a campaign flag. It has to be done in the long term interest of the people of this country.

I thank you for your indulgence, Mr. Speaker, and for giving me the opportunity once again to speak. Thank you.

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

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

Mr. Speaker, I first need to apologise to you and this Honourable House. My voice is not very good as I am suffering from a cold. However, I trust that I can make it through this brief presentation. Mr. Speaker, I take this opportunity to also express my gratitude to the people of Cayman Brac and Little Cayman for allowing me this opportunity to be in Parliament, to be their voice and to articulate issues on their behalf.

Since this is the last opportunity prior to the dissolution of Parliament on the 15 March 2005 that I will have an opportunity to speak, I express my sincere gratitude to them. It has been a very trying, but educational period of time for me. Mr. Speaker, I trust and hope that following the Elections on 11 May 2005 that I will have the opportunity to continue some of the work that has been started and to contribute to the development and general well-being of the people of Cayman Brac and Little Cayman and of course the Cayman Islands as a whole.

Mr. Speaker, the Bill before this Honourable House seeks three very important issues for me:

First, it creates a Regulatory Authority that monitors and ensures that the consumer, our Caymanian people, are protected and that the tariffs and rate structures, terms and conditions for electricity are charged to consumers by T&D licensees in accordance with a rate that is as low as possible. It is called out for specifically in the Bill to try to achieve as low as possible rates.

Secondly, it provides protection and ensures that the licensees promote safe and sound environmental practices and technical proficiency.

Mr. Speaker, third that is important to me is that it promotes the use of alternative generation means of renewable energy.

Mr. Speaker, this subject matter is important to this country as a whole, for the cost of electricity is commonly the second largest bill in each household next to rent or mortgage. So, each and every one of us in this country faces it. Each and every one of us in this country complains about the high level of electrical costs that we face. It is not something that we can do without. It is not

a realistic expectation that anyone will do without electricity. Mr. Speaker, it is an extremely important issue.

Mr. Speaker, the people of Cayman Brac and Little Cayman we all know are of a lower-income level than those who reside in Grand Cayman simply because of the lack of economic activity on those Islands. So these citizens that I am elected to represent earn less, and compounding this problem they pay more relative to the consumer in Grand Cayman.

Mr. Speaker, I took the opportunity to compare the rate structure between Cayman Brac Power & Light Co Ltd and that of CUC, with Cayman Brac Power & Light Co Ltd servicing both Cayman Brac and Little Cayman. The rates go up in cohorts so I will not go through each rate, but in looking at average residential usage I took 200 kilowatt hours and priced it against the rate structure in Cayman Brac, Little Cayman and Grand Cayman. I then did 500 kilowatt hours and kept moving up to get what would be the average difference in cost. Mr. Speaker, I deliberately did not include the fuel adjustment because that is just a pass-through figure.

Mr. Speaker, at 200 kilowatt hours the consumer in Cayman Brac would pay 36 per cent more than the consumer in Grand Cayman, the cost being \$51.35 in Cayman Brac compared to \$37.76 in Grand Cayman. For the same 200 kilowatt hours the consumer in Little Cayman would pay 60 per cent more which is \$60.35 relative to the Grand Cayman consumer who pays \$37.76.

These averages continue throughout the various cohorts of rates. At 500 kilowatt hours the difference was the consumer in Cayman Brac was paying 34.7 per cent more than the consumer in Grand Cayman. He was paying \$117.05 relative to \$86.90 in Grand Cayman, and the consumer in Little Cayman was paying \$139.25 versus \$86.90 so they are paying 60.24 per cent more.

Both the First Elected Member of Cayman Brac and Little Cayman and I live in Cayman Brac and have a residence here in Grand Cayman also, so we are probably the only two here who operate in both jurisdictions a regular household that experiences the bills from each of these providers, both Cayman Brac Power & Light Co Ltd and CUC here in Grand Cayman. Mr. Speaker, I can tell you from my own experience the rate is significantly higher, and I will be happy to make this chart available to any of the Members who care to look at it, because it is startling to see the significant difference in the rate between the two companies.

As I said earlier, it is compounded by the fact that the residents of Cayman Brac and Little Cayman earn less. So the impact on each household income is far greater in Cayman Brac and Little Cayman than it is in Grand Cayman. Where this an issue of great national importance and this Regula-

tory Authority is necessary for this entire country, the true beneficiary of this could be Cayman Brac and Little Cayman.

Mr. Speaker, It is not very often that I find myself in this Honourable Legislative Assembly in agreement with the Member from East End, but I would like to thank the Member for highlighting in his contribution the fact that Cayman Brac and Little Cayman need to be a part of this effort to curtail the high level of expenditure that our citizens expend each month on electricity.

Mr. Speaker, a year and a half ago I gave an interview to the *Caymanian Compass* published on Tuesday, 9 September 2003 by the reporter Nicky Watson in Cayman Brac. At that time the issue was at hand because in October (I think the date was 6 October) of that year the Cayman Brac Power & Light Co Ltd licence would have expired and needed to be renewed and extended. At time I was a member of the Power Utility Advisory Committee, appointed under yourself, Mr. Speaker, and I thank you for allowing me to be part of that group because it was very enlightening.

In that interview I suggested that at that time we needed to enter into a short-term licence for one or two years to allow for this process to continue; to negotiate a new model of regulating electricity in this country; and to ensure that when we found this moment here today, 2 March 2005, ([the day] which we will hopefully pass this Bill that creates a regulatory body that allows for things such as price capping) that we would have been in a position to include Cayman Brac and Little Cayman and Cayman Brac Power & Light Co Ltd.

Mr. Speaker, no action that I have done in my four-plus years has created the level of controversy than my call for only a short-term licence to ensure that Cayman Brac and Little Cayman residents would be able to benefit from this regulatory body and the ultimate regulation over tariffs, safety issues and environmental issues. Each of those issues is of major importance in Cayman Brac and Little Cayman.

Mr. Speaker, I was told that at staff meetings that were called it was suggested my call would prevent them from getting a licence and ultimately shut down power on Cayman Brac and Little Cayman. Mr. Speaker, so far from the truth but so common when one seeks to protect their own financial interests, that they manipulate anyone who seeks to protect the people irrespective of what that does to the financial interests of the proprietors.

Mr. Speaker, on that note, I would like it to be highlighted that I am perfectly cognisant of the difficulties of operating a public utility company in a small community such as Cayman Brac and Little Cayman. I am also cognisant of the fact that a company must be allowed to make a reasonable and fair rate of return. Mr. Speaker, this Bill highlights that as one of the functions of the Authority. So I pay great tribute to that sector – that we must make sure that they continue and that they are there and able to sustain their operation. However, I submit here today that if my call for a temporary licence was successful, then the true benefits of the people who

need the relief the greatest in this country would have been realised.

Mr. Speaker, it is imperative that we as legislators pay ourselves pride and tribute for the job that we have done to bring this bold, revolutionary piece of legislation to the forefront to be voted on here today. We did a great job. The Government did a fantastic job. My colleague, the Minister, did a fantastic job to pilot. Mr. Speaker, you started the process. We have done a great job. We are bold people and we must be recognised, and we will go down in history for creating this piece of legislation. Mr. Speaker, it is just my problem right now that until 2018 there is a licence in place in Cayman Brac and Little Cayman, the 15-year licence issued in 2003.

I have stated this in this Parliament here before. I have written theses on this subject during my MBA. Basically, it is the premise that even the first economist, Adam Smith, wrote about in *The Wealth of Nations*. For a nation to develop properly it is important that we separate and maintain a separation from those who control the resources and capital of a country from those who control the power and the ability of influencing legislation. Mr. Speaker, that belief and premise has been with me forever but certainly has been highlighted over these recent occurrences when it comes to power, the one item that we can all appreciate because we all use it.

Mr. Speaker, the country witnessed a call made by a legislator (myself) which was obviously the right one. Clearly, it is the call that is in the best interest of the people, that those who have control over the resources and capital were able to lobby, pressure and manipulate the information out there to a point that they now have protected their financial interests. Mr. Speaker, to do that from outside of Parliament, to give yourself protection for the next 15 years from outside of Parliament, my imagination is allowed to roam far of what would happen if that control was also here in Parliament.

Mr. Speaker, I take caution and I travel this road with great care, but as I stated in my opening, I have a responsibility to speak on behalf of the people who have elected me and this is the most voiced issue in Cayman Brac and Little Cayman – the continual cost of electricity. I hear it over and over and over. I beg to repeat this point because the Member for East End is sitting before me. I thank him for voicing, on behalf of the people of Cayman Brac and Little Cayman that we too should benefit.

Mr. Speaker, all that was said at the time in September 2003, all the allegations, I was even told that it was because that I had an interest in CUC coming to the Brac and operating electricity, that I was seeking to not have the licence of Cayman Brac Power & Light Co Ltd put in place for 15 years. Those were the rumors that were put on the street,

Mr. Speaker, in a deliberate and well-calculated campaign commenced in 2003 against me for my removal for voicing what I consider the most important issue for my people.

Mr. Speaker that campaign commenced in 2003 and I promise this House and this country that come Nomination Day, 16 March, you are going to see the highlight of that campaign against me. I was told by some of my core supporters, 'Mr. Martin, you better back off from that subject. That subject is having very negative spill-offs.' Mr. Speaker, I was told, 'It is a taboo subject. You better stay away from it.' However, I have a hard time accepting that. I have a hard time accepting and understanding why. Why should I not voice, why should I not share with other Honourable Members of this Legislative Assembly, with other citizens of this country what we are faced with in Cayman Brac and Little Cayman?

Mr. Speaker, as a preparation for the propaganda that will start tonight after this speech I want it to be known that I am proud that out of 32 employees Cayman Brac Power & Light Co Ltd has 30 employees who are Caymanian. I am proud that they recently hired a young Cayman Bracker as managing director. I am proud that they recently hired a financial officer who is a young Cayman Bracker with a CPA. I am proud that they recently trained and certified a young Cayman Bracker as an electrician. I am proud of those achievements, but it is not because of these great achievements that I must now ignore the bills that are coming in the mailboxes today, that will come next month, and in many instances they will wait and have them accumulate two months, then hit you all at once. We see it, Mr. Speaker, and we are told that it is a computer problem.

Mr. Speaker, I have been informed that all kinds of manipulation, gimmicks and strategies will be launched to show that my position taken here is not a fair and reasonable one. I remember the first public meeting that the First Elected Member and I held in Cayman Brac. We talked about the high cost of electricity up in Spot Bay. I recall that we talked of the examples of our small apartments costing equivalent to the house in Grand Cayman, Mr. Speaker. So it is not a new issue; it is an issue that we have talked about.

Mr. Speaker, we know that in addition to costs a big part of the problem is the plant. The old machinery is emitting fumes over our high school, over our future generations. Because the engines are not current (I understand some Murley engines are there) that results in greater costs and less efficiency.

A full-page advert was placed on 23 September 2003 on behalf of the directors of Cayman Brac Power & Light Co Ltd and in that article it stated that the best defense against high rates is efficiency..."

**The Speaker:** Honourable Member, for the purpose of the *Hansard*, would you say which article you are referring to and in what magazine.

**Mr. Lyndon L. Martin:** It is a full-page advert in the *Caymanian Compass* of 23 September. Mr. Speaker, I apologise, the date is kind of blurry on it, but I can verify the exact date.

**The Speaker:** Thank you.

**Mr. Lyndon L. Martin:** Mr. Speaker, I agree that the Regulatory Authority will have as its function to regulate and provide advice to the Minister on environmental issues.

Mr. Speaker, timing is everything in this business of politics. I see in today's *Cayman Net News* that the power company will shortly be relocating on the Bluff. I welcome that news because a year and a half ago it was told to me that the reason that they could not accept a life-under-one-year contract, a one-year licence was because the decision was imminent. It was then that they were going to be relocating on the Bluff and they needed a 15-year licence to secure finances. Now in today's paper I am seeing that 18 months from now they will be relocating on the Bluff.

Mr. Speaker, my position is clear and stated without any concern of the negative spill-offs that it may have on my political career, but my position is that that was simply smoke! It was smoke put up to get a 15-year licence and they stated that it did not matter whether it was exclusive or non-exclusive which is a moot point in Cayman Brac and Little Cayman because the market cannot sustain competition. So exclusivity does not provide them any extra bearing, but it would have allowed the price-capping mechanism, after we went through the process to negotiate, what a fair price or rate would be that protected the consumer and simultaneously allowed the company to make a reasonable rate of return.

Mr. Speaker, I hope that I have articulated that position clearly. I hope that for those who would seek to transform what I have said to bring it to their own benefit, will transform it in a method by showing lower electrical costs and not showing it through what I understand is the intended gimmick which will have a shorter period just before the Election. They will read a shorter period, 20 days maybe, 18 days maybe rather than the regular 30 days so that you will see a lower electrical bill. Then the allegation will be made that what was said by those who claim that they were overpriced was not correct and what you should do is elect one of them so that they can continue their empire.

Mr. Speaker, I have a duty. My duty is to voice what concerns my people and they have certainly voiced much on this subject. I have shared with you, Mr. Speaker, this Honourable House and this country my concerns.

Mr. Speaker, issues of safety were also mentioned earlier in my contribution. I see practices in my constituency that I personally do not consider

as safe. I see light poles that are held together with pieces of 4x4 and bolted through because they broke off in the middle. One in Cotton Tree Bay has been in that condition for two or three years. I see electrical lines that are hanging too close to rooftops.

Mr. Speaker, I am not a trained electrician. I do not proclaim to know everything about this business. However, I feel a lot better to know that there will be a regulatory body in place that has as its makeup individuals who are in the know, to be able to monitor issues such as this so that I can feel better.

Mr. Speaker, it may be proven that these are not true concerns. It may be proven that the smoke that is emitted over the high school—I know. I have been to the east wall of the Cayman Brac High School and can feel the grease. I see the soccer field at night when the lights are on, and you can see the smoke as you are playing football and breathing in the carbon monoxide. I see it! I live just west of the school, less than a mile away. I can hear the roar of the engines and I can smell the fumes.

So, Mr. Speaker, I only express my great concern and hope that we can find some remedy at this hour to assist the people of Cayman Brac and Little Cayman, for we too would like to feel that we are being charged a rate that is fair and reasonable.

Mr. Speaker, I have had constituents come to me (and I am sure the situation is the same with the other representatives) and say, *'We cannot pay our bill. It is not that we do not want to, but we just cannot pay it.'* Mr. Speaker, I heard the First Elected Member for George Town in his contribution on insurance talk about the ability of people being able to afford the necessities in life. We as a governing body need to ensure that our actions result in that very same end, where we have our constituents protected.

Mr. Speaker, I promised my colleagues on this side of the Bench that I would only be a very short time and I will live up to that. I only conclude by adding that whatever we do, whatever action we take, we must remember that we are being monitored and we will be judged accordingly.

Mr. Speaker, I made my call and I have expressed to this Honourable House my concerns. I now ask the Honourable Members of this Legislative Assembly to support this Bill, but let us combine our resources, our minds and our thinking on ways of assisting the people of Cayman Brac and Little Cayman.

My Speaker, I thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? The Fourth Elected Member for West Bay.

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

Mr. Speaker, I rise to give my support to this Bill, A Bill For A Law To Establish The Electricity Regulatory Authority And To Vest Property In That Authority; To Give Power To The Authority To Regulate The Generation, Transmission And Distribution Of Electricity For Reward In The Cayman Islands; To Empower The Au-

thority To Grant Licences To Generate, Transmit And Distribute Electricity; To Provide For Interconnection To Transmission And Distribution Systems By Licensees; To Amend Certain Provisions Of The Electricity Law (2003 Revision); To Provide For Related Matters And For Incidental And Connected Purposes.

Mr. Speaker, I have been intimately involved with the long road up to reaching this point. Mr. Speaker, I would have to start by thanking you for your foresight and interest in looking at some relief and improvements to the existing situation in regards to not only this utility but to the great success that was achieved with the telecommunications industry as well.

Mr. Speaker, I think that the record of this Government will show, like my colleague the Second Elected Member for Cayman Brac and Little Cayman said, that this Government in its short term has taken on two of the biggest issues and concerns that our constituents, who have elected us to represent them have complained about in recent times. The complaint has been the high cost of living, of which a significant contributing factor would be the high cost of two utilities; namely the telecommunications and the provision of power.

The Government (of which I am proud to be a part) the United Democratic Party Government, has been successful in reducing the cost of telecommunications, and barely after giving enough time for the ink to have dried on those agreements the Government also accepted the challenge to deal with an existing situation in regards to the monopoly licence held by the electricity provider CUC.

Under your time as Minister with responsibility for that subject, I was happy to be a part of a committee which was delegated with the responsibility of investigating and looking at the possibilities of whether the existing licence, which I think we all accept was very practical at the time the licence was issued, had outlived its useful life and needed to have some modifications. Mr. Speaker, I know that we did not conclude, or even get to the point of bringing this legislation during your time. However, the Minister who followed with the responsibility continued down that path and continued with the support that has allowed us to now get to a point where I think we have a major accomplishment in the path of a good regulatory environment which will definitely be necessary prior to any great changes to the existing situation.

The utilities committee which I was proud to have been appointed as chairman, had, as members: my colleague, the Second Elected Member for West Bay, Mr. Rolston Mr. Anglin; Mr. Philip Thomas; Mr. Stuart Diamond; Mr. Stephen Hall-Jones; Mr. Allan Roffey; and we were fortunate to have received the support of our consultants, namely Mr. Eliot Rosemund and Mr. Dale Murdoch of ICF.

Mr. Speaker, as you are aware, the negotiations and the path to get to where we are today was full of many, many challenges. I am sure that we all remember the headlines in the paper and the threat of legal action. Mr. Speaker, I can remember after having done an interview with one of the papers the Lady Member for North Side asking in a type of comical way, *'Is the Government going to sue CUC?'* This was after CUC had insisted on going forward with their 3 per cent increase and there was a headline that read "Is the Government going to sue CUC?" I could tell from that, Mr. Speaker, it appeared unheard of happening. It was never possible that the Government of the Cayman Islands would be strong enough in its beliefs of protecting the interests of the lovely people of our Islands to actually to as far as, if necessary, taking legal action against a licensee.

Thankfully, we have never had to go down that path, but it is imperative for the people of the Cayman Islands to recognise that if it were necessary, just like how this Government has taken on mighty Britain in the European Union Court of First Instance, we were also equally set if necessary to go down the legal path to protecting our people.

Mr. Speaker, I know that you are familiar and that you know how close that actually came to happening, but I would like to believe that the best interest of the country was served when we could come to an agreement and CUC agreed to withdraw that increase. From there we entered into very meaningful negotiations with a view to reaching an agreement that was acceptable to both parties.

Mr. Speaker, it is important to note that we actually got to this point with the blessings, I would say, of CUC when they sent a 12-point memo asking for an extension to their current licence. As part of those negotiations there would be substantial changes to the licence, which included but was not limited to eliminating the 15 per cent rate of return on investment as a cornerstone of setting electricity prices and replacing it with a price-cap mechanism, on bundling fuel costs on base electricity rates and freezing basic electricity rates until 31 July 2005.

Mr. Speaker, what is interesting about that is that even CUC appeared to realise that the time had come, the existing licence had served its purpose and it was now time to enter into negotiations to find something that more beneficial to both parties. Mr. Speaker, I think it is important to acknowledge that CUC also wanted to change those significant points.

Mr. Speaker, if nothing more but for goodwill for the company . . . I have heard so much criticism of the company in regards to the 15 percent rate of return. Regardless of how good you are as a manager or a director, or really how bad you are, when you have a guaranteed 15 per cent rate of return it is hard for you to show whether it was genuine competency or not which caused the success of the company. I think that CUC recognised that and were ready to face the challenge of a more realistic situation and come away from the rate of return.

Obviously, there were certain concessions that would be given or requested in return for those changes, and I think it is only fair to expect that if you are relinquishing some of your most prized possessions in terms of your licence that you would expect certain provisions to be made. Since that appeared to be a reasonable request, one of the things that CUC requested in return for doing that was an extension of the licence for a period of 25 years.

Mr. Speaker, there were reasonable requests and there were also what could be termed as 'unreasonable requests'. One of those was permission for CUC to engage in other business related to its current assets and human resources expertise. Mr. Speaker, on the face of things, that may seem a reasonable request as well, but if we were to take into account the fact that a lot of those assets owned by the company have been paid for by the consumers with the 15 per cent rate of return, it then might not seem as reasonable.

One of those assets that we are familiar with is the existing fibre-optic ring that has been installed by CUC. Mr. Speaker, it is not a well-known fact but due to the rate of return when that asset was acquired, when the cable was purchased and installed, those expenses were deemed to be incurred in the provision of electricity that would have been included in the rate base. In turn, that would have allowed CUC to increase rates to pay for that to get their 15 per cent return, and then to allow CUC to go into another business, quite possibly the very recently liberalised telecommunications business. Without some repayment or some benefit to the consumers who had paid for that asset has to seem a bit unreasonable, Mr. Speaker.

However, since there were issues that were reasonable and some issues that could be argued as being unreasonable, negotiations commenced and after much time and money and many long hours of meetings (I do not remember the exact date, but my colleague from East End made mention of the date, sometime in June I think) we finally reached an agreement where we got to a position where we basically agreed to agree on certain items. We had a Heads of Agreement from which we issued a joint press release stating the intention of the Government and CUC to reach agreement on a new licence in short time.

Mr. Speaker, the point as the Member for East End kept making in regard to that press release was that we had reached such a substantial point. At that time there were only a few issues outstanding, and basically that agreement stated that when the final agreement was reached, those points that had been agreed were binding and there was no more room or need for further negotiations on those issues.

Mr. Speaker, at that time we were anticipating in the very near future the signing of the main

agreement. Mr. Speaker, with your permission I would just like to read into the *Hansard* the general principles of those Heads of Agreement.

In negotiations between CUC and Cayman Islands Government, the parties have agreed to the following general principles.

A Regulatory Authority shall be established to encourage fair competition within the electricity industry in the Cayman Island and a Regulatory Authority would also have overall responsibility to regulate the electrical industry in the Cayman Islands.

Mr. Speaker, that was the first point in the general principles.

The Regulatory Authority shall have a board of directors composed of representatives to be appointed by the Governor in Cabinet. Among other responsibilities the Regulatory Authority will issue separate non-exclusive licences for transmission and distribution and generation providers.

With respect to CUC T&D base rates there will be an initial reduction in retail rates, a price freeze and the implementation of a price cap mechanism for future adjustments to rates. The price cap will be tied to publish consumer price indexes. Competition and generation will be introduced through competitive solicitations for required incremental capacity.

CUC transmission and distribution shall be responsible for determining the need for future generation based on load growth and operating reserve requirements. CUC will recover the cost associated with its existing generation resources through a power purchase agreement that includes the wholesale rates to be charged for electricity delivered to the T&D licences.

CUC will continue to maintain its transmission and distribution network and provide retail service to its customers as part of its T&D operations.

CUC T&D will build retail rates and charges to customers to cover its T&D costs and to pass through the cost of wholesale power and government fees.

CUC will work closely with the Cayman Islands government to conduct a competitive solicitation for 28 – 32 megawatts as the next increment of generation capacity to be operational not later than 1 May 2007. For this initial increment of need Cayman Islands government will provide a certificate of need as part of the new T&D licence and a development of the solicitation for new capacity will begin immediately upon the signing of the Heads of Agreement.

CUC will be granted a generation licence and a T&D licence upon signing the main agreement.

Mr. Speaker, the reason for my need to read those general principles is that the Member for East End made a point of saying that he assumed that this Bill was done in conjunction with CUC and the Government. Mr. Speaker, I only wish that his assumption was correct because, obviously, up until June, CUC has well recognised the need and the urgency to move forward with any tangible changes required those general principles that I just outlined.

Now, Mr. Speaker, it is important to note that even though CUC is not a willing supporter of this new Bill by their withdrawal from the negotiation, it is important to note that the Bill is still in large part based on those fundamentals that were agreed upon with CUC, the primary one being the need for the Regulatory Authority. So if we get past the fact that CUC only a few short months ago agreed on the need for the Regulatory Authority, and we get past the powers of that Authority it should allay some of the concerns of my good friend the Elected Member for East End. Even without CUC's willing participation, being the prudent government that we are we recognise that just because CUC decided not to be a part of the game those needs did not go away. Therefore, with a bit more difficulty the Government continued to press on and today, without their assistance we are happy to be able to bring to the country a Bill that, if passed, will provide for what was agreed as being essential to that very important industry.

It is also important that we recognise that CUC agreed in that principle to two very significant areas that could have the potential for affecting the economic position of that company. They agreed that we would have competition in generation, they agreed on a new pricing structure and they also agreed that the Government would go out for bids and solicitation for a significant portion of the existing capacity, namely between 28 to 32 megawatts to be operational not later than 1 May 2007.

Now, Mr. Speaker, here we are in March 2005. If CUC were serious about the solicitation for incremental capacity to be operational not later than 2007, obviously, one would then instead of asking the questions that were asked—why are we doing it now and why are we moving forward with this legislation—one would ask, why have we taken so long? Having only two years to go through a solicitation bid to have a company, if successful coming in, setting up, acquiring land and putting in place the infrastructure to meet the agreed-upon timeline of 1 May 2007 is going to be quite a challenge.

So, Mr. Speaker, the question would have to be asked whether it was really the intent of CUC to have a solicitation process for that, because we all know that if the Regulatory Authority is not in place and the solicitation is not done, that need for that increased capacity when it comes along in May 2007 is going to have to be filled by somebody, and if it is not a different company it would be CUC.

So, Mr. Speaker, recognising that it is potentially not in the best interest of a company who now has a monopoly to go down the path to introduce legislation and new licences which would require a change to that monopoly, the Government had to, sadly enough, carry on with the intention that had been expressed by CUC but which was changed by their withdrawal from those negotiations.

Mr. Speaker, I agree with the Elected Member for East End. We would have much preferred to have been in a position where CUC and Government negotiated and everyone was happy with this legislation because it will affect them, they are a major provider and licensee and any new regulatory will affect them. Hence the goodwill offer by the Government to ensure that they were involved every step of the way.

Mr. Speaker, I can also say that the Government was willing to give significant concessions in return for their involvement and for their early relinquishment of their existing licence. However, once again, in the true leadership of the United Democratic Party, just because CUC had decided that they are not going to be involved with the negotiations, a responsible and proactive government like the United Democratic Party could not have been expected to sit back and wait until they were ready to come back to negotiate. The Minister gave instructions that we would continue forward and that is where we are today. We are now debating the Bill to create the regulatory framework which was supported by CUC prior to July but apparently is no longer supported by them.

Mr. Speaker, earlier on when the Elected Member for East End asked a question as to what could be the reasons why the support was there, I gave him, in my opinion, what could have been a part of that reason. I know he came back and talked about being careful, Mr. Speaker, but I will give a bit more information, which is documented information, and again not knowing that this is the whole reason, it is only my opinion. Based on substantiating information contained in this report that was issued by CUC to its shareholders on 30 November 2004, I am again hoping to be able to clarify for that Member because he seemed to be very concerned as to why a company which he termed—and, Mr. Speaker, as soon as I finish reading I will be happy to table this report.

Mr. Speaker, it is quite a long document so I will just read an excerpt with your permission from page 5: Given these uncertainties, the board of directors elected not to declare a dividend at this time stated Mr. Thomson. We would like to assure shareholders that the financial integrity of the Company is secure. The terms of our existing licence permits the company to recover Hurricane Ivan related costs through rate adjustments.

Mr. Speaker, for the benefit of my friend, the Elected Member for East End, the document that was provided to the shareholders of CUC dated 30 November 2004, at page 5 says:

Given these uncertainties, the board of directors elected not to declare a dividend at this time stated Mr. Thomson. We would like to assure shareholders that the financial integrity of the company is secure. The terms of our existing, and I emphasise existing, "license permit the company to recover Hurricane Ivan related costs through rate adjustment. At the opportune time the company will make proposals to Government on how best to implement rate adjustments and recover costs which will result from Hurricane Ivan.



Mr. Speaker, even being careful I think I have clarified my opinion regarding the situation prior to Hurricane Ivan from an economic position of the current licence which, based on a 15 per cent rate of return, allows CUC to recover Hurricane Ivan related costs through a rate adjustment. This would have been a reason for CUC not to continue in changing that licensing arrangement where they would be moving to a price-cap mechanism and they would not have the ability to recover those costs. Mr. Speaker, hopefully that clarifies. I see the Member has some doubt, Mr. Speaker. I am not sure why there would be any doubt, it appears to be clear.

Mr. Speaker, what is also important is that CUC still feels that the purpose of the Government . . . Mr. Speaker, I will [retract], but I think it is also significant to note the last sentence of that which says:

At the opportune time the Company will make proposals to Government on how best to implement rate adjustments and recover costs which will result from Hurricane Ivan.

Mr. Speaker, the question that comes to mind: would that be with a different Government? Would that be after the general election? Were some promises made?

Mr. Speaker, my colleague from Cayman Brac made the point that this is a serious political challenge. Mr. Speaker, we know on this side that we did not gain any favors by liberalising telecommunications and trying to deal with the high rates of electricity. For CUC to suddenly decide after having agreed a few months before that it is no longer an opportune time for them to continue and therefore they are withdrawing from the negotiations, it begs serious questions with regard to the disappointment of those professional members that my colleague from East End referred to.

Mr. Speaker, I can only hope that after this debate there will be some other explanation as to why it was a withdrawal from the negotiations that had been agreed upon, the significant progress that had been made and that it will not have anything to do with recovering the Hurricane Ivan related costs or the opportune time. Until then, Mr. Speaker, I, like the rest of us, can only make assumptions and form opinions based on the facts that are available.

Another part of that same document, the CUC report of 30 November, 2004 on page 8, it discusses licence extension discussions and says: The non-binding Heads of Agreement signed by CUC and the Cayman Islands Government in June 2004 has expired following the passing of Hurricane Ivan. The company will meet with Government at the appropriate time to assess the status of the licence renewal negotiations but it is important to note that the circumstances and the context under which the negotiations took place prior to the hurricane, have been substantially altered by the storm

and its aftermath. Future public debates on this particular matter will be given as and when appropriate to do so. CUC continues to operate under its existing licence which expires in 2011.

Mr. Speaker, I again draw attention to the words "the appropriate time to assess the status of the licence renewal negotiations". Maybe it is just because elections are so close, but again I have to ask, why is it all of a sudden that it is no longer the appropriate time? Or, could it be that this is not the appropriate Government? Could it be that there is a hope and a will by that company that after the next Election there will be a government that is more friendly to the existing situation and that may possibly allow CUC to continue down the existing path, maybe with some very slight modifications to the licence but nowhere as significant and drastic as the ones that we were proposing? Mr. Speaker, could it be that since this Government did not stand idly by and allow them the 3 per cent increase in rates that we insisted was rolled back, that this is not longer the Government that CUC feels that they should negotiate with?

Mr. Speaker, I can only hope that the good people of the Cayman Islands—and I have faith in this—will return the same government that has stood up so strong for the protection of its people against CUC, fully recognising the contribution that CUC has made and fully recognising the need for them to make a return on investment, but being willing to stand up and say, *'Whatever is necessary we will do to protect our people.'*

Mr. Speaker, hopefully that has answered the questions from the Member for East End as to CUC's change in position, why they went down and agreed to sign the press release that he referred to prior to July but now have decided it is not the opportune time to continue with.

Mr. Speaker, what is going to change between now and the next few months? What is important to remind everyone of is that the current licence calls for the start of negotiations not longer than six years prior to the conclusion of the existing licence. We are talking about a date not later than January 2006. Now again, one would have to ask the question, how many things does CUC hope to have changed between the existing licence calls for renegotiation and now? Mr. Speaker, the obvious one that has a possibility of changing would be the Government.

Mr. Speaker, only time will tell what the true motives are. Could it be, Mr. Speaker, that the United Democratic Party Government stood up and negotiated too hard with CUC, and they have decided that it is more beneficial for them to wait and to hope that if there is a change it will be a more opportune time for their negotiations?

Mr. Speaker, those are questions that we have to ask, but in the meantime it is the responsibility of the current Government to continue to do what it feels is the right thing to do, and what CUC felt was the right thing to do only a few short months ago as well.

Mr. Speaker, once again I have to say how proud I am to be a part of a government that is willing to

stand up. The question will only be that if that is the intent, or if that is the opportune time, how willing or how much would CUC want the Government to change? What will the involvement be?

Mr. Speaker, we are only a few short weeks away. You know, Mr. Speaker, I would like to believe as well . . . I know the people of CUC quite well, I have spent much time with them in these negotiations and I have found them to be very professional. However, Mr. Speaker, when we are talking about the significant financial impact that this type of new licence would have compared to the previous licence, only time will tell where the line is drawn between professionalism and looking out for number one.

I hope that my fears are unfounded. I hope that there is a genuine reason for all of the work to get to where we were with the Heads of Agreement and where we made a commitment to go out and solicit by 2007. I hope that whatever it was that may have changed that position, someone can explain because I really cannot.

Mr. Speaker, where were we before Ivan? We were quite close to an agreement which had new price-cap mechanisms and a competitive tendering for new capacity. I heard the Elected Member for East End make the point that he thinks that is the way that we should go and I am glad that he is in agreement. That is what has been envisioned all along – competitive for new capacity. I think it is important, Mr. Speaker, to recognise that there is no guarantee. We are not saying that there has to be competition. If we were trying to force competition we would have to remove CUC from bidding.

Mr. Speaker, what we are saying is that we feel that the process would be better served—and let me explain the point because I can see that it has raised questions. If we have a competitive bidding process but CUC is allowed to bid, there is a chance that CUC would also win that bid. If CUC wins the bid we will not necessarily have competition, we will still have one provider of electricity. So we are not trying to mandate that there is competition, what we are saying is that the method that is used should be based on a competitive bidding process to ensure that in the future, if CUC does win the bid or the solicitation it is based on them having given the best proposal to Government, not how it currently stands with them being guaranteed and them not having to bid. So, Mr. Speaker, that was one of the issues that was agreed upon.

Mr. Speaker, ironically enough, one of the other issues in the Heads of Agreement was hurricane preparation. We recognise that CUC had decided not to insure their T&D network. CUC had decided because of it being cost prohibitive, a major hurricane would likely cause significant damage to CUC's transmission and distribution systems and could disrupt electricity services for a prolonged period. Mr. Speaker, this was an assessment that

was done prior to Hurricane Ivan and where it was recognised that there was a need to have a change as well in the current provision in the licence in relation to hurricanes.

The company no longer insures transmissions and distribution assets because insurance premiums are uneconomical and it maintains only a 3.5 million insurance reserve. CUC agrees that a major hurricane would present a significant funding challenge to the company to replace these uninsured assets which have an estimated replacement cost of US\$68 million.

This could have potentially disastrous and long lasting effects on the Cayman Islands economy. CUC has recently proposed that it be allowed to recover the costs of extraordinary events including hurricanes, from customers. In view of the company's increasing profitability and high dividend distribution to shareholders it seems wholly inequitable that a consumer is being asked to underwrite the company's main business risk.

Mr. Speaker, in that Heads of Agreement we had met with CUC and said that it was only a matter of time before we got hit with a major catastrophic hurricane and we needed to do something different. Sadly enough, Mr. Speaker, before we could get that agreement signed we were hit by that catastrophic hurricane which did do significant damage and which provided the prolonged periods of disruption.

Mr. Speaker, I think now would be an opportune time to comment on the work that was done by CUC after that devastation. It is no less than, I think, miraculous to know the quick recovery that occurred and obviously the dedicated staff of CUC. Even other regional partners and friends who came to assist was greatly appreciated by everyone in the country, and I know time and time again we have commended CUC on the outstanding job that they did after Hurricane Ivan. I think that before the wrong impression is given I should also make it clear that I agree with the Member for East End that the existing agreement with CUC played a significant part in the development of the Cayman Islands as we know it today. We fully recognise that when the agreement was signed—and, Mr. Speaker, I am quick to say that initially I did not share that view, but after having gotten intimately involved and becoming aware of the rationale behind the rate of return, I now fully realise why it was necessary for a guaranteed rate of return. I fully realise that the outstanding reliability and service that we currently get from CUC, which has allowed the country to reach where we have reached as far as development, was due to the fact that there was an incentive for investment by CUC.

So, Mr. Speaker, no one is questioning that arrangement, what we are questioning now is the timeliness of that arrangement. I think because of the document that came from CUC it is very clear that CUC also recognises that it was time to move from that sort of guaranteed rate of return to a price-cap mechanism. However, I just want to say and acknowledge the foresight of those individuals involved at the time when the

initial licence was issued in getting Cayman to where it is.

Mr. Speaker, in terms of the existing monopoly arrangement, it is important for us to recognise why governments have to regulate monopolies. It is generally accepted that the main purpose of regulation is to substitute for the absence of competition and thereby secure the cost advantages of a single supplier but also avoid monopolistic pricing.

One of the most common forms of regulation is a return regulation. A regulator approaches this by setting or restricting the selling price of a service to ensure that operating revenues cover costs and also provide a fair rate of return on invested capital. This requires the regulator to determine a fair rate of return on invested capital and the rate base. Effective regulation therefore has to balance the interest of both consumers and investors. Too low a rate will not attract the necessary investment for development and low rates often result in underinvestment and insufficient generating capacity and/or infrastructure. Too high a rate provides an unjustified windfall or excess return to investors, shareholders and overcharges consumers.

There we go, Mr. Speaker, trying to find that perfect balance. I do not think that anyone can question whether the rate of return has allowed for or prevented against underinvestment and insufficient generating capacity or infrastructure. I think it is well accepted, like the Member for East End said, that in the western hemisphere and definitely in the Caribbean we are head and shoulders above the rest and I am happy for that.

The rate of return regulation controls the amount of accounting profit that a company can earn before price intervention. For example, if a company with an allowed rate of return of 15 per cent invests \$100 in an asset, it is permitted to earn 15 per cent return on the book value of that asset for the remainder of its economic life. In a competitive business environment, companies are rewarded for productive investments and are penalised for unproductive or unnecessary investment. However a rate of return regulation allows a monopolistic to be compensated for unnecessary or unproductive investments. This is known as the Arick Johnson effect. There is a tendency for regulated companies to engage in excessive capital investments in order to increase their allowable profits.

Mr. Speaker, obviously, that is the reason that we need to have a good regulatory framework to ensure that there is some balancing act that is played and there we would question why, even in a monopoly setting, prior to now we were not able to have a regulator who had the power to ensure that the correct balance was struck.

The Elected Member for East End made the point that this does not come into effect until

2011 so why is it necessary now if the existing contract is going to be broken. The provisions are there which say that this document—and I do not have it verbatim—is not intending to take away any rights or privileges that are given to the existing licence. However, if negotiations are expected as a part of the existing licence to commence no later than six years prior to the conclusion of that licence, who will be expected in the absence of this authority to do those negotiations?

Mr. Speaker, there we go again. We have the foresight and the strength of the United Democratic Party Government. It is not one of those things that we have to do tomorrow or the next day but we have to take the time and prepare.

Mr. Speaker, my colleague found for me the section that I referred to a little while ago, 93(2): **“93. (2) Notwithstanding subsection (1), nothing in this Law or any other law shall alter the terms of a licence granted prior to the commencement of this Law unless the Authority and the licensee agree in writing to such alternation or the licence is otherwise varied by operation of law.”** So, Mr. Speaker, as to what the intention would be, hopefully that section in the Bill will query that concern.

There was also a question relating to the cost of regulation. Rightly so, there will be a cost incurred, but it is obvious now that that cost will be justified because it will be pretty much impossible for us to continue without a Regulatory Authority. However, Mr. Speaker, in negotiations the Government was minded to ensure efficiencies as much as possible because no one wants to create a situation where the cost of regulation negates the savings incurred by regulation, by competition or by the change in the pricing structure.

So during negotiations we had reached an agreement which basically put a limit on the fees that could be charged and any additional fee that would be charged that would be borne by the power company and any additional fees beyond that point would be a direct pass-through to the consumer with a notation on the Bill saying that that increase was due to the regulatory costs.

The checks and balances that would have provided, or will provide, are that no government will want to be blamed for any increase in electricity bills when those consumers get the bills that they are already complaining about. It would be incumbent on the government to ensure that the cost of the Regulatory Authority would remain within the agreed amount that would be absorbed by the company. Otherwise, they would have to face the wrath of all the consumers who would see a line item on the bill saying, *‘Due to inefficiencies or due to whatever else your bill has increased’*. Mr. Speaker, as you would know, that is a pretty good check and balance for politicians to have to answer to the general public.

Mr. Speaker, I just put that point in to say that the Government is very cognisant of the need to control the costs and expenditure of the Regulatory Authority. It is never intended that we make or create some big empire that is a huge administrative or financial burden on

the country. I also agree (and this seems to be happening a lot) again with the Member, my colleague and friend from the district of East End, in saying that . . . I am not sure if the time has come at this point, but the time is obviously getting a lot closer when we need to look at a utilities commission. In light of that, I am happy to say that Mr. Thomas and I only returned recently from a trip to our neighbours'—this particular one was at the Office of the Utilities Regulation (OUR) in Jamaica, and we looked there at the structure that is used where the OUR control and regulate electricity, water, telephone and transportation.

So, Mr. Speaker, I hope that he takes notice that the government is also looking at where we ultimately want to be, and that is where we have a utilities commission where, like he rightly pointed out, we do not have costs that are multiplied unnecessarily with administrative staff offices and all the other issues that go on in regulation.

Mr. Speaker, one of the things that is important is that until we get the laws to create these Regulatory Authorities it is hard to create an office for a utilities regulation when there is no law providing for them to even be regulated. So now that we do have an ICTA (and hopefully after the passage of this Bill we will have an Electricity Regulatory Authority), we are getting much closer to where we will now find it practicable to combine the utility authorities into one utilities commission and regulate.

Again, it is much more difficult, all the questions and concerns that he has concerning this one authority. Imagine, Mr. Speaker, if we came with a Bill to create—and he said that this and I remember this specifically, that this is going to be a very powerful authority and he is concerned about “heavy-handed regulations”. Mr. Speaker, imagine if we came with a Bill that, instead of only regulating one utility industry, all of a sudden gave an authority the power to regulate three or four industries. If we agree on a regulatory framework on an independent basis, the structuring and the administrative part of it is a simple thing to do.

It is simple to create even when we look at this Authority. Mr. Speaker, if it is the intent of the Government, this Authority could very well be situated in the offices of the ICTA, with a few personnel that are specific to this industry. Reception would be same, the telephone and communication systems would be the same, the facilities for the office—conference rooms, et cetera—would be the same and other administrative staff such as legal and financial could very well be the same.

So once again I insist that that Member recognise that it is much easier having gone down the path initially and satisfied the concerns of Members like himself initially as to the amount of regulatory control that this Authority may have before we come and try to have an all-encompassing Authority. However, just to say, Mr. Speaker, when this

good Government is reelected I am sure that will be the next. However, to expect that we are going to liberalise the telecommunication industry and liberalise or change the monopoly situation with the utilities commission would be a bit ambitious in only a four-year term, but, obviously as the good people of Cayman know, we have started and we have achieved a lot. However, not everything can happen in four years. That is why I am sure that the majority of the populace will say one good term deserves another. That will just be a little bit more for us to do.

I want to stress the point that I am not saying that that is going to happen. I am not saying that we are going to combine the ICTA, because that is a policy decision that will be left with the policy makers. I was using it for illustrative purposes to say that, theoretically, that could happen. Whether it happens with this one or whether it happens maybe with the next authority or whether it happens with the next one, I agree with that Member that where we ultimately want to get is where we have a utilities commission altogether.

Mr. Speaker, I would just say that maybe the downfall of previous administrations is that they tried to bite off more than they could chew, and while waiting to get a utilities commission we ended up not having the Regulatory Authorities. But I am happy to be a part of a government that will have the Regulatory Authorities and hopefully we will be moving to a utilities commission.

Mr. Speaker, I wanted to mention section 36 because the Member for East End had a question on section 36(4). Hopefully this was not confusing because it reads clearly: **“36. (4) For the avoidance of doubt no single legal entity shall be permitted to be both a T&D licensee and a generation licensee at the same time unless validly exempted by the Authority pursuant to this Law.”**

One of the other things that has become clear during these negotiations and investigations is the need for the separation of what it termed in the industry ‘vertically integrated companies’. The concern in that case as alluded to by the Member for East End is when it comes to deciding in a situation where there are competitors competing for the sale of their electricity to the T&D company, you want to ensure that the way in which in the capacities are allocated is fair and equitable to all involved.

Mr. Speaker, with the clever accounting practices employed by some very well trained individuals, it is sometimes difficult to exactly determine the separation of a company that is selling electricity to itself, but is also expected to be buying electricity from a competitor and for equity and fairness to prevail. Therefore, this Law has made it very clear, and it says “for the avoidance of doubt” that will not be allowed under this Regulatory Authority.

I do not know that we can make it much clearer and I am pretty sure that everyone will understand the reason for going down that path. Again, this Law is not superseding any existing licence, and so if the concern was how this would affect the existing provider the an-

swer would be that there is still some six-and-a-bit years left on the existing licence which should be ample time for that company to prepare for what is going to be the new regulatory regime. Hopefully everyone is clear on that issue.

Mr. Speaker, one of the questions that I do have [is with regard] to the concern that the Member for East End raised when he referred to section 64 and he talked about access to fuel pipelines. He seemed to be concerned for the dependence on one pipeline by two electrical companies, and he made the point to say that if there is a dependency on the pipelines and something does happen to that pipeline that it could be a bad situation for the country. I then can only assume that he is a big advocate of a second generating facility.

If he is concerned about the possible detriment of something happening to the pipeline because we only have one electrical company, if we did have two companies and something was to happen to the pipeline, where we would be is back where we were before the pipeline was there. We would be in the not preferred position, but the very workable position of having to have the fuel trucked to those companies. While he is right in saying that that is a possibility, we have to weigh up the cost-benefit analysis of having to install a second pipeline to be there in the event that something happens to that one pipeline.

What is amazing to me is that while there was a concern again about that single pipeline being a dependency, he made the point of not being financially feasible to have T&D lines. He made the point of not being able to have T&D lines underground because of the huge cost associated with them. There we go, Mr. Speaker. Costs will definitely play a part. If it is financially feasible I am sure to have a second pipeline, then I am sure the company will see to have it. We cannot forget that, ultimately, the consumer is going to pay for the costs incurred. Any additional costs that could be negated or shared by the use of existing infrastructure, obviously, we would encourage to ensure that the consumer is getting the best price.

Mr. Speaker, there was one other question raised by my colleague for East End and it was section 65, "Estimate of capacity, forecast flows and loading". He made the point to say that it should not have to have the approval because every company has to make those estimates and they should be allowed to do it on an annual basis. He is completely right and I think that it was just a misunderstanding of that particular section.

**"65. (1) On and after the commencement of this section, and at such intervals as the Authority may direct, each T&D licensee having a transmission and distribution system shall prepare a statement (hereinafter referred to in this section as a "forecast statement")**

**based on the information available to it in a form approved by the Authority."**

They are not saying in order to do a forecast you have to have approval of the Authority. It is saying that the form that is going to be submitted to the Authority has to be approved. There is a very justifiable reason for that; to ensure that the information that is provided to the Regulatory Authority is relevant and of the information that is necessary for the Authority to regulate.

There is no way that the Authority is trying to be burdensome or cumbersome in allowing the company to run its business. It is simply saying that the form that is going to be submitted with the forecast information has to be approved by the Authority.

Mr. Speaker, hopefully that has clarified the questions that have so far been raised by the Opposition, or the Member that has spoken so far for the Opposition. It is important—and the point is being made as to my position of answering those questions. Mr. Speaker, I happen to have been chosen as chairperson of the committee that was tasked with the responsibility of getting this document. Therefore, I do have intimate knowledge of the report and of the information going into the report and therefore I took the opportunity, in the interests of transparency and accountability that this government is so well known for, to continue to give the Member for East End whatever information he may have been searching for.

Hopefully, Mr. Speaker, no offence has been taken by the Member who is referring to me responding or answering the questions. I can just say that prior to answering I did ask the Minister if she would respond or whether she wanted me to respond and the indication was that she wanted me to respond.

So, Mr. Speaker, it is very important that prior to the dissolution of this Honourable House, once again the Government has brought forward legislation that will continue to ensure that the interests of the Caymanian people are protected. It is with great sadness that the last few months in the preparation of this Bill has had to have been done without the involvement of CUC.

Up until reaching the Heads of Agreement the professionalism shown by Mr. Peter Thomson, Mr. David Ritch, Mr. David Hew, Mr. Doug Hanley their consultant from R. W. Beck, Mr. Eddinton Powell was outstanding, and it is only through their cooperation that we have been able to reach where we had reached and come to a Heads of Agreement that was so instrumental in moving us to getting this piece of legislation.

I do not know what changed the position. I do know that there is a complete willingness on behalf of the Government to continue to have open dialogue on this and all other issues of national importance. Mr. Speaker, I can only hope that this legislation is passed and a Regulatory Authority does come into being (which I have every confidence it will), and the people as listed in the Bill that calls for people with knowledge and understanding of the industry—and I am happy to say that there is significant expertise within Government and within the reaches of Government. Again, I give my ap-

preciation to all of those who were involved in getting the Bill to this stage. I have every confidence that the members that will be chosen to sit on this Authority will do no less a sterling job than any of the other government authorities and that the benefits will flow to the consumers of electricity in the beautiful Cayman Islands.

Mr. Speaker, I see no reason why this Bill will not get smooth passage through the House since it is obvious that even CUC who would be mostly affected to this agreed that there was a need for a Regulatory Authority. I look forward to continuing to play a part with the Minister responsible for the subject and I offer my support for any other duties as may be necessary as a representative.

Mr. Speaker, I thank you for giving me the opportunity to make this short contribution and I look forward to the smooth support. I also just want to say that the Leader of Government Business, who is off-Island on official business, has also given his unstinting support to this Bill. Mr. Speaker, I thank you and Honourable Members for allowing me to debate.

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, would the Honourable Minister of Communications wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, in my reply let me first and foremost say that I wish to thank the Members who spoke on the Bill which is now before this House. One moment, please. *[Pause]*

Thank you, Sir. In replying I would wish to attempt to respond to some of the enquiries, firstly, from my friend for the district of East End. There was an enquiry as to why CUC had not actually sponsored, because the Member for East End was of the impression that the Bill now before the House was one that was sponsored by CUC and ourselves. I wish to thank at this juncture the Fourth Elected Member for the district of West Bay for his explanation and clear clarification of the reasons why the decision was taken to move forward.

I wish to say CUC in principle, as I understand it, did not nor do they now object to the establishment of the Electricity Regulatory Authority. With that one point I believe that the Member can rest assured that there is concurrence on the part of CUC. In fact, in all fairness, when one takes the time to peruse this piece of legislation, if one had had the opportunity to be part and parcel of the negotiating team they would see that quite a large percentage of what is contained in the Bill before us is as a result of the negotiation. It is not a case where the Government went back and changed a

lot of things to have draconian approach, but in the interests of fairness and good faith we maintain substantially what was in the agreement before. Nonetheless, we thought it prudent that we bring forward the legislation at this particular time for reasons already exposed upon.

Mr. Speaker, the Member for East End also said that there were four things that he wanted to set straight which he proceeded to do, but in so doing there was a cross-reference to section 93(2) which deals with the transitional period. One will see in taking a close look at that, Mr. Speaker, that the current licence which CUC is now adhering to which is in existence will not be hampered in that regard. Although the last few words of section 93(2) may, on first reflection, give rise to questions, let me quickly attempt to dismiss that. It says: **"93. (2) Notwithstanding subsection (1), nothing in this Law or any other law shall alter the terms of a licence granted prior to the commencement of this Law unless the Authority and the licensee agree in writing to such alteration or the licence is otherwise varied by operation of law."**

Mr. Speaker, the last section following the words **"or the licence is otherwise varied by operation of law"** . . . to give a quick example would be if, for example, there was a change in the Companies Law of the Cayman Islands which had various provisions that would affect the corporate identity of a company and its operation. This Law is making provision that such a law would not be in any way barred from operating within its own forum or jurisdiction, and it is not intended to mean that another law could be passed subsequent to this which would be in total contravention of this. Obviously, if that did happen CUC, or whichever company has a licence, and Cayman Brac or Little Cayman had the options of suing, I would dare say the liability in such a suit would be colossal and one which no good government would hasten to jump into.

Mr. Speaker, there was also an enquiry about the future generating capacity. Suffice it to say, it is my understanding that all future generating capacity will go out to competitive tender. Therefore I would respectfully submit that as a result, one could reasonably expect cheaper generated power which would be passed on to the consumer. That is hopefully a win-win situation if this Bill is passed in the Honourable Chamber today.

We were also questioned as to the negotiations and I said my friend, the Fourth Elected Member for West Bay, did specifically refer to CUC's economic and financial report. Basically, CUC determined that it was not in their economic interest to allow the main agreement to be signed, and that is absolutely perfect as far as CUC as a company is concerned, they have to look after their profit margins. However, the Government in carrying out its role in the protection of the interests of the wider public felt that it was not in the public's economic interest to allow the main agreement to fall away and to sit down in absentia with nothing happening.

Therefore, as Minister I gave the instructions and I am grateful to my honourable colleagues and Ex-

ecutive Council who concurred to allow the negotiations to continue and for the good counsel that we received through the legal department, as well as Diamond Law Associates, who I am grateful are here today for this historic occasion. I wish to thank them also, Mr. Speaker, for the long and arduous hours and advice that they gave. In addition I wish to thank as well the consultants of Washington which we found to be an invaluable resource and money well spent in that regard.

I would also wish to thank Mr. Philip from our Ministry, for his recruitment vision once again. We have someone in the Ministry that we found we could have relied on many times, and from a psychological standpoint it was for, obvious reasons, very good to have them at the table when we negotiated a 3 per cent reduction with CUC.

Mr. Speaker, I would also wish to note that the introduction of this proposed Bill does in no way prevent the continuation of the licence with CUC. Obviously, there are still almost six-plus years before determination of the current licence by way of expiration and negotiations obviously under that licence can still continue. We would like to think that CUC sees it in their best interest to commence negotiation. Obviously the Government would be absolutely delighted if they returned to the table in amicable conditions and we were able to get a licence now in concurrence with this new piece of legislation in a regulated capacity. However, that is a business choice for CUC to make and we are no way mandating that they do so at this juncture.

Mr. Speaker, there was also a concern from the Member for East End about duplication and transmission. I am happy to say that the duplication in transmission is not a concern under this piece of legislation because this Bill introduces competition from the selection of a sole T&D licensee. Therefore it does not permit or encourage duplication.

There was also a concern about not being able to have more than two or three utility companies in the market size that we have. I would just wish to respond to that by saying there is no intention to have a large authority with a budget that is going to be more than is affordable at this time. However, as we can see from the legislation itself it sets out, I believe in section 19 (and I stand to be corrected because that is from the top of my memory, Mr. Speaker) that there will be a regular fee just like the ICTA is now operating, and the ERA will have to operate within this financial framework because there is a provision (I believe it is section 20) that the Auditor General will have the power as well to carry out an audit. That is correct. It is section 20(2). Section 19 says: **“19. The Authority shall exercise and perform its functions so as to ensure that its revenues are sufficient to meet all sums properly chargeable to its revenue account.”**

In regards to the Auditor General's Special Report that appeared in a timely fashion when my friend for East End was speaking, all I wish to say on this (so that there will not be a wrong impression that perhaps the Government or Members were seeking to not disclose sections of that), it is my understanding that report will go to the Public Account Committee (PAC) in its normal, traditional fashion. The PAC will peruse it, make recommendations, exercise its discretion and call witnesses. It will be the chairman of the PAC who would then in turn lay it before the Table of the Honourable House so that there will be no spinning on the confidentiality nature.

There is nothing certainly in that report that the Government wishes to hide or protect for CUC. In fact, when Members take the opportunity to look at the report, perhaps they would vote twice to this particular piece of legislation. I will leave it at that so I do not get into the details of the actual report.

Mr. Speaker, I can also say that the Government from its inception has been intensely serious about moving this policy forward. There were times when we thought that litigation was the only way out although it was not the preferred way. I can say that instructions were issued by me to draft the writ and the originating summons, which were also in the spirit of cooperation and gratefulness for the role that CUC has played. [It was] delivered to CUC and its directors in draft form and I believe it acted as a very good catalyst to bring us to the table. I trust that in this move by the Government in bringing the legislation, this too will act as a catalyst for us to become partners in this financial centre and we can move on in a very informed and profitable manner, not only for companies but for the public in general.

Mr. Speaker, there was also reference by my friend for East End, to section 65 which deals with forecasting of statements. I can say that we happily included a provision in the proposed Bill which deals with the ability of the ERA to require forecasting statements on the designated form, as under the current legislation the information that we were receiving was all historical data. We thought that it would put the Regulatory Authority in a better position if they could have some element of forecasting and make decisions from a more informed basis.

Finally, as it relates to my friend for East End there was a comment in a conclusive nature that no utility company should regulate itself. I am happy to say, Mr. Speaker, that I absolutely concur with that process of deductive reasoning. However, CUC, to some extent, has been in a self-regulatory mode for the past umpteen years, so it would be not only a prudent thing to support this piece of legislation to ensure that whether it is CUC or whatever company is there, there is some element of regulation. If we are moving into the policy of liberalisation it only goes without reason that there should be some regulatory body, because it is not all times that the market force can regulate itself because profit margins have a strange way of influencing the final decision-making process.

Mr. Speaker, just quickly in referring to the Second Elected Member for Cayman Brac and Little Cayman as it relates to the 15-year contract that the Government issued to Cayman Brac Power & Light. I can confirm, Mr. Speaker, as you are not doubt fully aware, Government did (and I believe rightfully so) give a 15-year contract at the time. It was not just a 15-year contract with no considerations, Mr. Speaker, because one will see that the licence, although it commenced on 7 October 2003, and will expire 6 October 2018, there is a provision in section 8(1), page 7 of the draft, which says as follows:

Subject as hereinafter appears, the undertaker shall be bound by and adhere to the tariff rates in force as at the date of signature of this agreement by both parties to this licence and shall increase the said rates during the term of this agreement.

In effect, Mr. Speaker, we were able to accomplish even before the commencement of this proposed Bill, if in fact passed today, a semblance of price-capping mechanism whereby for the next 13-plus years Cayman Brac Power & Light Co Ltd cannot increase their rates unless they change the provisions of the current licence which would bring them under the auspices of this new piece of legislation. So consideration was given to the peoples' interest of Cayman Brac and Little Cayman.

I should also say that in paragraph 10 it says: "Any machinery, materials, equipment, truck, fuel oils or lubricant, including transformer or switch oil imported into the Islands for use exclusively in connection with generation, transformation, transmission or distribution of electric power as provided for under the terms of this licence shall be admitted free of import duty."

Once again, it is evidence that the Government, certainly, your good self, Sir, who was the Minister during the time of the signing of the policy to agree for the extension, and myself for the signing of the said agreement, at no time took out of sight but at all material times had of paramount consideration – the interest of the people of Cayman Brac and Little Cayman.

In addition, there is a power to inspect under the said licence which is found in section 5(1) where it says:

The Governor (that is the Governor in Cabinet) may at any time appoint one or more qualified persons to act as government electrical inspectors herein after called 'inspectors' who shall test and inspect lines, installation works or plants, including wires and apparatus and consumer premises or any persons or company connected with generation. It goes on to explain how those powers of inspection should be done.

I am grateful to the Second Elected for Cayman Brac and Little Cayman for emphasising and bringing it to the attention of Honourable Mem-

bers the various areas that he thought needed attention, and I am sure that with it being expressed in such a public forum that the Governor in Cabinet will take cognisance of it. I should hasten to say that there is a provision in there that deals with costs associated and perhaps I will share that with him at a later time, because I found it slightly comical when I read it myself.

Mr. Speaker, I wish to concur with sections of his contribution which dealt with his concern for the price of electricity. Obviously it is an expensive commodity, and I too have received concerns from various members within my constituency as to the price of electricity in Cayman Brac and Little Cayman, as well as on Grand Cayman. We would note that there is a pass-through fuel charge. It has not helped the final pricing, especially in the past three or four past months when worldwide the fuel costs have just made colossal jumps. I understand that just this week there was another substantial increase on fuel, which again will be reflected in the billings on the Brac and I am sure in Little Cayman also.

Government I believe has done all that it can do as far as offering incentives to the company, and we would trust that those are being passed on to the consumers. If any Member knows that they are not, then that is all the more reason why it is important to vote for this piece of legislation today to establish the regulatory body.

Mr. Speaker, as with CUC, and likewise with Cayman Brac Power & Light Co Ltd, the Government takes no issue that they have supplied a reliable and efficient service for our community, one in which we could not have done without or cannot do without in the future. It has certainly helped to establish us, I believe, as a very good tourism destination. It has also assisted in contributing positively to our financial infrastructure, and I wish to thank those who went on before me in their vision and placing the various provisions, whether by way of incentives or by way of favourable conditions to the company at the time. We believe, Mr. Speaker, as my colleague for West Bay said, that the time is more than appropriate now for a regulatory framework to come into existence and we look forward to its successful passage in this House today.

Mr. Speaker, all I believe that is left for me to say is thank you to all of the persons who were concerned with it, particularly the staff in the Ministry, the Permanent Secretary and all of the other staff that has had to deal with this piece of legislation.

I wish also to thank the Honourable Attorney General and the Honourable Financial Secretary for the first set of negotiation meetings that we had. They were certainly a learning curve for me, having to sit across the table from the chairman, Mr. David Ritch, who is not only a fellow Cayman Bracker but, in fact, a family member and keep a professional disposition at all times, without seeming to be biased on either one side. I am grateful for the good advice that I had and the leadership and the direction from Almighty God himself that I am happy to bring the piece of legislation to this particular stage, and I would encourage all Members to support it accordingly.



I thank you, Sir.

**The Speaker:** The question is that a Bill shortly entitled The Electricity Regulatory Authority Bill 2005 be given a second reading. All those in favor, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. The Electricity Regulatory Authority Bill 2005 given a second reading.**

**The Speaker:** The House will now go into Committee.

### 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 authorise the Honourable Second Official Member to correct minor errors and such the like in this Bill?

Would the Clerk please state the Bill and read the clauses?

### The Electricity Regulatory Authority Bill 2005

#### Clauses 1 through 22

**The Clerk:**

Clause 1	Short title and commencement.
Clause 2	Definitions.
Clause 3	Establishment of the Authority.
Clause 4	Board of directors.
Clause 5	Appointment of directors.
Clause 6	Managing director of the Authority.
Clause 7	Resignation of directors and termination of office.
Clause 8	Procedure of the Board.
Clause 9	Functions of the Authority.
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.
Clause 17	Repayment of advances.
Clause 18	Reserve fund.
Clause 19	Balancing of revenue account.
Clause 20	Audit.
Clause 21	Publication of accounts and annual report.
Clause 22	Power to employ staff, etc.

**The Chairman:** The question is that clauses 1 through 22 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 22 passed.**

#### Clauses 23 through 31

**The Clerk:**

Clause 23	Procedure for the grant of a licence.
Clause 24	Shares of licensee etc. not to be issued or transferred without approval of the Authority.
Clause 25	Assignment or transfer of licence.
Clause 26	Duration of licence.
Clause 27	Renewal of licence.
Clause 28	Modification of licence.
Clause 29	Licence and regulatory fees.
Clause 30	Suspension or revocation of licence.
Clause 31	Register of applications and licences.

**The Chairman:** The question is that clauses 23 through 31 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 23 through 31 passed.**

#### Clauses 32 through 35

**The Clerk:**

Clause 32	Directives by Authority to protect public health, etc.
Clause 33	Notice of directive by Authority.
Clause 34	Compliance with directives.
Clause 35	Powers of the Court in respect of directives.

**The Chairman:** The question is that clauses 32 through 35 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 32 through 35 passed.**

#### Clauses 36 through 55

**The Clerk:**

Clause 36	Interpretation for the purposes of this Part.
Clause 37	Agreements, etc. preventing, restricting or distorting competition.
Clause 38	Exemptions for specific agreements.
Clause 39	Declaration of exemption.
Clause 40	Cancellation, etc. of exemptions.

Clause 41	Abuse of significant position.
Clause 42	Authority's power to investigate.
Clause 43	Powers when conducting investigations.
Clause 44	Power to enter premises under a warrant.
Clause 45	Entry of premises under warrant: supplementary.
Clause 46	Privileged communications.
Clause 47	Decisions following an investigation.
Clause 48	Decisions in relation to agreements.
Clause 49	Directives in relation to conduct.
Clause 50	Enforcement of directives.
Clause 51	Interim measures.
Clause 52	Notice to show cause.
Clause 53	Recovery of penalties.
Clause 54	Level of penalty.
Clause 55	Agreements notified to the Authority.

**The Chairman:** The question is that Clauses 36 through 55 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 36 through 55 passed.**

#### **Clauses 56 through 58**

**The Clerk:**

Clause 56	Cease-and-desist orders.
Clause 57	Application for enforcement.
Clause 58	Powers of Court in respect of cease-and-desist orders.

**The Chairman:** The question is that Clauses 56 through 58 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 56 through 58 passed.**

#### **Clauses 59 through 70**

**The Clerk:**

Clause 59	Administrative fines.
Clause 60	Interconnection generally.
Clause 61	Terms for back up connection to a transmission and distribution system.
Clause 62	Charges for interconnection to a transmission and distribution system by a generator.
Clause 63	Approval of statement of charges by the Authority.
Clause 64	Access to fuel pipelines.
Clause 65	Estimate of capacity, forecast flows and loading.
Clause 66	Quality of service.
Clause 67	Non-discrimination and continuity of supply.
Clause 68	Equipment standards and technician certification.

Clause 69	Privacy of consumer information.
Clause 70	Licensee confidential information.

**The Chairman:** The question is that clauses 59 through 70 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 59 through 70 passed.**

#### **Clauses 71 through 87**

**The Clerk:**

Clause 71	Reconsideration of decisions by the Authority.
Clause 72	Third party applications for reconsideration by the Authority.
Clause 73	Dispute resolution and appeals to the Court.
Clause 74	Inspections.
Clause 75	Engaging in licensed activities for reward without a licence – further penalties.
Clause 76	Malicious damage to apparatus.
Clause 77	Obstruction of investigation by the Authority.
Clause 78	Refusal to produce documents, etc.
Clause 79	Giving false information.
Clause 80	Failure to attend to give evidence.
Clause 81	Dangerous acts or omissions.
Clause 82	Territorial scope of inchoate offences.
Clause 83	Offences by bodies corporate.
Clause 84	Offences under Part V.
Clause 85	Destroying or falsifying documents.
Clause 86	False or misleading information.
Clause 87	Order for payment of compensation.

**The Chairman:** The question is that Clauses 71 through 87 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 87 passed.**

#### **Clauses 88 through 93**

**The Clerk:**

Clause 88	Power to take possession of electricity infrastructure or permit another licensee to do so in certain cases.
Clause 89	Power to make regulation.
Clause 90	Immunity and indemnity.
Clause 91	Amendments.
Clause 92	Conflict with other laws.
Clause 93	Transitional provisions.

**The Chairman:** The question is that clauses 88 through 93 stand part of the Bill. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed. Clauses 88 through 93 passed.**

**The Clerk:** First Schedule, Procedure of the Board, etc. Second Schedule, Amended enactments.

**The Chairman:** The question is that Schedules 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. First and Second Schedules passed.**

**The Clerk:** A Bill for a Law to establish the Electricity Regulatory Authority and to vest property in that Authority; to give power to the Authority to regulate the generation, transmission and distribution of electricity for reward in the Cayman Islands; to empower the Authority to grant licences to generate, transmit and distribute electricity; to provide for interconnection to transmission and distribution systems by licencees; to amend certain provisions of the Electricity Law (2003 Revision); to provide for related matters and for incidental and connected purposes.

**The Chairman:** The question is that the Title does form 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:** This concludes proceedings in Committee. The House will now resume.

**Agreed: Bills to be reported to the House.**

**House Resumed at 7.28 pm**

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

## REPORT ON BILL

### The Electricity Regulatory Authority Bill 2005

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to report that The Electricity Regulatory Authority Bill 2005 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.

## THIRD READING

### The Electricity Regulatory Authority Bill 2005

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that the Electricity Regulatory Authority Bill 2005 be given its third reading.

**The Speaker:** The question is that a Bill shortly The Electricity Regulatory Authority Bill 2005 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 Electricity Regulatory Authority Bill 2005 given a third reading and passed.**

## MOTIONS

### Government Motion No. 11/04-05

#### The Health Insurance (Amendment) Regulations 2005

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

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move Government Motion No. 11/04-05 entitled The Health Insurance (Amendment) Regulations 2005 which reads:

**WHEREAS section 19(1) of the Health Insurance Law (2003 Revision) provides that the Governor in Cabinet may make regulations;**

**AND WHEREAS section 19(2) of the said Law provides that regulations made under the said Law are subject to affirmative resolution by the Legislative Assembly;**

**AND WHEREAS the Health Insurance (Amendment) Regulations 2005 have been laid upon the Table of this Honourable House;**

**BE IT NOW THEREFORE RESOLVED THAT the Health Insurance (Amendment) Regulations 2005 be affirmed by the Legislative Assembly pursuant to**

**the provision of section 19(2) of the Health Insurance Law (2003 Revision).**

**The Speaker:** The question is, be it now therefore resolved that the Health Insurance (Amendment) Regulations 2005 be affirmed by the Legislative Assembly pursuant to the provision of section 19(2) of the Health Insurance Law (2003 Revision).

The Motion is open for debate. Would the Honourable Minister wish to speak thereto?

**Hon. Gilbert A. McLean:** Mr. Speaker, this morning when I laid the Bill on the Table of this Honourable House, I spoke comprehensively of what it was intended to do and I do not really have anything more to add to that. Should Honourable Members of the House have queries which they wish to raise arising from these amendments, I would reply. Otherwise, I recommend the Bill to Honourable Members.

**The Speaker:** Does any other Member wish to speak? *[Pause]* Does any other Member wish to speak? Last call. Does any other Member wish to speak? If not, would the Honourable Minister of Health Services wish to exercise his right of reply?

**Hon. Gilbert A. McLean:** Mr. Speaker, I would like to thank Honourable Members for their tacit support to the amendments which have been laid on the Table of this Honourable House and support for the Motion which has been presented.

**The Speaker:** The question is, be it now therefore resolved that the Health Insurance (Amendment) Regulations 2005 be affirmed by the Legislative Assembly pursuant to the provision of section 19(2) of the Health Insurance Law (2003 Revision). All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed. Government Motion 11/04-05 passed.**

## PRESENTATION OF PAPERS AND OF REPORTS

**Report of the Standing Public Accounts Committee on the Auditor General's Report on the Government Office Accommodation Project's Private Finance Initiative (PFI) – Report 1: Has the Ministry made the project objectives clear?, together with the Auditor General's Report**

**The Speaker:** The Second Elected Member for West Bay and Chairman of the Standing Public Accounts Committee.

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

Mr. Speaker, on behalf of the Standing Public Accounts Committee, I wish to lay on the Table of this Honourable House the report of the Standing Public Accounts Committee on the report of the Auditor General in regards to the subject of Government Office Accommodation Project's Private Finance Initiative (PFI) Report 1: Has the Ministry made the project objectives clear?

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

**Mr. Rolston M. Anglin:** Yes, Mr. Speaker.

Mr. Speaker, this report was intended to be the first in a sequence of reports that the Audit Office was to perform in regards to the use of private financing initiatives (PFI) by the Government.

Just briefly by way of further background, Mr. Speaker, the Audit Office took the view that it would be good to be proactive and ensure that they were involved from the outset of this new way of doing business so that they did not come behind at the tail end and criticise, as often happens in audits after the event, but to actually audit the process from its genesis.

Mr. Speaker, as your good self would know, at the time the PFI was looked at you were the Honourable Minister responsible. If I am not mistaken, you, Sir, were involved with ensuring that the Audit Office did get involved in the early stages, to ensure that those objectives that the Auditor General had were met. Of course, Mr. Speaker, as we know, the Audit Office being involved from the upfront stages is beneficial, especially when we are venturing into new and uncharted territories.

The Committee, as the House is aware, is made up of: myself as Chairman; the Third Elected Member for Bodden Town, Mr. Anthony S. Eden, OBE, JP as a member; the Fourth Elected Member for West Bay, Mr. Cline A. Glidden, Jr., and Deputy Speaker as a member; Mr. Lyndon L. Martin, Second Elected Member for Cayman Brac and Little Cayman as a member; and the Elected Member for East End, Mr. Arden McLean, as a member.

The Committee called witnesses in regards to this report, and attached to the report are the minutes of meetings from 1 September 2004, from 3 February 2005 and from 24 February 2005, the latter at which the Committee considered the report paragraph-by-paragraph and approved the report.

The introduction to the report: **“In conformity with the National Strategic Plan for the Cayman Islands, Vision 2008, the Public Accounts Committee is committed to Strategy 8, “Open and Accountable Government”. In particular, Action Plan 2, “To ensure that public finances are managed prudently and that disclosure and reporting standards provide timely, relevant, reliable and understandable information to legislators and the community”...**

**“The Committee was concerned that none of the witnesses could explain the reason the project**

was put on hold and whether value for money was being secured by using the private financing initiative in procuring new government accommodations. Accommodation for Government entities has become critical after Hurricane Ivan hit Grand Cayman in September, 2004. The Tower Building sustained extensive damage and all civil servants were forced to move into alternative rental accommodations." That is, those that were housed in the Tower Building. "In January 2005, Cabinet has instructed the Government Office Accommodation Project Team (GOAP) to immediately seek response from firms willing and able to offer proposals on the provision of new accommodation.

"In light of these recent developments, the Public Accountants Committee has made several recommendations in this report that should be taken into account when securing [office] accommodations for Government. The Committee urges Government to consider the recommendations and make the necessary changes so that effective systems of control and accountability and responsible attitudes on the part of those handling public money are maintained in securing in accommodations for Government.

#### SIGNIFICANT FINDINGS AND RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE

##### Private Financing Initiative Put on Hold

"This report was to be the first of four reports on the Government Office Accommodation Project's Private Financing Initiative (PFI). The report specifically addresses whether: Government has selected the best project to pursue; the Ministry has made the project deliverables clear; the Ministry has determined the best form of partnership; and has prepared an Outline Business Case.

"Private Financing Initiative objectives are typically to provide an opportunity for the private sector to bring a wide range of managerial, commercial and creative skills to the provision of public services.

"The witnesses reported that indeed the PFI project is on hold, as directed by cabinet in November 2003. The witnesses indicated the project could always be resurrected. The project definition is where they need direction from the Cabinet. There has been no definitive time period that this project has been put on hold for. It was suggested that it may have been put on hold due to cash flow problems and Government not being able to afford \$8.5 million annually.

"As a result of the project being put on hold the Committee enquired whether Government is looking into any other alternative solutions and the impact on Government finances to house the anticipated increase in civil servants and with the demolition of the Tower Building. The witnesses indicated that Cabinet directed the Ministry of Planning to explore other options and to establish a committee to do so. It was recognized that just because the PFI Project was put on hold does not diminish the fact that Government has a serious accommodation problem on its hands.

"The condition of the Tower Building and Glass House are considered to be in poor shape. The Tower Building is to be decanted in 2006, and alternative solutions to rehouse those employees is being sought. The Ministry indicated it would be seeking direction from Cabinet on how to Phase the project, if necessary, if it cannot find a one-time solution that will house everyone.

##### Project Costs and Affordability of PFI

"Approximately \$708,000 has been spent on the Office Accommodations Project since the inception of the concept of the PFI project. Approximately \$141,000 was spent in the half year ending 30 June 2003, and another \$567,000 in the 2003-04 financial year. The majority of this money was spent on legal and accounting services that were recruited to help with the PFI Project.

"The entire project was anticipated to cost \$69,912,100, based on an estimate provided by quantity surveyors. This is broken down as follows:

Site Preparation	\$ 4,120,600
New Building	41,638,500
Refurbishment of GAB	8,965,800
External Works	1,900,200
Multi Storey Car Park	11,455,000
Fees & Relocation Costs	<u>1,832,000</u>
Total	<u>\$69,912,100</u>

"It was noted that these costs did not include any work that would have to be done for designing a new road system to allow the government employees to access the new Government Buildings. According to the witnesses, there would have to be about 3 miles of roads redesigned to accommodate the increase in traffic, which would cost approximately \$6.5 million. This road work would be a stand alone project.

"The cost of the PFI project was to attract an annual unitary charge of \$8.5 million that is to be adjusted by CPI during the life of the project. It would not be a fixed \$8.5 million every year. The \$8.5 million a year unitary charge is the worst case scenario according to the witnesses based on a \$70 million project.

"The unitary charge was broken down as follows:

Construction Costs	\$5,050,000
Life Cycle Costs (building repairs)	1,700,000
Hard FM Costs	275,000
Soft FM Costs	<u>1,250,000</u>
Total	<u>\$8,275,000</u>

“The Unitary Charge in 2006 was estimated to be \$8.5 million based on compound inflation at 2%.

“The Committee questioned the affordability of these costs and whether it provided the best value for money over 20 or 25 years.

“The \$8.5 million as suggested above was to build approximately 180,000 square feet of new additional office space (2 towers), build a multi-story car park, renovate the Glass House and to provide janitorial, cleaning, landscaping, and all management costs of the buildings. The accommodation project was to include all costs of maintenance for the full 25 year period.

“The witnesses indicated that Government is spending somewhere in the region of \$2.4 million a year in rents already. It is anticipated that when the Tower Building is demolished that another 60,000 square feet of space will be needed to house these employees that could cost approximately \$30 / square foot or \$1.8 million extra. With inflation and projected additional office requirements needed for rental accommodation, it was forecasted that by 2010 rental payments by Government would increase to \$10 million a year.

“The witnesses indicated that over a 30 year period it is approximately \$1.3 million cheaper than it is for Government to build, operate and refurbish the Glass House.

“In the opinion of the Public Accounts Committee this leaves little room for error, if there is potentially only \$1.3 million savings over 30 year period. There is a high risk that value for money may not be achieved on this project.

#### The Shape and Size of the Civil Service

“The PFI project estimated that there would almost be a 30% increase in the civil service by 2010. The existing number of civil servants at the time the schedule was prepared there were 828 civil servants and over 49 Departments & Authorities. The projected staffing by 2010 was for 1,080 civil servants, which represents [an] increase of 30%. The Ministry has gone to Cabinet for direction where they see the civil service going in that time scale. The witnesses indicated to date they have not had a reply.

“The PAC questioned whether the anticipated 30% increase in the size of the civil

service was reasonable. Especially, in light of Government trying to reduce the size of civil service over the past 10 years.

“The witnesses explained they came up with this estimate by having the project manager meet with all departments and estimations were put together of the likely growth of the civil service over the next 7 years. In turn this was submitted to all the Ministries for their review and these numbers also went to Cabinet. The numbers were all signed off by the Permanent Secretaries of their relevant Ministries.

#### Recommendations

“The Committee makes the following recommendations:

- (i) *Government should carry out prioritisation of capital projects in accordance with criteria that reflects its strategic policies. All capital projects need to be prioritised whether it is a PFI project or not.*
- (ii) *Cabinet should establish cost limits for the services to be procured to ensure adequate funds exist (cash flows) to carry out the priority projects to completion and that Government achieves value for money when a capital project is carried out.*
- (iii) *All major capital projects should be referred to the Public Sector Investment Committee.*
- (iv) *If Government is to pursue any future PFI projects, that the project is well managed from the onset by clearly identifying the objectives and benefits of the project to achieve value for money when weighed against the potential risks.*
- (v) *A Government wide strategic policy be developed on the future “shape and size” of the public service prior to determining any long-term accommodation policy to ensure that future space requirements are consistent with Government’s vision of the future size and shape of the public service.*

#### ACKNOWLEDGMENTS

“The Committee wishes to record its sincere gratitude and appreciation of the co-operative spirit exhibited by all the witnesses appearing before it. The Committee is most appreciative of the efforts of the Auditor General in presenting a very fair, concise and informative Report on the *Government’s Office Accommodation Project’s Private Finance Initiative (PFI) – Report 1: Has the Ministry made the project objectives clear?* and for the support, assistance and constructive advice given throughout its deliberations. Further, for the support, advice and information provided by the Deputy Financial Secretary,

**Kenneth Jefferson, the Accountant General and Deputy Accountant General. To the members of the Committee I thank you for your time and dedication in making it possible to table this Report.**

“Finally I wish to thank the Clerk, and the staff of the Legislative Assembly for the assistance provided. I make special mention of Ms. Kathleen Watson who is assigned to the Committee [and] has been so diligent, faithful and professional [in] carrying out her duties. I am certain that the next Committee will find her as we have.

## REPORT OF THE COMMITTEE TO THE HOUSE

“Your Committee agrees that this Report be the Report of the Standing Public Accounts Committee to the House on the Report of the Auditor General on the Government Office Accommodation Project’s Private Finance Initiative (PFI) – Report 1: Has the Ministry made the project’s objectives clear?”

Finally, Mr. Speaker, I would like to make one other brief observation and that is that its deliberations of the report itself, the Committee recognises the value of the exercise that has been carried out on two fronts. Firstly, there has been much work done which will assist any future government who would seek to utilise the PFI in any form or fashion and therefore there will already be some cumulative knowledge and experience in that area, and so in the future any government wishing to utilise that form of financing will not be starting from scratch.

I would also, in accordance with the relevant Standing Order move that this report be the report of this Honourable House. I thank you, Mr. Speaker.

**The Speaker:** Honourable Member, was the Standing Order 74(5) that you were referring to, that the report be adopted?

**Mr. Rolston M. Anglin:** Yes, Mr. Speaker.

**The Speaker:** The question is that the recommendation contained in the Public Accounts Committee Report on the Report of the Auditor General and the Government Office Accommodation Project’s Private Finance Initiative be adopted—

The Honourable Second Elected Member for West Bay, you need to have a seconder for the motion. The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I beg to second the motion, Mr. Speaker.

**The Speaker:** It has been moved and seconded. The question is that the recommendations as stated

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

**Ayes.**

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

**Agreed. Recommendations contained in the Report of the Standing Public Accounts Committee on the Auditor General’s Report on the Government Office Accommodation Project’s Private Finance Initiative (PFI)—Report 1: ‘Has the Ministry made the project objectives clear?’ adopted.**

## ADJOURNMENT

**The Speaker:** Honourable Deputy Leader of Government Business.

**Hon. Gilbert A. McLean:** Mr. Speaker, before I move the adjournment, I would just like to inform Members that there is a bit more work to be done, another amending Bill, and a few other pieces of work yet to be dealt with by the House. It would take tomorrow at least to get those completed, go through the necessary processes in Cabinet and also to have a review by legal drafting. So by Friday all of these various items are expected to be completed and, in fact, by tomorrow most of them will be sent on to the Legislative Assembly.

The Honourable Minister of Education is going to the Brac for an official visit on Friday, and the two Members would wish to accompany him to be there in that he is visiting their district. It is proposed that we would adjourn the House today until Monday, 7 March at 10 am, and I so move the adjournment of this Honourable House until then.

**The Speaker:** I am sure that all Honourable Members would wish me, before putting the question on the adjournment, to wish our Honourable Leader of the Opposition a very happy birthday. He is celebrating it today. The question is that this House does now adjourn until 10 am on Monday, 7 March 2005. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**At 7.58 pm the House stood adjourned until 10 am Monday, 7 March 2005.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**7 MARCH 2005**  
**11.43 AM**  
*Eleventh Sitting*

**The Speaker:** I invite the Second Elected Member for Cayman Brac and Little Cayman to lead us in 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 Cabinet 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 are resumed.

**Proceedings resumed at 11.46 am**

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

**Apologies**

**The Speaker:** I have received apologies for absence from the Honourable Leader of Government Business

and Minister of Tourism, Environment, Development and Commerce and apologies for late arrival from the Honourable First and Second Official Members.

**QUESTIONS TO HONOURABLE  
MEMBERS AND MINISTERS  
OF THE CABINET**

**Question No. 9**

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**No. 9: Mr. Lyndon L. Martin** asked the Honourable Minister responsible for the Ministry of Planning, Communications, District Administration and Information Technology if there is any provision under the licences for Weststar TV, or the various radio station licences, to broadcast to Cayman Brac and Little Cayman.

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

**Hon. Juliana Y. O'Connor-Connolly:** The answer: Weststar TV Limited is committed by its licence to providing a cable television service using analogue technology throughout the Cayman Islands.

**The Speaker:** Are there any supplementaries? The Second Elected Member for Cayman Brac and Little Cayman.

**Supplementaries**

**Mr. Lyndon L. Martin:** As the Honourable Minister would be aware that it is currently not being broadcast in Cayman Brac or Little Cayman, could she indicate what options the Ministry or the Regulatory Authority have in order to ensure that such a valuable broadcast is being provided to the people of Cayman Brac and Little Cayman?

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I am reliably informed by Mr. Archibald that he checked as recent as Friday and was informed by Weststar TV Ltd that they were broadcasting. So if they are not, perhaps the Member



could speak to Mr. Archibald so that we could further investigate it.

**The Speaker:** Are there any further supplementaries? The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. The question also addressed radio stations. Currently, there are only Radio Cayman 89.9 FM and Heaven 97 FM who broadcast in Cayman Brac and Little Cayman. I am hoping that the Minister can inform me if there is any provision in the licensing of the radio stations or any information known to the Ministry for the intention of broadcasting in Cayman Brac and Little Cayman for the other radio stations.

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I am again reliably informed that in respect to radio broadcasting on Cayman Brac and Little Cayman the commitments of each licensee are as follows:

- Cerentis Broadcasting Systems Ltd (Ocean 95) there are no commitments or plans.
- Christian Communication Association, which is Heaven 97 FM or Gospel 88.7 as it relates to Heaven 97 FM, is already on the air in Cayman Brac and Little Cayman.
- Gospel 88.7, no later than 30 September 2005.
- DMS Broadcasting, which is HOT 104.1 FM, by 1 June 2008.
- KISS 106.1 FM, no commitments or plans.
- X 107.1 FM, no commitments or plans.
- Hurley's Entertainment, which is Z 99.9 FM, no commitments and licence.
- Rooster 101 company intends to commence service by the end of this month.
- ICCI, no commitment or plans.
- Panorama Productions Ltd., which is Style 96.5 FM, no later than March 2006.
- Paramount Media Services, wish is Vibe 98.9 FM and Spin 94.9 FM, no commitment or plans.
- Radio Cayman's service is currently being provided.

**The Speaker:** I will entertain two more supplementaries. The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. I only rise to say that following Hurricane Ivan, Heaven 97 FM provided a valuable service in re-broadcasting Radio Cayman's bulletins which was quite useful, and

I would ask of the Ministry to continue to monitor these commitments or plans to ensure that service is available—

**The Speaker:** Are you turning that into a question, Honourable Member?

**Mr. Lyndon L. Martin:** I have asked for a commitment, Mr. Speaker.

**The Speaker:** Okay. The Honourable Minister of Communications.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, certainly I can give an undertaking and a commitment which can be passed on via Information Communications Technology Authority (ICTA) as far as 11 May. Subject to successful return, I will be happy to commit subsequently. Thank you.

**The Speaker:** The final supplementary. The Elected Member for North Side.

**Ms. Edna M. Moyle:** Thank you, Mr. Speaker. I wonder, is the Honourable Minister in a position to say if at the time of the granting of the radio licence it was stipulated in the licence that the service should be provided to Cayman Brac and Little Cayman?

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you for your indulgence, Mr. Speaker.

Mr. Speaker, I am reliably informed by Mr. Archibald that the licences that were in place prior to the establishment of ICTA in 2003 did not specifically have a requirement for the extension outside of Grand Cayman's jurisdiction. The ones that were reviewed by ICTA kept the existing conditions because there was a legitimate expectation, but the Government of the day encouraged, quite strongly, for it to be extended in Cayman Brac and Little Cayman.

Subsequent to ICTA, the Information Communications Technology Authority, which is ably steered by Mr. Archibald and was established by the present Speaker (the then Minister), those licences did not specifically include a provision for territorial extension of the radio waves, but they were strongly encouraged to so provide, I am told.

#### Question No. 10

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**No. 10: Mr. Lyndon L. Martin** asked the Honourable Minister responsible for the Ministry of Planning, Communications, District Administration and Informa-

tion Technology What is the status of the appointment of the Building Inspector for Cayman Brac and Little Cayman.

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

**Hon. Juliana Y. O'Connor-Connolly:** The answer: At present there is no resident Building Inspector on Cayman Brac. However, the recruitment process is ongoing.

### Supplementaries

**The Speaker:** Are there any supplementaries? The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. Could the Honourable Minister indicate whether it is envisioned that there would be a full-time inspector, or does it view a shared relationship of an inspector from Grand Cayman visiting on an ad hoc basis?

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, there is provision in the 2004/2005 Budget for the establishment of a full-time building inspector for Cayman Brac and Little Cayman.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. As the Honourable Minister would know, currently with the electrical inspector who is based in Cayman Brac and has to go to Little Cayman, there is the issue of the extra cost that now has to be borne by the residents of Little Cayman. Is the Minister in a position to provide this House with any information whether the building inspector will have such an additional financial requirement for the residents of Little Cayman, or will it be done at the same cost of the residents of Cayman Brac?

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, as my colleague would fully appreciate the position of building inspector, although Planning falls under the ambit of the Ministry of Planning it is actually an administrative matter. I choose to respond to my substantive question quite briefly because I do not want to not respond. However, it is an administrative post and therefore I am not in a position to say what the administrative policy is at district admin supported by the Ministry. Certainly, I will take

it back to my Permanent Secretary, both in the Ministry and at the District Commissioner's Office, to enquire as to why the residents of Little Cayman are indeed paying extra costs for the electrical inspector who I believe I am correct in saying is a civil servant and would seek to regularise that if that is indeed the correct position.

### Question No. 11

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**No. 11: Mr. Lyndon L. Martin** asked the Honourable Minister responsible for the Ministry of Planning, Communications, District Administration and Information Technology When is the expected commencement date for the Low Income Housing on Cayman Brac.

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. The answer: There is no expected commencement date for the Low Income Housing on Cayman Brac. However, the Government Affordable Housing Scheme is to commence as soon as possible.

### Supplementaries

**The Speaker:** Are there any supplementaries? The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. Could the Honourable Minister indicate the amount of homes that are to be accommodated at the designated site in Watering Place?

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, the property that has been purchased by the Crown has a capability of holding seventeen or eighteen affordable homes depending on the final decision for the amount of property that will be demarcated as public open space and as to whether we will seek to set up the administrative social office there or whether we should put it at another location.

We have received funding in the past Supplementary Budget to construct ten homes on Cayman Brac. A decision will be taken as to what amount will be put at the Watering Place site. I have also instructed the staff on Cayman Brac to look at the Crown property immediately behind the West End Primary School which was to have been phase two of the affordable housing project.

We are actively pursuing an access road into that property and if we are in a position to construct the same in a timely and expeditious fashion, we would hope to establish some out of the ten homes on that site. If we are not in a position, for factors beyond our control, to construct and complete the access road into the West End property site, we will then proceed in constructing phase one, the ten at the Watering Place site, Mr. Speaker.

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

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

Mr. Speaker, could the Minister tell us from whom was this property purchased to build the affordable homes on Cayman Brac?

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, this property, almost six acres, was purchased from a local company by the name of American Motors Limited. It was previously owned by a local by the name of Mr. Percy Green who conveyed it to his son and then sold it to the proprietors of American Motors which was the Polack family. I am happy to say that Government was able to negotiate a good price for it and it was not, in fact, owned by any family member as was rumoured in the constituency.

**The Speaker:** I will allow two more supplementaries. The Elected Member for East End.

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

Mr. Speaker, can the Minister tell us what type of construction material will be employed in the affordable homes on Cayman Brac?

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, it is envisioned that the homes will range between CI\$70-75,000. I have taken the decision to construct only two-bedroom homes as opposed to three so that we would have the inbuilt flexibility to construct only cement or block homes, with drywall on the inside and shingles on the outside.

We have almost reached the final stage of the plans for the said homes and upon completion and successful passing within the Planning Board, it is my intention to do groundbreaking on the property. Unfortunately, the House will not be sitting where I can do a statement, but I will certainly be doing a press release in that regard.

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

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

Mr. Speaker, I think the Minister said somewhere between CI\$70-75,000 that we are hoping to have these built for. That seems like a reasonable price, but I wonder if the Minister can tell us if that price is as a result of bringing in the materials duty free, which would certainly drive the price down somewhat and would benefit the residents of Cayman Brac and Little Cayman. Has Government made a decision to have that material duty free, or if they have not would it be the same price?

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

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I would like to thank the Member for East End for his concern. I should also wish to state for the record that since 1997/1998, as far as construction materials are concerned, it is duty free. On Cayman Brac that does not extend to furniture and appliances but only the fixed assets. We are going to try, as far as possible, to get the building block from the local company on Cayman Brac. There will be some aspects that we will have to import.

What we attempted to do was keep the square footage of the affordable homes within a size that would make them affordable but liveable. We have spent a great amount of time designing the actual floor plan for the affordable homes to ensure that they would have two bedrooms, two bathrooms, utility and living area and they would still be something that the residents could be proud of.

I have also taken the decision, subject to approval or disapproval from Cabinet (and I see no reason why there would be disapproval) that these properties would not be held in trust by the recipients but, in fact, held in absolute title. I have taken the decision that we would have more accountability with a buy-in concept where persons would have the ability later on, keeping in the Caymanian tradition, to extend if they want to, for example, put another bedroom or garage on. So because of that we have also spent a great deal of time, Mr. Speaker, looking at the site plan.

We have made each plot 10,000 square feet so that we would not have a high-density area. We have the property on the Brac to do that. I am not saying that to be critical of the development here in Grand Cayman, but to ensure as far as possible that they would be given an equal opportunity and to be sitting on a level playing field so that at the end of the day they would have access to affordable, financial income and still have a little house that they and their family can be proud of.

## STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE CABINET

**The Speaker:** I have received no statements from Honourable Ministers or Members of the Cabinet.

The Honourable Deputy Leader of Government Business.

### ADJOURNMENT

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the adjournment of this Honourable House until Wednesday, 9 March 2005 at 10 am.

Mr. Speaker, I had opportunity this morning to advise you there are a few pieces of business to be brought to the House, but it is the wish of Members which I have canvassed that we should wind up the business of the House for this final session of the four-year term on Wednesday. Mr. Speaker, I would invite Honourable Members to come prepared, should it be necessary, to work late to see that we finish the business of the House. I think it should be relatively short at this time, Sir, but I am not sure of the various pieces of business which need to come before the House.

**The Speaker:** Before putting the question I call on the Honourable Minister of Education. He had asked for permission to make a statement.

### Raising of Matter of Urgent Public Importance

*Standing Order 12(1)*

**RE: Article in *Cayman Net News* entitled, "A great necessity for change says former British MP"**

**Hon. Roy Bodden:** Thank you, Mr. Speaker.

Mr. Speaker, I rise under Standing Order 12(1) to raise a matter which I consider to be of urgent public importance. The Standing Order says, "**12(1) A motion for the adjournment of the House may not be made until Other Business has been entered upon unless it is made by a Member of the Government or unless a Member rises in his place at the end of Questions and asks leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance.**"

**The Speaker:** Please continue, Honourable Minister.

**Hon. Roy Bodden:** Mr. Speaker, I rise to express my concern over an article published in the *Cayman Net News* Friday, 4 March 2005. An article entitled, "A great necessity for change says former British MP",

quotes extensively the person, Mr. Matthew Gordon-Banks.

I want to make it clear, Mr. Speaker, at the outset that I am certainly not rising to defend any actions of the Leader of Government Business. Rather I am concerned at the implications for, in particular, one statement made attributed to this gentleman. I quote the response to the question:

**"What is the UK government's position on all this?"**

**"Some UK institutions and very possibly the UK government itself would like to see a change in the Cayman Islands. The United Kingdom government has raised a number of issues relating to good governance within the Cayman Islands, but to no avail.**

**"In relation to human rights in the Cayman Islands, or the absence thereof, there is no one to blame for this but the Cayman Islands Government . . ."**

He ends by saying, **"I believe the British government is therefore biding its time until the outcome of the election is known."**

Mr. Speaker, I noticed that throughout this statement in other areas this gentleman prefaced his position by stating, "in my view" in one instance and in another instance, "frankly my impression has been" and then "not to my knowledge" and later "in my opinion".

Now, Mr. Speaker, I am contending that for this gentleman to suggest that the British Government has departed from its usual hands-off position in elections in its territories other than to be assured that the elections were carried out on a free and fair basis, and for him to suggest that the British Government is biding its time to see the end of one government for purposes other than that the election was carried out in a free and fair manner, is telling us something that we should know. I would wish to raise the matter publicly to enquire as to whether this means that the British Government is now taking a direct hand in the internal affairs of the Cayman Islands and manipulating the elections to obtain a result.

Certainly, Mr. Speaker, it is a matter which I shall raise with the Governor tomorrow and demand a further explanation. If it is that this gentleman has been merely expressing wishful thinking, then I would say that his expressions are incompatible with his status as a Minister, because he is bringing the British Government into ill repute. What Mr. Matthew Gordon-Banks did not say was that his company, and by inference himself, was one of the applicants to represent the Cayman Islands in their public relation endeavours and that the company he railed out against, DLA, was a successful tender.

Mr. Speaker, in other jurisdictions such an interview would be regarded as a serious trespass into the internal affairs of the country. I am not saying that this gentleman is wrong for expressing his personal views, but what I am saying is it needs to be clarified,

especially in light of the recent past experience with MI6 in the Cayman Islands; whether the British Government has resorted to some kind of manipulation and continues to interfere in the internal affairs of these Islands.

This interview does not surprise me in the publication in which it has manifested itself, but what has surprised me is the fact that this may be interpreted by unknowing elements in our community to believe that the British Government has some interest beyond what is for the peace, order and good government to see that this Government is booted out of office. Mr. Speaker, this matter is of grave concern and I bring it to the attention of this Honourable House because if anyone is so ill informed as to believe that this kind of thing is a victory for anyone, let me assure them it is a "Pyrrhic victory" because if this position is an official position it means that any government, whether this or any succeeding government, would be subject to manipulation.

I thank you, Sir.

**The Speaker:** The Honourable Minister of Health Services.

**Hon. Gilbert A. McLean:** Mr. Speaker, on these occasions it is customary that other Members may wish to speak to the matter which you have allowed them. Mr. Speaker, I would like to offer a few remarks as well in regards to the position stated by the Honourable Minister of Education.

This morning I had the opportunity to speak to a visiting UK official, Mr. Tony Crumby, who is head of the FCO Dependent Territory Section, and I raised the very same matter with him. I share similar views as my colleague, the Minister of Education, for the statements which are made by Mr. Matthew Gordon-Banks who was a former member of Parliament in the British Government. The matters which concern me are the imputation and the statement (although coming forth as his opinion to a large extent) that the British Government has some particular interest in seeing the outcome of the Elections in the next eight weeks go in a certain direction.

Mr. Speaker, that is a serious trespass. We know what the relationship with the British Government is as the imperial power of the Cayman Islands is concerned, but if there is any intention whatsoever (and I would certainly hope not) for the United Kingdom in any way to attempt to influence the election in the Cayman Islands except that it should be free, fair and conducted in our usual manner where everyone has access to vote, then it is something of serious concern. Mr. Speaker, these are the things which can lead to reactions. It is coming at a time that is absolutely inappropriate that any person, group or opposing group in this country to the Government of the day may seize upon these statements to attempt for this to be a campaign position. That, Mr. Speaker, would be indeed very grave.

Mr. Speaker, I think that this ought to be given the level of seriousness it deserves. I can say that I was told this morning by the visiting official that it does not reflect the British Government in any way and this is the opinion of a past member of Parliament, but it is coming at a time when this type of thing cannot help the election process.

**The Speaker:** Honourable Members, I did give some opportunity to the Government Bench to express their views on this matter. I would like to give an equal opportunity to the Opposition.

The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker. Someone called me when I was out at a meeting on Friday night and someone brought the paper in regard to this, and I read the article.

I have serious concerns on the allegations made and I call on the powers that be, whether it is the Governor or not, to clarify this. Whether this is interference or not, I think the public of the Cayman Islands need to know what weight they can pay to this with an upcoming election. There are some very serious things in there, and for my own good and satisfaction I think some statement, whether it comes from the Government Office or where, needs to be made promptly.

I remember two gentlemen many years ago who came here, Mr. George Forks of the Friends of Cayman and a member of the Labour Party at that time (I think subsequently they have retired). When they came here they were trying to encourage members of the UK Parliament to look at the Cayman Islands in a more favourable manner. So people that know the gentleman who commented in this article have paid some respect to him, but for the good of these Islands and for all of us I would like to understand what it really means. Whether it is the Governor or whoever, I would call on him to respond in some manner to these allegations that I see here because they are serious to the gentleman on the other side, the Leader of Government Business to put it bluntly. What is being alluded to, what strength is there, how true it is, or whatever, this needs to be put forward.

He is also talking about the Department of Tourism over there and it is a black eye for the Cayman Islands at this time and someone needs to say something post haste. I am not speaking on behalf of the Opposition, this is my personal feeling.

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

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

Mr. Speaker, if the Honourable Minister of Education had been the only Government Member who had actually addressed this issue I was content to sit quietly, but as it appears we are now engaging

in a debate on this matter I feel compelled to say certain things and make certain observations.

My good friend and colleague, the Third Elected Member for Bodden Town, has addressed the matter which is the real cause for concern. I can understand why the Government would be stung by such criticism, but I do believe that as a country, a legislature and as a people we are going to have to grow up and understand that criticism is going to come, criticism is necessary and part of what every government in any mature society ought to accept as par for the course.

It is not sufficient to simply get up and rail about the possibility of UK interference in local affairs prior to an upcoming election. I think we are all tired of those trite statements about the UK seeking to manipulate this one, that one or the other.

We have to accept, if we are to grow as a society and country to the status that we can be called a nation without people laughing at it, that we have to respect fundamental human rights, one of which is freedom of expression and freedom of the press. In my view, what the Honourable Ministers of Education and Health ought to have done was get up and say to the people of this country that these allegations are baseless and here are the answers to them. Instead, as has become the norm, we are now engaged in a campaign to shoot the messenger.

Mr. Gordon-Banks is who he is—a former member of Parliament. He is an individual who is a founding member of the Friends of Cayman. He is not a Government Minister, and as far as I am aware (unless someone is going to say otherwise) he is not entitled to speak on behalf of the British Government.

I am not sure where all of this concern comes from. Yes, what he has said is very critical and I agree that grave allegations have been made, but he is who he is. What the Government ought to be about now, Mr. Speaker, in my respectful review, is answering the allegations that the man has made instead of ranting and raving and going to the Governor in Cabinet to find out what the UK's official position on this is. Either what the man has said about the Tourism office, the various contracts, public relations or Brussels is true or not, but let us have answers to the real issues. Let us desist from a campaign to go shoot the messenger.

So it is not, in my respectful view, a matter of any national importance in the sense that the man has said something which he says possibly the UK Government might be of the view that the Government should change. That is not a matter of national concern or of importance, matters of national concern and importance are the matters he raised about things that are purportedly not going the way they ought to in the UK and the Cayman Islands Government's role in relation to that. That, in my respectful view, is what the Government ought to address post haste.

So I would urge my friends on that side to let the country know what the true position is in relation to these allegations. Forget about trying to kill Mr. Gordon-Banks, forget about trying to get the UK Government to say what their position is in relation to the elections and let us deal with the matters which are of critical importance to Cayman and let us know what that position is. That is what I urge the Government to do.

Thank you.

**The Speaker:** Honourable Members, I have given equal opportunity to both sides of the House to speak on this matter. I do not propose to extend the debate further on this. As I said earlier, we had two Members of the Cabinet who spoke on it and two Members of the Back Bench. I cannot see where this will benefit the House any further to discuss this matter and I do not propose to entertain further debate on it at this time.

Accordingly, I put the question for the adjournment of the House. The question is that this House do now adjourn until 10 am Wednesday 9 March 2005. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**At 12.27 pm the House stood adjourned until 10 am Wednesday 9 March 2005.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**9 MARCH 2005**  
**10.51 AM**  
*Twelfth Sitting*

**The Speaker:** I invite the Honourable Third Official Member to lead us in prayers.

### PRAYERS

**Hon. G. Kenneth Jefferson:** Let us pray.

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

*Bless our Sovereign Lady, Queen Elizabeth 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 Cabinet 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 are resumed.

**Proceedings resumed at 10.53 am**

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

#### Apologies

**The Speaker:** I have received apologies for absence from the Honourable Leader of Government Business and Minister of Tourism, Environment, Development

and Commerce and from the Fourth Elected Member from West Bay and Deputy Speaker.

I also have apologies for late attendance from the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs.

### PRESENTATION OF PAPERS AND OF REPORTS

#### 2004 Annual Report of the Central Planning Authority and Development Control Board

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

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I beg to lay on the Table of this Honourable House, the 2004 Annual Report of the Central Planning Authority and Development Control Board.

**The Speaker:** So ordered.

Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, Mr. Speaker. Section 50 of the Development and Planning (2003 Revision) requires that the Central Planning Authority submit a report to the Governor in Cabinet for information to the Legislative Assembly which contains an account of activities during twelve months ending December of the previous year.

In this regard, as Minister responsible for Planning, I now have the pleasure of tabling the 2004 Report of the Central Planning Authority and the Development Control Board. While the Report speaks for itself and will be of use to all Members of this Honourable House, I would like to take a few minutes to summarise the Report's highlights.

While 2004 started out as a record-breaking year, it was understandably overshadowed by the damage and destruction of Hurricane Ivan, attention to planning applications and building permits was quickly redirected to the management and support of the recovery effort. Despite the hurricane, the value of approvals in Grand Cayman increased in each of the four quarters resulting in a total increase of 71 per cent from 2003, of \$266.4 million in 2003, to \$456.3 million in 2004. The Development Control Board also witnessed less impact from Hurricane Ivan in the development industry with increases still being seen in four of the six sectors.

Both Cayman Brac and Little Cayman saw increases in the number and the value of applications



in 2004. Cayman Brac had increases of 12 per cent and the number ranging from 98 to 110 and 96 per cent in value, from \$5.5 million to \$10.8 million, while Little Cayman had increases of 114 per cent in number, 14 to 30 and 51 per cent in value from \$1.9 to \$2.9 million.

In 2004 the Central Planning Authority (CPA), with the support of the Planning Department, went above and beyond its regular duties in order to make decisions and policy recommendations of national importance to enable the recovery of the Islands' recovery. For example, the CPA's recommendations regarding the national disaster provisions for recovery related development led to Cabinet's recent approval of the Development and Planning Law and Regulations Amendments which were also approved in this Honourable House.

Prior to Hurricane Ivan a major policy accomplishment of the CPA was an aggregate policy, which was approved in Cabinet in July 2004. In short, despite the advent of Hurricane Ivan we believe that we can say that 2004 was a very successful year both for the Central Planning Authority and the Control Board.

Prior to closing I would also like to note a couple of other points: Firstly, I am sure that Members of the Honourable House would agree that the quality of the presentation of the annual reports in recent years has increased dramatically. Not only are the statistics easier to read, but the use of colour photographs and other graphics adds a distinctly professional touch to the reports. This is due in a large part to the increased technological capabilities of the Planning Department, which we were able to support in our time at the Ministry. It is also a testament to the professional staff and human resources that the Planning Department has been able to attract over the past few years.

I am also happy to say that the Ministry and the Department, through their work, have for the first time been able to strictly comply with the Law by having the annual report tabled prior to the end of March of the following calendar year. It would be remiss of me if I did not share the credit for this milestone with the Central Planning Authority, the Development Control Board, the Department and the Ministry staff for persisting and ensuring that the Report be completed in a timely fashion, in particular taking cognisance of the House being prorogued in short order.

It had been far too easy for many to be critical of the Government, and when I say Government I mean the entire House, in this instance and the aftermath of Hurricane Ivan. But I would like to take this opportunity to acknowledge the hardworking staff both in the Ministry and the Department for the incredible work despite Hurricane Ivan and despite such criticism. It has truly been an honour to serve these Islands with such dedicated, professional and resilient staff under such trying circumstances.

In closing I ask Members of this Honourable House to find time to read the Annual Report for 2004

which deals with the activities of the CPA and the DCD, and I hope that it will not only be an informative piece of information but that it can be utilised.

Thank you, Mr. Speaker.

### **The Development and Planning (Amendment) (No. 2) Regulations 2005**

**The Speaker:** The Honourable Minister responsible for the Ministry of Planning, Communications, District Administration and Information Technology.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Development and Planning (Amendment) (No. 2) Regulations 2005.

**The Speaker:** So ordered.

Would the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** No, Mr. Speaker, I will reserve my comments for when I move the Government Motion.

### **Final Report - Task Force on Recruitment and Retention of Caymanian Teachers – July 2004**

**The Speaker:** The Honourable Minister responsible for the Ministry of Education, Human Resources and Culture.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. I seek your permission to lay on the Table of this Honourable House, the Final Report on the Task Force on Recruitment and Retention of Caymanian Teachers.

**The Speaker:** So ordered.

Would the Honourable Minister wish to speak thereto?

**Hon. Roy Bodden:** Yes, Mr. Speaker.

I took note that I ran the risk of incurring your displeasure the last time I spoke to a report, so I decided on this occasion to save myself embarrassment by preparing a short statement which I would like to read. I would like to end this tenure on a good note with the Speaker.

Teacher training, recruitment and retention are not isolated initiatives. It was one of the five objectives which I set myself upon assuming office in 2000. If the Cayman Islands are to improve socially, economically and culturally we should do so in the context of a defined framework which addresses our educational challenges.

Towards this pursuit we should not make the mistake of responding to the immediacy of the problem by sacrificing our long-term objectives for the short-term glamour of a false success. By that I mean that we should not develop an exclusive reliance on

recruiting large numbers of foreign teachers on an annual basis. We should seek to train more of our own Caymanians. It is the pursuit of this objective which led me to commission a study entitled "The report of the committee to examine the conditions relating to the recruitment of Caymanians into the teaching profession"—this subsequent report of the task force on recruitment and retention of Caymanian teachers which has just been tabled.

The report is different from the first report in that this report states objectives to pursue and, significantly, it quantifies the cost of these objectives. The report also speaks to the tabling by explaining the various responsibilities the members serve to delay the exercise. Hurricane Ivan, too—that collector of blame for all and sundry delays—played its part by necessitating that more urgent matters such as the relocation of the Education Department in the aftermath took precedence over the tabling of this report.

Finally, I turn to the challenges mentioned in the report for which appropriate responses must be crafted by us all—the Minister and, by inference, the Government, because it is the Government's responsibility to create the opportunities and preparation of Caymanian teachers because they must be supportive not only of the schools but of this training by the teachers because it is they who are entrusted with moulding the future Caymanians.

I am reminded of a passage from Richard Florida's book entitled *The Rise of the Creative Class*, which reads as follows: "**We live in a time of great promise and unparalleled opportunity in which creativity will be the key element that will determine if the promise will be fulfilled. We have evolved economic and social systems that tap human creativity and make use of it as never before. This in turn creates an unparalleled opportunity to raise our living standards, build a more humane and sustainable economy, and make our lives more complete. But there is no guarantee that this promise will come to fruition—it can just as easily go unfulfilled.**"

Our Caymanian society must mobilise itself to ensure that the promise of this new age will be fulfilled by us and our children. It is only by ensuring that our educational system is peopled by a solid core of excellent teachers that our society will realise its fullest potential.

I am happy to say that this report will serve to pave the way for developments, which are already well in place, regarding the preparation, training and subsequent retention of a cadre of young Caymanian teachers. It is my anticipation that come September our University College will commence a teacher education programme. I can report to this Honourable House that we have been having discussions with an eminent teacher training institution in the United States with a view to developing a partnership between this institution, the University College of the Cayman Islands and the Ministry of Education.

I once again pay tribute to those persons, including its Chairman, the Honourable Gilbert McLean, of the First Report, that is, the Report of the Committee to examine the conditions relating to the recruitment of Caymanians into the teaching profession; and also to pay tribute of the authors of this report just tabled.

We have now, with the tabling of this report some sense of the costs that would be incurred. We are now commencing to prioritise these objectives so that we can establish a mechanism for the training and retention of Caymanian teachers.

Thank you, Mr. Speaker.

### **Report of the Standing Business Committee for the Fifth Meeting of the 2004-2005 Session of the Legislative Assembly**

**The Speaker:** The Deputy Chairman of the Standing Business Committee, the Honourable Minister responsible for the Ministry of Health Services.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee fifth meeting of the 2004/2005 Session of the Legislative Assembly.

**The Speaker:** So ordered.

Would the Honourable Minister wish to speak thereto?

**Hon. Gilbert A. McLean:** No, Mr. Speaker. The report is comprehensive and accurately reflects the business undertaken in that Committee.

### **QUESTIONS TO HONOURABLE MEMBERS AND MINISTERS OF THE CABINET**

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

#### **Question No. 12**

**No. 12: Mr. Lyndon L. Martin** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture when it is expected that the wheelchair van previously used by the Lighthouse School will be available to the Cayman Brac community.

**The Speaker:** The Honourable Minister responsible for Education.

**Hon. Roy Boddan:** The answer: The wheelchair bus will be transferred to the Cayman Brac Teacher's Centre in April 2005. As this is an asset for education, it must remain the property of the Education Depart-

ment. There are two students, both at Creek and Spot Bay Junior School, who will require the use of this bus for school activities.

The Department of Education is open to the possibility of the bus being used by Community Services in the Brac. However, the terms of the arrangement would need to be agreed and the needs of the students would have to be given first priority.

**The Speaker:** Are there any supplementaries?

## STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF THE CABINET

**The Speaker:** I have received no statements from Honourable Ministers or Members of the Cabinet.

## GOVERNMENT BUSINESS

### BILLS

#### Suspension of Standing Order 46(1) and (2)

**The Speaker:** The Honourable Deputy Leader of Government Business.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 46(1) and (2) to allow the Governor (Vesting of Lands) (Amendment) Bill 2005 to be read a first time.

**The Speaker:** The question is that Standing Order 46(1) and (2) be suspended to allow the Governor (Vesting of Lands) (Amendment) Bill 2005 to be read a first time. 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 Governor (Vesting of Lands) (Amendment) Bill 2005

**The Speaker:** The Bill has been deemed to have been read a first time and set down for second reading.

#### Suspension of Standing Order 46(4)

**The Speaker:** The Honourable Deputy Leader of Government Business.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 46(4) to allow the Governor (Vesting of Lands) (Amendment) Bill 2005 to be read a second 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 to allow the Governor (Vesting of Lands) (Amendment) Bill 2005 to be read a second time.**

### SECOND READING

#### The Governor (Vesting of Lands) (Amendment) Bill 2005

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

I beg to move a bill for a law to amend the Governor (Vesting of Lands) Law (1998 Revision) to enable the way of restrictions on disposition of Crown lands and for incidental and connected purposes.

**The Speaker:** The Bill has been duly moved, does the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, thank you, Mr. Speaker.

This Bill for a Law to amend the Governor (Vesting of Lands) Law is to do just as the title says, to enable the restriction on disposition of Crown lands. The Bill relates to the amendments of the Governor Vesting Law (1998 Revision).

As Members of this Honourable House are aware section 10 of our current Law requires that any vesting of Crown land be the subject of a report to be laid on the Table of the Legislative Assembly for 21 days. This can often be a protracted process depending on the Legislative Assembly schedule. Recently my Ministry received enquires to determine whether section 10 of the Governor Vesting Lands should apply to statutory authorities and or government companies.

The rationale is that the disposition of Crown Land, either in the public's interest or to statutory authorities or government companies, should not be required to comply with the long and often protracted process of the tabling of reports in the Legislative Assembly. Accordingly, in consultation with the Honourable Attorney General, the First Legislative Council and the Honourable Minister of Health, an amendment to the Governor Vesting of Land Law (1998 Re-

vision) was prepared and subsequently agreed by Cabinet.

This Bill seeks to enable the Governor in Cabinet to waive the restrictions that are imposed by the current section 10 of the principal Law in relation to certain dispositions of Crown land. The waiver would authorise in cases where the Governor in Cabinet proposes to sell, convey, grant, or devise lands, firstly to statutory authorities or government companies or to any legal entity where it is in the public's interest and for the purpose of agriculture, education, health, housing or any similar purposes which would have to be in public's interest.

I therefore ask for the support of my Honourable Colleagues on both sides of the House in this respect.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. What I am going to preface my contribution with is not a complaint, but we have not had enough time to look at this Bill and we understand the situation and that it needed to be done before dissolution, there is no argument about that.

During the few minutes that we have had to look at it, I quite understand the Government's disposition and the intention to make the amendment which would allow the Governor in Cabinet to avoid a long and protracted process. My only question with that is understating what is being said. I would like to believe that there is some other method which would not be so long and protracted and which would allow, before the process is completed, that it does not lie in the hands of the Governor in Cabinet.

Instead of leaving it as it is and trying to accomplish what is intended, might it be possible to use a gazettal process to simply say that whether it is seven days after gazettal or whatever that anyone have the opportunity to peruse the intention?

Members on both sides of the House will appreciate that there is reasoning behind section 10 of the Governor Vesting of Lands Law. The section itself calls for: "**10 (1) A disposition by the Governor under section 6, or the Governor in Council under section 9, is void unless, prior to the completion of such disposition**"- It sets out the term—

- a) **full details of the land of which it is proposed to dispose, and of the terms of the proposed disposition, have been advised in a newspaper circulating in the Islands and in the Gazette;**
- b) **a report, accompanied by the documents specified in subsection (2), and recommending the proposed disposition has been laid on the Table of the Legislative Assembly for twenty-one days by the Minister responsible for lands; and**

- c) **a motion to reject the report has not been made within the period that the report is on the Table of the Legislative Assembly; or if such a motion has been validly made, it has been voted on and negated by the Legislative Assembly.**

**2. The report laid on the Table of the Legislative Assembly under subsection (1) shall be accompanied by —**

- a) **a report by the proper officer in the Ministry responsible for lands containing all the details and terms of the proposed disposition and the reasons for proposing it;**
- b) **a copy of the report of the survey required by paragraph 12(1) of the Cayman Islands Royal Instructions, 1972;**
- c) **a valuation by the Government's valuer of the land of which it is proposed to dispose;**
- d) **valuations by two independent licensed valuer of the land of which it is proposed to dispose;**
- e) **a copy of the resolution of Executive Council approving the terms of the proposed disposition; and**
- f) **a copy of the advertisement of the proposed disposition published under subsection (1)(a)."**

Mr. Speaker, the proposed amending bill in section 2 proposes inserting after subsection (2) the following subsection:

"(2A) Where, pursuant to section 9, the Governor in Cabinet proposes to sell, convey, grant or devise any lands, tenements or hereditaments—

- (a) a statutory authority or government company; or
- (b) to any legal entity, in the public interest and for the purpose of agriculture, education, health, housing or any similar purpose, . . ."

The intent is clear but 'b' extends it further than to a statutory authority or government company.

I want to submit that all which is being said about the Bill and the intention of the Bill, I think we would be better off with some type of check and balance especially the fact that there is a proposed subsection (b) which allows for such vesting to go beyond a statutory authority or a government company regardless of the fact that it is deemed by Cabinet to be in the public interest and for the purpose of agriculture, health, housing or any other similar purpose.

It is all about check and balance. If there is difficulty with the timing of it, I have no problem with allowing for the amendment to take place so that can happen. I hope that my point is taken whereby the fact that the amendment is proposed in such a manner one would wish to have, even by the gazettal process, a finite timeline—if it is seven days after the gazettal process—for somebody to have the right to peruse it.

You see, Mr. Speaker, if the Governor in Cabinet makes a decision that falls in line with the proposed amendment then the truth of the matter is that there would be no knowledge of this event until after the fact. I would like to believe that Cabinet could look at it in such a way that they would not wish for that to happen, understanding that there are times when you do not want to be impeded by the process that obtains at the present which includes a legislative process. I am not suggesting that we have to cling to that, but I am saying that we should be prepared to have some type of check and balance beyond Cabinet making a decision, end of story.

The Opposition understands the Bill and its intent, we do not disagree with the intention of the Bill, but we ask the Government to take just a few minutes to see if there is somewhere to have in the new Bill a check and balance to allow that the public at no point in time would feel that it is any way it could happen without them having the ability to look at it before the final decision.

Mr. Speaker, I believe that the point is made and I would implore the Government to let this not be one over which we wrangle. That is not our intention. But I believe it is a valid point and I wish for them to consider this seriously before we get to the point of taking a vote. The observations are made with the purest of intentions.

Thank you, Sir.

**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, would the Honourable Minister for Planning wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, thank you, Mr. Speaker.

I commence by referring to section 6 of the current piece of legislation, that is, the Governor Vesting of Lands Law, which deals with the power to sell and reads as follows:

**“6 The Governor may sell, exchange, grant or devise any of the lands, tenements or hereditaments, which shall be so vested in him in trust, and to do any other act, in relation to such lands, tenements or hereditaments which he shall deem beneficial for the public service or for the better management thereof:**

**“Provided that except under the authority of some law, or under the terms of the trust affecting the same under any such conveyance, lease, will or other assurance as aforesaid, or under section 9, the Governor shall not sell, exchange or grant any of the said lands, tenements or hereditaments so vested or to be vested in and held by him in trust as aforesaid.”**

I follow that up with what is set out in section 9 and which deals with authority of the Governor to sell land. It says:

**“The Governor in Council may sell, convey, grant or devise any of the lands, tenements or hereditaments respectively vested in the Governor under this Law and execute all such deeds and assurances as may be necessary fully and effectually so to do:**

**“Provided that in cases where a sum of money is the consideration for the sale of any lands under this section, no conveyance shall be executed until such sum shall have been paid into the office of the Financial Secretary and his receipt endorsed upon the agreement of such conveyance and his certificate thereof lodged in the office of the Governor.”** Prior to the 1998 Revision that was the power as it then stood.

What this amendment is seeking to do is revert to the section 9 position only as it relates to what is set out in the amending law in part 2 and it is not extending it beyond where we thought the checks and balances should go and that is where the Government would seek (as in the 1998 position) to transfer Crown property or the public's assets that Government holds in trust, to a private individual. Certainly, the Government feels that this should be properly vetted by the public and in addition have the very close perusal of Members in the House that would have position on either side to bring a motion.

In this position we are basically transferring to one's self in that we are seeking to take it to government companies or statutory authorities.

In (b) and all the other sections it is the intention of the Government that they would be for public interest.

We took pains to specify what that public interest would comprise of—agriculture, health and education. As stated, we felt that it was not only a time restriction (and the Honourable Leader of the Opposition was correct in that there is that considerations). Hopefully the House would conclude its deliberations today and in an ordinary course of business we would not have the twenty-one days if we had to follow this Law. There are Crown grants in the Ministry that would not be laid on the Table, because we could not adhere to the strict procedure of ten, but those would be for individuals who have put in claims who did not have, for whatever reason, an opportunity to put it in before, or subsequently there is additional information which is still in the Ministry. This Bill is not intending to deal with those types of positions where private persons or individuals would want it.

The Government felt that in cases where it was a transfer to its child or subsidiary or in the public's interest that the Governor in Cabinet should reserve that power as was the case prior to the 1998 amendment. We all know what brought about the 1998 amendment. I will not go so far as to give it a name, but we all remember quite well why that provision was put in. I concur absolutely that checks and balances should remain in that respect if it is coming from the Crown to a private person. After all it is the

public's property and the public should know all the reasons why. That is why I believe all the strict guidelines including [being laid on the Table] in the House and giving Members an opportunity to bring a motion in the negative.

I would say that, since the Public and Finance Management Law, nine times out of ten my Ministry never requires, and nine times out of ten Cabinet concurs that consideration, as we saw with the Port Authority transfer disposition and the Turtle Farm. That consideration was being required although it was to a sibling or a government company. There is opportunity for the public to inspect. We operate a public register and Government did not feel that there would be opposition from the public if the Government took its own land to be used for these specific purposes, education, agriculture, or as set out in section 2.

With those few remarks that is the contribution from the Government's side.

I beg your indulgence, Mr. Speaker, there is an enquiry from the opposite side that if the properties adjacent or next to one's property whether or not they would not be able to object. This is only dealing with the transfer, disposition, the Planning Law and the usage which falls under the ambit of the Planning Law Regulation and every Member would have an opportunity to do that. Any prudent Government would have done its due diligence prior to the transfer to ensure that the use it was intended for would not meet with objections.

I understand what the Leader of the Opposition is requiring for the gazettal but as it was discussed and considered it was not my understating that the Government wished to be "handcuffed" with a notification period because it was transferring from its left hand to its right hand.

Thank you, Sir.

**The Speaker:** The question is that a Bill shortly entitled the Governor (Vesting of Lands) (Amendment) Bill 2005 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. D. Kurt Tibbetts:** Mr. Speaker, I would like a Division.

**The Speaker:** Madam Clerk, please call a Division.

#### Division No. 13/04-05

#### Ayes: 9

Hon. Gilbert A. McLean  
Hon. Roy Bodden  
Hon. Juliana O'Connor-Connolly  
Hon. George A. McCarthy  
Hon. Samuel Bulgin  
Hon. G. Kenneth Jefferson

#### Noes: 3

Hon. D. Kurt Tibbetts  
Mr. Anthony S. Eden  
Ms. Edna M. Moyle

Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Lyndon L. Martin

#### Absent: 5

Hon. W. McKeeva Bush  
Dr. the Hon. Frank S. McField  
Mr. Clive A. Glidden, Jr  
Mr Alden M McLaughlin, Jr  
Mr. V. Arden McLean

**The Clerk:** Nine Ayes, three Noes, five absent.

**The Speaker:** I concur with the record from Madam Clerk. Accordingly the Bill is passed.

**Agreed by Majority: The Governor (Vesting of Lands) (Amendment) Bill 2005 given a second reading.**

**The Speaker:** The House will now go into Committee to consider the Bill.

#### House in Committee at 11.38 am

**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 this Bill?

Would the Clerk please state the Bill and read its clauses?

### COMMITTEE ON BILL

**The Governor (Vesting of Lands) (Amendment) Bill 2005**

#### Clauses 1 and 2

**The Clerk:**

Clause 1	Short title
Clause 2	Amendment of section 10 of the Governor (Vesting of Lands) Law (1998 Revision) – restriction on dispositions.

**The Chairman:** The question is that Clauses 1 and 2 stand part of this Bill. All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

**The Chairman:** The Ayes have it.

**Clauses 1 and 2 passed by majority.**

**The Clerk:** A Bill for a Law to amend the Governor (Vesting of Lands) Law 1998 revision to enable the waiver of restrictions on dispositions of Crown Lands and for incidental and connected purposes.

**The Chairman:** The question is that the Title stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

**The Chairman:** The Ayes have it.

Title passed.

**The Chairman:** This concludes proceedings in Committee. The House will now resume.

**House resumed at 11.39 am**

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

## REPORT ON BILL

**The Governor (Vesting of Lands) (Amendment) Bill 2005**

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you.

Mr. Speaker, I beg to report that the Governor (Vesting of Lands) (Amendment) Bill 2005 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.

### Suspension of Standing Order 47

**The Speaker:** The Honourable Deputy Leader of Government Business.

**Hon. Gilbert A. McLean:** Mr. Speaker, I beg to move the suspension of Standing Order 47 to allow the Governor (Vesting of Lands) (Amendment) Bill 2005 to be read a third time.

**The Speaker:** The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

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

**Agreed by majority: Standing Order 47 suspended.**

## THIRD READING

**The Governor (Vesting of Lands) (Amendment) Bill 2005**

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Mr. Speaker, I beg to move that the Governor (Vesting of Lands) (Amendment) Bill 2005 be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Governor (Vesting of Lands) (Amendment) Bill 2005 be given a third reading and passed. All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

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

**Agreed: The Governor (Vesting of Lands) (Amendment) Bill 2005 given a third reading and passed.**

## MOTIONS

### Government Motion No. 12/04-05

**The Development and Planning (Amendment) (No. 2) Regulations 2005**

**The Speaker:** The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

I beg to move Government Motion No. 12/04-05 the Development and Planning Law (2003 Revision), the Development and Planning (Amendment) (No. 2) Regulations 2005 which reads as follows:

**“WHEREAS section 42 (1) of the Development and Planning Law (2003 Revision) provides that the Governor in Cabinet may make regulations;**

**“AND WHEREAS section 42 (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) (No. 2) Regulations 2005 have been laid upon the Table of this Honourable House;**

**“BE IT THEREFORE RESOLVED THAT the draft Development and Planning (Amendment) (No. 2) Regulations 2005 be approved by the Legislative Assembly in accordance with the provisions of section 42 (3) of the Development and Planning Law (2003 Revision).”**

**The Speaker:** The question is BE IT THEREFORE RESOLVED THAT the draft Development and Planning (Amendment) (No. 2) Regulations 2005 be approved by the Legislative Assembly in accordance with the provisions of section 42 (3) of the Development and Planning Law (2003 Revision). The Motion is open for debate. Does the Honourable Minister wish to speak thereto?

**Hon. Juliana Y. O'Connor-Connolly:** Yes, briefly, Mr. Speaker. The Development and Planning (Amendment) (No. 2) Regulations 2005 has following affect:

Regulation 2, which deals with definitions, is amended as a matter of housekeeping to ensure that the definition for final certificate cross-references the correct regulation as contained in the most recent consolidated version of the Development and Planning Regulation (2003 Revision).

Regulation 810 is amended to regularise the regulations such that they coincide with the recent amendments of the Law regarding ancillary structures.

Regulation 10, which deals with hotel and tourism zones, is amended such that the side setbacks and hotel tourism zones would see a minimum of 20 feet side setback whereas existing regulation requires 15 feet or 50 per cent of the height of the building.

Regulation 15, which also deals with beach resort regulation zones, is amended such that the side setback would see a minimum 20 feet side setback whereas the existing regulation requires 15 feet or 50 per cent of the height of the building.

Regulation 24, in respect of certain applications required to be advertised, is redundant as it duplicates the newspaper advertisement requirement which is set out in other sections of the regulation. Therefore the amendment would delete regulation 24.

Regulation 37 would be amended simply for clarification purposes such that these are the reference to the first schedule as opposed to the schedule.

I once again ask for the support of my Honourable Colleagues in this House.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. The proposed regulations the Honourable Minister outlined are to bring in line the Regulations with recent amendments to the Law.

It is important for us to take note with what will now obtain in the regulations after they are approved that in previous times we have had some difficulty with certain developers because of the way the side setbacks and setbacks from the high water mark were worded both in Law and Regulations and I note, especially in the existing regulations, the (2003 Revision). Regulation 810 subsection (c) as it reads now,

in areas where the shoreline is iron shore except hotel and tourist related zones, all structures and buildings except for ancillary buildings shall be set back a minimum of 50 feet from the high water mark.

What that used to do, was allow people who termed a structured ancillary to be able to encroach within that setback, once it could be deemed that the structure was ancillary. Certainly that is not the way we would like to see development take place on our iron shore anywhere on the Islands.

When we have hotel/tourist zonings, the way it was worded with the setbacks both from the high watermark and side setbacks—what obtained prior to this was that the Law was worded with side setbacks that it was a 15 foot setback per story, which meant that if it was a single-story structure the side setback was 15 feet. As I understand it, this minimum being proposed is saying that even if it is one story there has to be a 20 foot side setback. There is reasoning for all of that because such type of accommodation—not just hotel rooms but also condominium etcetera—you would wish for certain situations to exist where there is enough privacy for individuals. I do not know if part of the thought is this, but there is another thought of mind where you have certain areas that have public right-of-ways to the beach.

While people want to maximise the use of their land mass, the fact is, especially along the Seven Mile Beach where you have a six foot or twelve foot right-of-way for the public to access the beach, you do not wish for structures of that nature to be any closer than twenty feet to their boundaries because the fact is right-of-way is 24/7, 365 days a year. You really cannot tell somebody that they cannot go out on the beach twelve or one o'clock in the morning. I am saying that developers should not view this as an infringement and impediment, but as ensuring the ambience in these areas where there is a public right-of-way. You do not wish for these structures to be closer than twenty feet so that you do not have short-term or long-term residents in those areas hearing or seeing these people go through the right-of-ways and thinking that somebody is out to attack them.

As far as I am concerned, for those purposes and intentions people should accept what is being proposed plus for all of the other reasoning.

When it comes to the setbacks to the high watermark, there needs to be a fixed situation because, again, previously the way the law and regulations were worded . . . and Sir, I know you have lots of experience in that area because you have been the Minister responsible for Planning on more than one occasion. We will remember specific incidents (without calling names) where people used the wording of the Law to be able to construct what they considered to be ancillary structures, like swimming pools and retaining walls. In some instances we have seen them go almost to the waterline and there was difficulty with people being able to walk the beach.



So there is a real and sensible reasoning being this whole thing. It is good for all of this to be tightened up in that manner so that you do not have any question. If you notice, what is being proposed in nearly all instances, speaks to ancillary buildings, structures and walls which was not the previous terminology but the terminology that is expressed now. Ancillary buildings, structures and walls those three words will take care of almost anything that you can imagine being done in such manner. So whatever the setback is, that is it for whatever you want to do—which is the way it should be.

I just wish to make the point that there is all the sense in the world for us to be doing that and the Opposition certainly has no problem with what is being proposed and we are very happy to support it.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? If not, would the Honourable Mover wish to exercise her right of reply?

**Hon. Juliana Y. O'Connor-Connolly:** Just to say, Mr. Speaker, that this is the last piece of business that I have before the House for this particular time and it is certainly a good note to be ending with the concurrence with my friends on the side of the Opposition. Perhaps this is a good sign for the way forward. Thank you.

**The Speaker:** The question is BE IT THEREFORE RESOLVED THAT the draft Development and Planning (Amendment) (No. 2) Regulations 2005 be approved by the Legislative Assembly in accordance with the provisions of section 42 (3) of the Development and Planning Law (2003 Revision). All those in favour please say Aye. Those against, No.

**Ayes and Noes.**

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

**Agreed. Government Motion No. 12/04-05 passed.**

## PRESENTATION OF PAPERS AND OF REPORTS

### Report of the Standing Public Accounts Committee on the Report of the Auditor General on the Financial Statements of the Government of the Cayman Islands for the years ended 31 December 2001 and 2002, together with the Reports of the Auditor General

**The Speaker:** The Chairman of the Standing Public Accounts Committee and Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Public Accounts Committee on the Reports of the Auditor General on the Financial Statements of the Government of the Cayman Islands for the years ended 31 December 2001 and 2002.

**The Speaker:** So ordered, would the Honourable Member wish to speak thereto?

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. In our short time as a Committee we have tried to ensure that we utilize our time and the time of the many public officers who are inevitably involved with the witness calling portion of the Public Accounts Committee as it relates to annual accounts of the Government. We have tried to ensure that we use that time as efficiently and as effectively as possible.

Mr. Speaker, as you know, and I am sure all other Honourable Members know, section 77 of the Standing Orders provides a good deal of latitude to the Public Accounts Committee in regard to the conduct of its business, and that is for good reason. With that as a backdrop, the Committee in its detailed review of the 2001 and 2002 Government Accounts recognised that other than the value for money audits in 2002, all of the issues were issues that overlapped both reports and were raised in both reports. Because of the timing of our receipt of those reports, it made no good sense for us to convene the Committee and call public officers, ask them questions on 2001 then call them back again and ask the same questions as they related to 2002.

I believe that we have a better product than we otherwise would have because we now, Members and the general public can peruse both of the Auditor General's Reports along with the Public Accounts Committee Report and be able to cover all of the major issues raised in the Reports and certainly the issues we saw fit for us to investigate further.

By way of background it is also noteworthy that the Public Accounts Committee has to decide its own questions and areas that it feels needs to be expounded upon and investigated to determine and come up with its own report. In other words, Mr. Speaker, there is no requirement for us to go through line by line and section by section of the Auditor General's Report in areas that we do not believe to have significant risk and therefore I believe the Committee over the last few years in its deliberations has done a good job. I wish to thank all the Members of the Committee because their cooperation and willingness to approach our business and work from a risk standpoint has made all of our lives a lot easier.

This Report has raised a number of ongoing issues, some of which have been addressed subsequent to the Report and we have tried our endeavour best to ensure that where that has happened mention of that has been made.

The papers considered by the Report in accordance with Standing Order 77(1) were the Reports

of the Auditor General on the Audited Accounts of the Cayman Islands Government for the years ended December 31, 2001 and 2002 and the Audited Financial Statements of the Government for those relevant years ended 2001 and 2002. The Committee is chaired by me. The other Members are the Honourable Deputy Speaker, Mr. Cline A. Glidden, Jr., Mr. Anthony Eden, Mr. Lyndon Martin and Mr. Arden McLean.

On this Report we met three times: 02 September 2004, 03 February 2005 and 07 March 2005. We have attached to our Report the minutes of our proceedings of those meetings.

In accordance with Standing Order 77(8) the Auditor General, Deputy Financial Secretary and the Accountant General were all in attendance in our meetings where we called witnesses (because they are the expert witnesses to the Committee).

Also Mrs. Debra Welcome, Deputy Accountant General and three Managers from the Audit Office were there because they were the relevant persons who ultimately were responsible for the field work on these two Reports. The witnesses that appeared before the Committee are detailed on page 6 of our Report and I will not go over all of those because they are easy to be found on that relevant page.

Turning to the meat of the Report – the significant findings and recommendations of the Public Accounts Committee; it is divided into two parts. Part 1 deals with the Audited Financial Statements and Audit opinion and Part 2 deals with the value for money audits.

It is noteworthy that in 2001 and 2002 the opinion of the Auditor General was qualified principally on two bases outlined on page 8 of the Report; that is excess and unauthorised expenditure and certain deferred expenditures for those two relevant years.

Both years also had an ongoing disagreement with the manner in which overseas medical advances are accounted for. The view that has been taken by the Auditor General and agreed by the Committee is that a number of the individual accounts that make up overseas medical advances are not necessarily proper advances – in the definition of advances. An “advance” would be amounts which Government would look to recoup from the persons to whom there was an advance within a particular fiscal year. Many of these advances have been outstanding for over a decade. The amount is a material amount in 2002 it was \$19,258,456 and in 2001 \$18,560,398. That issue is raised further in the Report so I would move on to the other area of disagreement of accounting and that is to do with Immigration Deposit Liabilities.

Because there were two transfers to General Revenue none of which were substantiated by actual rights of the Government to those funds, the Auditor General had no choice but to qualify both years’ reports because of this. Under the old regime, when a

company applied for and got a work permit they had to provide a certain deposit for that individual and it varied based on the jurisdiction from which that person came.

What should happen is once that person leaves the Island, or the Immigration status changes to the point that they would no longer require a work permit the business could then apply to Government for a refund of the deposit. However, the decision was taken to transfer two lump sums from that deposit liability account to general revenue without specific evidence as to who those deposits related to. In other words it was a stab in the dark as to where the Government felt the liability should be. What has happened is over the years a substantial number of people have left the jurisdiction and in a lot of instances it is because a company has closed down or downsized. A lot of those companies never applied for a refund of that deposit liability so at the time that these transfers were made it was felt as though the liability was overstated. However, as you well know, Mr. Speaker, in a case like that just that gut feeling does not warrant a transfer from a liability account — from this particular liability account.

The last matter that deals with audit opinions took place in 2002 under combined financial statements and the Auditor General included a matter of emphasis. The matter of emphasis revolved around affordable housing initiative and in the Auditor General’s opinion a certain amount which was \$657,197 was shown as an advance recoverable in relation to the Affordable Housing Initiative. Because of the manner in which the agreement between the Housing Trust and the Government was worded, the Auditor General felt that it had to be highlighted in his Report as a matter of emphasis because he did not feel that there was enough clarity surrounding the way in which these monies would be paid back. He went on to say that it should form a part of the subsidy that would have flowed to that entity.

Mr. Speaker, just to say that in the Audit Opinion, the matters of emphasis typically are areas in which the Auditor General, in his opinion, feels as though the users of the Financial Statements need to pay particular attention, hence the terminology “matter of emphasis”.

Mr. Speaker, the financial highlights of both years are provided on <sup>1</sup>Table 1 of the Report which can be found on page 10. The overall deficit reported was \$3.131 million for fiscal year 2002 and \$44.821 million for fiscal year 2001. The key points of the Table are summarised starting on page 11 of the Public Accounts Committee Report. I will quickly go through the salient points raised in this regard.

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<sup>1</sup> Table 1 reproduced at page 883 of the 2004 Official Hansard Report

### Financial Highlights 2002

- The deficit for the year before loan financing decreased from \$44.821 million in 2001 to \$3.131 million in 2002. This was partly due to increased recurrent revenue of \$316.694 million exceeding the reduced operating costs (recurrent, capital acquisitions and statutory expenditure) of \$305.282 million.
- Recurrent revenue in 2002 increased by 10% or \$29.066 million from 2001. This resulted mainly from increases of \$26.385 million in Licences and \$9.261 million in Fees. This is partially offset by decreases of \$6.067 million in Duty and \$3.965 million in Contributions and Repayments. Total Recurrent Revenue was \$23.379 million (6.9%) below budget. Revenue budget forecasting remains a challenging area for the Portfolio of Finance and Controlling Officers.
- Total expenditure fell by \$12.624 million (3.8%) in 2002. Total recurrent expenditure fell by \$7.089 million (2.7%) to \$252.295 million. This resulted mainly from decreases of \$20.282 million (13.8%) in personal emoluments, \$1.487 million (24.9%) in insurance and by \$0.638 (22.7%) million in travelling and subsistence, partly offset by increases of \$2.215 million (6.4%) in other operating and maintenance expenses and \$15.131 million (38.4%) in grants, contribution and subsidies.
- Capital development expenditure fell by \$7.613 million (34.4%) primarily due to decreased expenditure on public buildings and roads. Statutory expenditure increased by \$2.955 million (6.3%) as a result of a \$6.427 million increase in debt servicing commitments partly offset by the reduced pension contributions consistent with the decrease in personal emoluments mentioned above.
- It should also be noted that deferred and unpaid expenditure totalling \$4,047,000 relating to 2001 was eventually posted and therefore accounted for in 2002. This deferral of funds under/overstates the Government's financial position and distorts the comparability of expenditure from year to year.

That is one of the reasons we have gone to accrual accounting versus cash accounting so that those sorts of distortions would be greatly diminished and hopefully eliminated in the future.

- **For the Combined Statement of Assets and Liabilities, Net Assets increased from \$12.934 million to \$20.762 million. It should be noted that only cash and near**

cash assets and liabilities are included in the financial statements. Other financial assets and liabilities such as accounts receivable, loans recoverable, investments, accounts payable, public debt, contingent liabilities and retirement benefit liabilities are excluded from the Combined Statement of Assets and Liabilities. The figure of Net Assets includes \$19.258 million of overseas medical advances incurred between 1992 and 2002, which in the opinion of the Auditor General, are incorrectly classified and should have been expensed. As more fully described in my audit opinion at Appendix A, a more realistic position of Net Liabilities is between \$22.586 million to \$23.086 million.

- Loans drawn down in 2002 amounted to \$10.866 million (2001- \$49.704 million). Of this, \$759,000 has been used for recurrent expenditure and capital acquisition and \$10.107 million for capital development. At the year-end, public debt stood at \$119.151 million (2001 - \$129.534 million) representing a decrease of \$10.383 million or 8% from 2001.
- An actuarial valuation of public service pensions liabilities as at 1 January 2002 was completed during 2002. The valuation disclosed Past Service Liabilities of \$260.695 million compared to assets of \$84.353 million, resulting in an actuarial deficiency of \$176.342 million. Further information about the pension liability is provided in a separate Special Report which was anticipated to be submitted to the Legislative Assembly in April 2003.
- Positive bank accounts for Combined Funds at year-end 2002 amounted to \$15.930 million (2001 - \$11.099 million). The Environmental Protection Fund makes up the largest portion of this with \$8.825 million. The Government's current account was in overdraft at year-end reflecting \$10.057 million (2001 - \$5.693 million)

The Committee is aware of the many recurring issues raised by the Auditor General in his reports and have dealt with various of these over the years via the 1999 Auditor General's Report and the State of Public Finances Report. This year the Committee elected to deal with two issues formally by calling upon witnesses to assist them. These two areas relate to deposit liability in the Customs and Immigration Departments.

Mr. Speaker, those have been long outstanding issues and therefore the Committee felt as though we had to look at those again because they are significant issues to the Government.

#### Custom's Deposits

The Custom deposit balances (Auditor General's Report 2002, paragraphs 1.49 –1.52) represent liabilities for monies received from traders/importers and deposited in government's bank account but which are not classified as government revenue. These monies are drawn down against import duty payments whenever traders import goods into the Islands. The Customs (via their CTSS system) and Treasury (via IRIS) departments keep a record of monies owing to the various traders. This should be reconciled on a regular basis or at least at the end of the government's fiscal year for disclosure in the financial statements. One of the main concerns of the Audit Office is that these two balances seldom agreed, creating some level of ambiguity as to the correct amounts owing and reported on.

The Committee is concerned that there have been many unresolved issues with regards to the customs deposit balance for a protracted period of time. The Committee is also keen on the implementation of a customised computer system (Customs Harmonised Input Processing System – CHIPS) that is to provide greater coding details.

The main issues were:

- Reconciliation of the Custom's Support System (CTSS) deposit liability account with Treasury (IRIS) were not being done on a regular basis;
- Direct trader confirmation were also not being done on a regular basis;
- The reconciliation with any trader imbalances with CTSS were also not done regularly;
- That these matters were too long unresolved; and
- The implementation of an upgraded hybrid computer system (CHIPS) to provide greater duty and tariff coding detail.

The Committee was pleased to learn from the Collector of Customs that the deficiencies (as outlined above) that existed in previous years have now been addressed and everything is now reconciled and balanced with traders, CTSS and IRIS as of 30 June 2004.

The Deputy Financial Secretary informed the Committee that Government could save approximately \$500,000 with this in-house system as opposed to the initial one, which in any case is now no longer operational." That is to do with coming up with a computer system that would provide a greater of duty in regards to coding for tariffs or goods coming into the Islands.

The Committee makes the following recommendations:

1. The Audit Office, in performing their audit procedures on customs deposit balance for June 2004 ensures that the

reconciliation issues are adequately addressed.

Hopefully when the 2004 Report is produced and ready that will be found to be the case.

2. The Collector of Customs continues to ensure that reconciliation between the CTSS and IRIS systems are performed on a regular basis for agreement.
3. Traders' confirmations are also performed on a timely and regular basis to determine any imbalances for prompt corrective action.
4. Trader imbalances reconciliations are also performed on a regular and timely basis so as to avoid a replication of the problems of the past identified by the Audit Office.
5. The Customs department continue to press ahead with the CHIPS system and that the end users are sufficiently educated so as to ensure that more effective and useful reporting information are churned out.
6. The Customs department continue the development of their website for more internet-based method of the clearance of imported goods.

#### Immigration Deposits

Immigration deposit balances (Auditor General's Report 2002, paragraph 1.43) represent liabilities for monies received from employers and deposited in government's bank account but which are not classified as government revenue. Up to October 2000, employers had to deposit with the Immigration Department a refundable repatriation amount for each of their contracted employees working in the Cayman Islands. After this date the policy was changed to a \$200 non-refundable amount for each employee working under a work permit arrangement. As a result the Immigration deposit balance ceased to grow and started to decline as refunds were made with no further additions.

The Immigration (via their IMSS system) and Treasury (via IRIS) departments keep a record of monies owing to the various employers. This should be reconciled on a regular basis or at least at the end of the government's fiscal year for disclosure in the financial statements. The Committee is concerned that there have been many unresolved issues with regards to the immigration deposit balance for a protracted period of time.

The main issues are:

- During 1997-1999, unreconciled differences were noted between Treasury and Immigration's records relating to Immigration deposit liability balances. There were

no adequate reconciliations between the Treasury (IRIS) and the Immigration (IMSS) departments of this balance in recent years;

- There have been unsuccessful attempts by the Audit Office to obtain the deposit liability balance from the Immigration department in recent years;
- The balance stated in the government's annual accounts cannot be verified because there is no specific list of depositors to whom the funds are owed;
- The contentious transfers of \$2.2m in 1991 and 1995 from Immigration deposit liability to general revenue. It was concluded that the transfer of these funds to Government revenue was fundamentally incorrect and that the deposit liability is understated. The Auditor General's Report is qualified in this respect as the deposit liability is understated by between \$1.2 Million and \$1.7 Million; and
- These matters were too long unresolved.

The deposit account has not been reconciled since the early 1980s. For the record, 1997 through 1999 there were significant difference between the Immigration Department and Treasury Department's records. Subsequent to that the Audit Office could not determine the difference as no information was forthcoming from Immigration, for which to compare to Treasury's balance. The Committee was informed that the reconciliation process was ongoing and is an onerous task. The responsibility for the financial management of the deposit account was passed to the Immigration Department from the Treasury Department in 1998 as it was felt that it could be better monitored there.

The Committee heard from the Chief Financial Officer for the Portfolio of Internal and External Affairs that due to the quantum of records and the fact that the liabilities are in one system and the payments are from another system, it was difficult to match up against the 10,000 or so liability items. However, the Deputy Financial Secretary noted that the deposit balance was not getting any bigger because no additional and new deposits were being taken (since October 2000). At June 2002 the balance was \$6.7 million but at June 2004 it was down to \$5.7 million.

That is a testament to the change in policy away from a refundable deposit to a non refundable fee and of course the employers are making requests for a refund of these liability amounts.

The Committee felt that this protracted issue of reconciliation may be a laborious and futile exercise even if additional resources were taken on at a further cost to the government.

The other major unresolved issue is the transfer of \$2,210,362 from the deposit liability

account to the General Revenue Fund in 1991 and 1995. The Committee was satisfied that the basis for the transfer was erroneous as disclosed by the Auditor General in his annual Report. The Government's financial statements in 2002 were qualified for this issue.

The Committee learnt that with the move to full accrual accounting from 01 July 2004, these monies, because they do not belong to the Government would be placed in a trust fund. This would actually remove the liability from the books of the Government and will be refunded (when requested by the employer) or transferred to general revenue when the stipulated time expires after a permit holder leaves the Islands.

The Committee makes the following recommendations:

1. The balance on the Immigration deposit liability account is transferred to a Trust account for the year ended 30 June 2005, as prescribed by the Public Management and Finance Law. Any reconciliation would be dealt with in the Trust fund to eliminate any differences as to what is disclosed in the government's core financial statements.
2. Attempts be made to determine how much of the \$2.2 million transferred in 1991 and 1995 still belongs to the deposit liability and have these amounts also transferred to the Immigration deposit Trust account.

The Committee also considered other long recurring and contentious areas as reported in the Auditor General's Reports on the financial statements of the government for the years ended 31 December 2001 and 2002. These are discussed below.

#### Overseas Medical Advances

Overseas medical advances (Auditor General's Report 2002, paragraph 1.20) stood at \$19,258,456 as at December 2002 (2001 - \$18,560,398). The Auditor General qualified his opinion on the combined financial statements because he considered the accounting treatment for overseas medical advances inappropriate. Expenditure was not brought to account at the date of payment, but was classified as a recoverable advance. Amounts that accumulate in the advance account tend to be brought to account infrequently, usually accompanied by the conversion of individual advances to long term interest-free loans. The effect of this accounting policy, which has been followed for many years, is to defer recognition of expenditure to future periods. The accounting treatment understates recurrent expenditure and materially overstates both the total assets reported in the Statement of Assets and Liabilities and the accumulated surplus reported in

the Statement of Surplus and Deficit. This matter has been highlighted since 1993 but the accounting policy has not yet been amended.

During 2002, the Health Services Department's (HSD) operations were handed over to the newly established Health Services Authority. Also, over a period of months, the HSD gradually transferred the records and the responsibility for billing, recording and collecting overseas accounts to the Treasury's Debt Collector.

The main issues are:

- The inappropriate accounting treatment as highlighted by the Auditor General which leads to a qualification in his audit opinion; and
- The growing level of overseas medical advances balance

The Committee learnt that subsequent to the 2002 fiscal year that in June 2004 Finance Committee approved the write off of \$13.5 million of overseas medical advances. This will serve to reduce the amount of uncollectible debt that the government is disclosing in their annual financial statements.

The Committee makes the following recommendations:

1. Proper procedures are implemented to ensure that any advances provided by the government be held fully accountable for by the borrower or recipient and that such advances be repaid in an agreed time-frame.
2. The government continue the write-off of uncollectible amounts after attempts are made to recover advanced sums.
3. That inappropriate accounting practice cease and government adhere to correct internationally accepted cash accounting procedures so as to avoid further qualification on the annual financial statements."

As outlined a little earlier in this Report the change to accrual accounting will mandate those amounts to be accounted for in a different manner.

#### Matter of Emphasis

The Committee has also noted that the Auditor General has included a "matter of emphasis" paragraph in his 2002 report that deals with the Affordable Housing Initiative. Through the Ministry of Community Services, Women's Affairs, Youth and Sports (CSWAY&S), the Government embarked on an Affordable Housing Initiative (AHI) to address the housing needs of low-income earners.

During 2002, an advanced warrant for \$3,116,486 was issued to the Ministry of CSWAY&S to cover the cost of expenses related to the AHI. As at 31 December 2002 the total cost incurred was \$657,197, which was posted in an

advance account as deferred expenditures. Section 21 of the Public Finance and Audit Law (1997 Revision) states that sums advanced must be recovered. The Auditor General is satisfied that the accounting treatment is, in principle, appropriate. However, he contends that there is an element of cash subsidy within the proposed AHI scheme but it is not possible to determine with any degree of certainty the extent of Government's financial liability.

The Committee acknowledges the concern of the Auditor General on the Affordable Housing Initiative and understands that his Office is currently finalising a report for tabling with the Legislative Assembly. As such, the Committee will reserve the desire to comment further until such time the Report is finalised and tabled.

As I understand it, that Report is still not yet complete.

#### Mutual Legal Assistance Treaty

The Mutual Legal Assistance Treaty (Auditor General's Report 2002, paragraphs 1.47 – 1.48) was established whereby the Cayman Islands Government receives funds for assisting the United States Government in combating illegal activities.

The main issues are:

- Whether there have been established criteria to determine specifically how monies are collected and consequently to what use the money is put;
- The inability of the Audit Office to secure information from the relevant department pertaining to the audit.

The Committee is concerned as to how funds are determined for depositing into this treaty arrangement for the benefit of the Cayman Islands government. It is thought that if the money is not claimed then the government may not receive them. There is the ambiguity also as to how the amount of money is determined.

The Committee is keenly interested also as to what purpose the money is used for as there may be instances where the money is not used for the particular purpose its was given for or established.

The Committee makes the following recommendations:

1. Proper criteria need to be established for determining how money is to be received together with a clear understanding and documentation of how the money is to be utilised.
2. Heads of Departments ensure that when an audit is being carried out within the bounds of their department that the request for information by the Auditor Gen-

eral and his staff be complied with so they can effectively execute their mandate.

The Committee has also requested the Audit Office to perform a comprehensive audit on a related topic of the Criminal Asset Confiscation programme.

Mr. Speaker, that too is an ongoing audit.

### Registrar of Companies

The balance on defunct companies (Auditor General's Report 2002, paragraphs 1.53-1.54) in 2002 was \$2,666,852 (2001 - \$788,561). The status of defunct companies has been a fairly significant issue in previous years. The Committee was informed that once a company is struck off the register, local banks should close the defunct company's accounts and surrender all balances to the Financial Secretary. However, it appears as though the banks have not been provided with instructions on where to send the money.

The main area of concern is the lack of clearly defined procedures and responsibilities for the monetary and financial management of the account. This has resulted in the account being operated in a deficient manner.

The main issues are:

- Significant delays in the transfer of funds from defunct companies bank accounts. In 2001 approximately \$150,000 was transferred from banks for companies struck off the register in 1983 and 1985, a 18 and 16 year lapse between strike date and transfer;
- The routing of funds from the banks to the deposit account is not clearly established, resulting in banks sending funds to the Treasury Department, Portfolio of Finance and the Registrar of Companies. These multiple routings make it difficult to effectively monitor funds and ensure the completeness of receipts;
- Ambiguity whether transfers from the banks for defunct companies are or should be inclusive of interest accrued on the defunct companies account. This becomes a significant issue for transfers made years after the company has been struck from the register; and
- There is no assurance that all assets of defunct companies are vested with the Financial Secretary as required by law. This stems from the fact that there is currently no system in place to verify what assets companies have, and with whom they are held.

During the Public Accounts Committee meetings on the 1999 Auditor General's Report in March 2001, the then Deputy Financial Secretary sought to clarify areas of responsibilities, which were vague in the past.

The Committee reiterates its recommendations from the 1999 Report.

There are six such recommendations that were contained in both Reports in the 1999 Report and since they are repetitive and from a prior Report I will not re-read all of those.

Another area of concern is arrears of revenue.

### Arrears of Revenue

Government reports on a cash basis and only revenue received is reported in the annual financial statements. As a result the Committee recognises that accounts receivable (Auditor General's Report 2002, paragraph 1.74 - 1.78) can easily be overlooked or forgotten with the resulting loss of public revenue. Appendix I to the financial statements show cumulative arrears of revenue of \$55,458,618 as at 31 December 2002 (2001 - \$66,975,512).

The main issues are:

- Arrears balances may not be complete and accurate;
- Certain departments do not submit their details of revenue arrears for inclusion in the financial statements; and
- Insufficient emphasis being placed on the importance of revenue collection and management of revenue arrears by the responsible officials.

The Committee recognises that there have been many challenges in the past with this account as reported under the modified cash basis. It is hoped that with the introduction of the accrual basis of accounting these problems would be addressed, as entities will need to ensure that all their assets are properly recorded.

The Committee makes the following recommendations:

1. All entities ensure that they are accounting properly for all their revenue and be able to detail comprehensively all outstanding amounts.
2. All entities should submit to their relevant Ministry or Portfolio's Chief Financial Officer on a timely basis all arrears of revenues to ensure that financial statements are correctly stated.
3. All entities pursue and collect monies that are outstanding.

The Committee acknowledges that the new PMFL requires accrual accounting which would require the posting of revenue when earned as an account receivable versus when cash is collected under the old system. It is imperative that Chief Financial Officers ensure that all of the accounting staff within their relevant ministries and portfolios is doing this. They should be monitoring an aged accounts receivable listing. This could serve as the measurement tool to ensure that this discipline is being adhered to.

#### Environmental Protection Fund

The Environmental Protection Fund (EPF) (Auditor General's Report 2002, paragraphs 1.82-1.86) was established in December 1997 pursuant to section 30 of the Public Finance and Audit Law (1997 Revision). The purpose of the Fund is to ensure that environmental protection fees are segregated from other Government revenues. Revenue is derived from charges levied against departing air and cruise ship passengers under the Travel (Departure Tax and EPF) Law (1999 Revision). Disbursements from the Fund may only be made in accordance with resolutions made by Finance Committee for the purpose of defraying expenditure incurred in protecting and preserving the environment.

Revenue collected in 2002 amounted to \$4,538,707 (2001 - \$3,284,670). There was a transfer of \$250,000 to the Capital Development Fund as a contribution in 2002. There were no disbursements in 2002 nor 2001. The Fund balance moved from \$4,545,356 in 2001 to \$8,834,063 at December 2002.

The main issues are:

- Amending the law to make provision for an interest or penalty element on overdue balances;
- EPF transactions should be recorded in a separate Fund rather than as a deposit account with the General Revenue Fund;
- Revenue should be recorded using the AR module of IRIS rather than Excel spreadsheets to enable more efficient management of receivable balances;
- Revision of the Law to clarify when cruise ship passengers should be charged the fee. Cruise ships were being charged on departure, whereas the interpretation of Law by Legal Department meant on arrival.
- The 2000 Internal Audit Report stated that the "definition for 'Yearly' and 'Seasonal' requires review as revenue may be lost as a result of ships arrang-

ing to call during a period not classified as seasonal.

The Committee is again concerned that the long outstanding issues relating to the Environmental Protection Fund continue to exist and be reported on for another year by the Auditor General.

The Committee makes the following recommendations:

- The recommendations made by the Auditor General in his Report are implemented as far as possible.

#### Infrastructure Development Fund

The Infrastructure Development Fund (IDF) as contained on page 23 of our Report deals with the cash movements of that Fund, the setting up of the Fund and certain changes made to the Fund which involve moving from having rates based on construction costs, which as we all know is subject to interpretation, versus having new rates which are based on square footage, which are a lot easier to quantify and a lot more difficult to change.

Without reading through that section in detail, which I think is very clear and easy to follow by Honourable Members of the House. The Committee is acquainted with this issue and it is relative easy to follow in the public. I move to the main issues that were raised and they are as follows.

The main issues that still needs to be addressed are as follows:

- No resolutions from Finance Committee or Legislative Assembly were seen for the transfers from the Fund in 2000 as required by Government Motion 15/97;
- Legal authority (as recommended in the Auditor General's Reports from 1997 to 1999) for the accrual of the 1.5% Stamp Duty to the Fund has not been obtained to date;
- Interest income on Fund monies is still retained in the General Revenue, as authority for retention of interest by the Fund has not been obtained;
- There has been no change in the basis for calculating Infrastructure Fees. The Planning Department's database does not presently include information on Infrastructure Fees charged. These are processed only on the IRIS system; and
- The Infrastructure Development Fund section in IRIS is not used to maintain a Fund account which is what it was established to do.



The Committee makes the following recommendations:

- The issues highlighted by the Auditor General in his Report are addressed as soon as possible.

#### Housing Guarantee Reserve Fund

The Housing Guarantee Reserve Fund (Auditor General's Report 2002, paragraphs 1.104 – 1.111) was created in 1994 to make good any default, which may arise from the Government guarantees provided under the Low Income Housing Scheme. The guarantees cover between 10 and 35 % of the upper layer of loans and once this layer is repaid, the guarantee is extinguished. The Government's overall possible exposure is \$14.6 million. The Portfolio of Finance previously administered the Fund and in February 2002, this responsibility was passed to the Cayman Islands Development Bank (CIDB).

The main issues are:

- The Fund's balance is kept in separate bank accounts however no separate accounting records are maintained;
- The banks were actually claiming more than the 35% guarantee on the defaulting loans, which the Government was honouring;
- Payout by the Government to the participating banks for defaults under the scheme since 2000 totalled \$432,714; and
- There is little evidence that efforts have been made to recover these amounts by the Government.

The Committee makes the following recommendations:

1. Separate accounting records be maintained to provide adequate information of the Fund's transactions
2. In consultation with the Legal Department, CIDB should review the contract that was entered into with the banks, to ensure that the liability of the government is limited to 35% of the loans given (and until that upper layer is repaid).
3. Government take a more vigorous approach in attempting to recover the amounts owing by the defaulters. The Debt Recovery Unit could assist with collection.
4. A more current review of this Fund is undertaken by the Audit Office to ensure all the contentious issues are highlighted in more detail consideration by the Committee to ensure corrective action."

Another relatively new issue revolves around the Audits of Statutory Authorities' and Other Public Bodies.

#### Audits of Statutory Authorities' and Other Public Bodies

The Committee is concerned with the Auditor General's comments that the submission of financial statements by statutory authorities (Auditor General's Report 2002, paragraphs 2.02 – 2.03) for audit is a problem due to the length of time it takes to conclude and finalise certain critical audit issues. The Committee notes that what is more important is the protracted delay in tabling the accounts with the Legislative Assembly. In three cases financial statements from 1998 to 2002 have been certified but not yet tabled. This is crucial to the accountability and transparency process and far too often this is taken for granted and impacts the usefulness of timely information.

The Committee echoes the sentiments of the Auditor General that certain Statutory Authorities need to be more responsible and accountable for the financial audit obligations. This can only enhance and benefit standard reporting requirements, best business practices and good governance.

The main issues are:

- Various statutory authorities are not preparing and presenting their financial statements for audit to the Auditor General in a timely manner.
- Various ministries and portfolios are not tabling the audited financial statements of statutory authorities in the Legislative Assembly in a timely manner.

The Committee makes the following recommendations:

1. Statutory Authorities ensure that their financial statements are presented to the Auditor General in reasonable time for audit and in compliance with the respective enabling laws.
2. The Authorities' should also ensure that their audited financial statements are approved by the respective Boards and submitted to their respective ministry or portfolio.
3. The responsible ministry or portfolio should ensure that the audited financial statements are tabled in the Legislative Assembly in a timely manner after they receive them.

**Value For Money Audits**

**Health Services Authority – IT Controls**

The Committee did not call any witnesses for this Report. The observations and recommendations of the Committee are based on The Report of the Auditor General on the Financial Statements of the Government of the Cayman Islands for the year ended 31 December 2002 – Part III - Value For Money Reports.

The Committee took that decision because in earlier discussions that we had on a prior Report of the Auditor General that touched on this issue we had become aware at that point that this was indeed a valid issue and hence the reason the Auditor General went into it in detail in the 2002 Report.

The Auditor General estimates that during the past decade, government’s revenue losses from the provision of health care to be in the region of \$70 to \$100 million. In his opinion, revenue mismanagement and lost opportunities have undermined the very viability of our health services.

System weaknesses are only part of a larger overall problem these include unbilled services, services provided at nominal or no cost, poor revenue management, inadequate revenue collection, and ineffective debt collection. Had this been a business, it may have been forced to file for bankruptcy. Little emphasis has been placed on effective revenue billing and collection. It comes as no great surprise to learn the HSA’s CFO estimates that 85% of accounts receivable will have to be written-off.

The scope of the Auditor General’s review included the HSA’s general computer controls and the controls over the accounts receivable system. Accounts receivable balances as at 31 December were:

2002	2001	2000	1999
Not Deter- minable	\$51,149,684	\$44,615,872	\$36,601,791

General computer controls provide the control foundation on which business applications, such as accounts receivable, are processed. Their purpose is not typically directed to any one application, but to all applications supported by the Information Systems Section. Effective general controls provide the proper environment for good application controls.

The main issues are:

The Auditor General examined general controls in 6 major categories. Five out of six general controls are weak and severely diminish the reliability of controls associated with accounts receivable and provide a high risk of error. As

well, since the general computer controls are weak, they do not provide an adequate foundation for information systems processing.

Table 1 on our Report describes the general controls that are weak.

**The Speaker:** Honourable Member is this a convenient spot to take the break? It is normal and usual that we take the luncheon break at 1 pm and it seems that you may still have a substantial amount of the Report under Part II to conclude. So I will take the luncheon break at this time and we will return at 2 pm to continue the proceedings of the House.

**Proceedings suspended at 1.00 pm**

**Proceedings resumed at 2.33 pm**

**The Speaker:** Please be seated. Proceedings are resumed. The Chairman of the Public Accounts Committee and Second Elected Member for West Bay continuing.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. The PAC which I was presenting just before the lunch break only has a few pages to go and so I know that my Honourable Colleagues are anxious to get this portion of the proceedings over with so that we can move on and wind up this sitting. I crave their indulgence for a few more minutes as I wind up the latter half of the Report.

The General Computer Controls is contained in Table 1 and the controls which were tested are all listed there and the overall assessment is that five of the six controls the adequacy was considered weak. The latter was partial and five of those six, all five where the level of control was considered weak the level of risk was considered high because having weak control surrounding a low risk area will not cause the type of concern within an organisation as would be even partial controls where the level of risk is considered high.

The accounts receivable system’s controls are also weak and do not provide assurance that data in the system or processing of the data by the system is complete, accurate and authorised.

An accounts receivable system should monitor and maintain the accuracy, completeness and authorisation of accounts receivable data. The assessment was weak and this was considered a high risk level.

An accounts receivable system should have controls to ensure that receivable transactions processed by the system are complete, accurate and authorised. Again the assessment was weak and this was considered a high risk level.

An accounts receivable system should provide a complete management trail. In this in-

stance the control was considered adequate and the level of risk medium.

Overall the conclusion is the controls were weak and the level of risks was high.

The accounts receivable system however, provides an adequate management trail.

In essence, whilst the controls were considered weak, at least there is a decent audit trail there to follow. It was noted in the Report that the HSA has made a substantial investment in new systems. The Report has been prepared with the understanding that the current accounts receivable system will be replaced in mid 2003.

The Committee makes the following recommendations:

1. The HSA Board needs to address this as a matter of extreme urgency as losses of this magnitude are not acceptable.
2. The HSA needs to put in place adequate general computer controls and accounts receivable controls in the areas mentioned in Tables 1 & 2.
3. Adequate resources are provided to ensure proper controls can be put in place.

#### IRIS Security Review

The Report outlines the findings of the Auditor General's review over the security of the Integrated Resources Information System (IRIS) (Auditor General's Report 2002, paragraphs 5.01 – 5.25) application performed by the Audit Office in August 2001. The objective was to assess the security of the IRIS environment in the wider context of the government information technology infrastructure.

The Government has selected and implemented Oracle Applications 10.7 as its primary financial reporting system. The combination of Oracle Application modules selected for implementation is referred to as the Integrated Resources Information System (IRIS). The Oracle Database management system (Oracle Database) supports the applications.

The following modules have been implemented:

General Ledger	1999	Cash management	2001
Accounts Payable	1999	Purchasing	2003
Human Resources and Payroll	1999	Inventory	2003
Accounts Receivable	2000	Fixed Assets	2003

The current implementation is designed to provide accounting information on a cash basis to the whole of Government, which consists of 40 Ministries, Portfolios and Departments.

The General Ledger module is used to capture financial information for the whole of Government. Selected departments use one or more of the accounts payable, accounts receivable, human resources and payroll modules. There are in excess of 400 system users with approximately 100 concurrent users during business hours.

The Computer Services Department (CSD) provides centralised IT services through four groups: applications, technical services, central services and administration. This provides a reasonable level of segregation of operational, development and maintenance activities, however, there is some end user computing at a department level.

CSD is responsible for maintaining and supporting the government IT infrastructure, however, individual departments are responsible for the funding and acquisition of their desktop hardware. A mix of platforms is in use throughout government.

During the question period several issues were still noted by the witnesses to be outstanding from the Auditor General's Report. In particular, the physical security systems such as motion detectors, heightening of the walls, and there is also a need for additional firewall to protect from internal attempts of breaching. These issues and others are dealt with below.

The Main Issues are:

#### Organisational Structure – Service Level Agreements

The Auditor General recommended that CSD should implement service level agreements for all services provided to government ministries, portfolios or departments, as they are an important management control that provides greater assurance that the computer services required by ministries, portfolios and departments will be available when required.

During the deliberations of the Committee, the witnesses indicated that service level agreements had been created for all clients of the CSD. However, not all of the agreements had been signed.

#### Organisational Structure - Database Administrator

The Auditor General recommended that Government have a dedicated database administrator. During the time of the Auditor General's review, computer services staff performed selected database administration tasks. As a result, database administration may be inadequately performed resulting in decreased database and application performance, inadequate security and increased risk of data corruption or loss.

The witnesses indicated that this post had now been filled.

#### Integrations of end user systems with IRIS and cost of implementation:

A number of departments currently use subsidiary databases and systems that are not integrated with IRIS. This lack of integration reduces efficiency due to multiple data keying at a department level and increases the risk that information recorded in the General Ledger is not complete or accurate. The Committee posed several questions to the witnesses to determine whether the Departments have integrated their systems into IRIS and if not what the difficulties were in doing so.

The witness indicated that this situation still exists where Departments systems are not integrated with IRIS. He indicated that this is one of the lower priority items to be done. In regards to the dealing with the interfacing of systems it was noted that there was a combination of issues, which are timing, availability of resources and costs.

In regards to the original costs of the system and annual maintenance service costs, the witness could not provide an answer for the original costs as the Finance Department was initially responsible for the project at that time. Ongoing costs are in two parts: one is for support and the other is for the cost of updates.

#### Security Policies, Awareness and Training

The Auditor General indicated draft security and other IT policies have been developed and are awaiting approval by the Business Technology Advisory Committee (BTAC). These policies outline basic security guidelines for the whole of government and are a significant step forward.

According to the witness the draft security and other IT policies have not been approved by BTAC. The witness indicated that as far as he was aware there have been no BTAC meetings and that the committee may have been disbanded. The BTAC has not met since the move from the Ministry of Health & Information Technology.

#### Recovery and Redundancy – Oracle Database

The Oracle database currently resides on a Compaq Tru64 with external drives in RAID configuration. Additional hardware items have been fitted to the machine to improve redundancy and fault tolerance. Recovery and redundancy procedures are considered adequate for most scenarios; however, potential exists for downtime of up to three days if specific hardware failures occur.

#### Recovery and Redundancy - Disaster Recovery

The Government does not have a formal, documented disaster recovery plan. A hurricane plan has been developed for government and addresses hurricane preparation. The earlier Y2K activities included identifying the critical business applications and the recovery order.

According to the witness there are four stages/steps that they have looked at to try and get the highest level of redundancy and availability for Government. The first stage was to ensure that the main core Government hardware and software were in two separate places, so that they could attempt to reduce the amount of downtime that could occur for the failure of one particular piece of equipment.

The second stage would be to ensure the storage area network would be duplicated at a secondary secure location, which meets hurricane standards, which was determined to be the HSA.

The third stage would be to have a full replication of the data of the Government in both locations.

The fourth stage would be to look at the international standards for redundancy, which would require a secure facility beyond 80 miles. The closest location would be Cayman Brac.

Currently, there is replication between the Government Building and HSA for what they consider critical Government data, which are the revenue systems that they manage, excluding Vehicles & Licensing, Archives, Lands & Survey and Planning. According to the witness, the facility for duplicating the data to Cayman Brac would be dependent upon budgetary constraints.

It was indicated that the CSD has a hurricane disaster recovery procedure, but there is still an issue of business continuity that has not been addressed. For example, CSD still needs to address which systems are to have a priority to maintain and make available with the varied requirements of each Ministry. The CSD plans to look at another facility

#### Documentation

The Auditor General's Report indicated that the IRIS system and procedural documentation is limited and often fragmented between various locations. A number of key procedures are not adequately documented. The Auditor General recommended a librarian role should be created and allocated. The librarian should have responsibility for maintaining and controlling system and procedural documentation.

The Committee followed up as to whether the librarian post was created and filled. The Committee was concerned that not having this post filled

could create a significant weakness in the overall management of IRIS.

The witness indicated that in his opinion this post was needed if they were to document all of the various systems that the CSD deals with. However, he felt that the procedure documentation as it related to IRIS is generally up to date. The Committee makes the following recommendations:

1. A disaster recovery plan should be formally documented that provides a detailed risk analysis and prioritises the critical business applications and the recovery order. This disaster recovery plan should be tested to identify any weaknesses and areas for improvement.
2. The Business Technology Advisory Committee should determine and approve an acceptable level of downtime for key business systems. CSD should then assess the potential for downtime exceeding the approved benchmark. If necessary, additional hardware should be acquired or agreement reached with suppliers to ensure that the risks of downtime exceeding the determined levels are appropriately managed.
3. Security and other IT policies should be approved by the Business Technology Advisory Committee and disseminated across government. These policies should outline the basic security guidelines for the whole of government.

#### Road Compensation Payments 1999-2001

The Audit Office was concerned with how road compensation payments (Auditor General's Report 2002, paragraphs 6.01 – 6.37) were being awarded and undertook to examine three aspects of this issue.

- Verifying the annual cost of claims for the years 1999 – 2001 and the amounts settled with the claimants;
- Ensuring that there were adequate professional valuations to support the settlement of claims; and
- Assessing the procedures for evaluating road projects at the Boundary Plan stage.

#### Analytical Highlights

The ratio of claims for compensation paid to total roadwork expenditure has been increasing as shown in the table below. There was a sharp increase in the ratio from 1999 to 2000, followed by another increase in 2001.

#### Comparison of Compensation Claims to Road Costs

Year	Road Compensation Payments (\$)	Total Road Costs (\$)	Compensation to Road Cost %
1999	275,338	11,195,930	2.5
2000	1,719,099	16,685,923	10.3
2001	1,482,590	7,050,692	21.0
Total	3,477,027	34,932,545	10.0

The trend was an increasing ratio of road compensation payments to total road costs.

“The Auditor General noted that these are paid claims and there are other significant amounts of unpaid claims. The Department however, was unable to provide a total estimate of its liability for unpaid claims. According to Lands & Survey's staff, a detailed spreadsheet of the claims liability is currently being prepared and due by the end of May 2003.

The main issues are:

- The Assessment Committee was not being used as frequently for disputes that are not resolved within a certain time period.
- Incidences of Ministerial/ExCo intervention instead of referrals to the Assessment Committee.
- Final payments were more than 10% higher than initially valued by Lands and Survey Department.
- The Government is committing itself to road compensation liabilities with little knowledge of the real magnitude of the compensation claims.
- Delays in finalising Prescribed Composite Maps (PCM)

The Committee understands that the nature of valuing compensation claims is subjective and therefore may take some time to negotiate. However it is imperative that more use be made of the Assessment Committee to ensure claims are settled in an open, fair and timely manner. With the use of the Assessment Committee the perception of independence and objectivity when awarding compensation claims would be enhanced.

The Assessment Committee was established under the Roads Law to deal with items of dispute between claimant and the Highway Authority. The Auditor General notes two cases in the table below where claimants appeared, to circumvent the Assessment Committee and obtain settlement directly from the then Minister responsible for Works.

#### Claims Settled by Ministerial Intervention

Block and Parcel	L&S' highest Offer	Eventual Settlement	Date Posted
14 D 265	App. \$100,000	\$200,000	12/2001
20 E 87	App. \$205,000	\$300,000	09/2001

The Committee is concerned that a Minister acting on his own may not give the perception that the compensation awarded was reasonable, especially when the amounts paid are much higher than any of the professional valuations done by Lands and Survey.

#### Settlement Amounts Higher than Initial Valuations

The Auditor General noted that in seven out of the nineteen cases, the amount settled with the claimants were more than 10% higher than Land & Survey's initial valuation. The profession has a guideline of allowing a +/- 10% valuation tolerance, in accordance with the general guidelines of the Royal Institution of Chartered Surveyors.

#### List of claims with settlements more than 110% of valuation

Block and Parcel	Amount of Settlement	Initial Valuation	Surplus (%)	Date Posted
12 E 60 Rem 3	\$670,819	\$575,500	16.56	01/2000
20 E 39 Rem 1	\$70,000	\$50,300	39.17	06/2000
22 E 179	\$625,000	\$542,500	15.21	11/2000
15 C 126, 169	\$149,500	\$130,500	14.56	04/2001
20 E 87	\$300,000	\$205,000	46.34	09/2001
14 C 248	\$172,498	\$143,750	20.00	10/2001
14 D 265	\$200,000	\$80,000	150.00	12/2001

#### Delays in Finalising PCMs

The Auditor General noted that the PCMs must be prepared on completion of road projects and gazetted, thereby adding the road to the schedule of public roads. There were several completed projects for which the PCMs were not yet prepared and gazetted. According to the department's staff, the backlog of pending PCMs is several years. Besides the legal need to gazette roads, there is also an impact on monitoring of compensation payments as the PCM shows the actual land take against amounts paid for by way of compensation.

The Committee makes the following recommendations:

1. The suggestions and recommendations made by the Auditor General in his detailed Report are considered in alleviating some of the problems which was highlighted. Some of these recommendations may be able to save the Government's cash resources.

#### Acknowledgement

The Committee wishes to record its sincere gratitude and appreciation of the co-operative spirit exhibited by all the witnesses appearing before it. The Committee is most appreciative of the efforts of the Auditor General in presenting two very fair, detailed and informative Reports on the financial statements of the Cayman Islands Government for the years ended 31 December 2001 and 31 December 2002 and for the support, assistance and constructive advice given throughout its deliberations. Further, for the support, advice and information provided by the then Deputy Financial Secretary Mr. Ken Jefferson, the Accountant General Mrs. Sonia McLaughlin and the Deputy Accountant General, Mrs. Debra Welcome. To the members of the Committee I thank you for your time and dedication in making it possible to table this Report.

Finally I wish to thank the Clerk, Ms. Wendy Lauer-Ebanks and her staff for the assistance provided. In particular we wish to thank Ms. Kathleen Watson who has been assigned to the Committee.

#### Report of the Committee to the House

Your Committee agrees that this Report be the Report of the Standing Public Accounts Committee to and of the House on the Reports of the Auditor General on the financial statements of the Cayman Islands Government for the years ended 31 December 2001 and 31 December 2002.

Mr. Speaker, the Report which has been tabled and spoken to by me as Chairman of the Standing Public Accounts Committee, is the Report of the entire Committee and the Minutes that are attached to this Report. It is outlined that the Committee considered the Report in its entirety paragraph by paragraph and approved it unanimously.

Mr. Speaker, I would therefore move that this Report, as tabled, be the Report of this Honourable House and the recommendations therein be the Report of the House and accepted by the House.

### Motion to Adopt Recommendations Contained in the Report

**The Speaker:** The question is that the recommendation contained in the Public Accounts Committee Report on the Report of the Auditor General. The Honourable Chairman of the Public Accounts Committee and Second Elected Member for West Bay has moved the motion, may I call on one of his colleagues to second it.

The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Mr. Speaker, I beg to second it.

**The Speaker:** The question is that the recommendation contained in the Standing Public Accounts Committee on the Report of the Auditor General on the Financial Statements of the Government of the Cayman Islands for the years ended 31 December 2001 and 31 December 2002 together with the Reports of the Auditor General be adopted. All those in favour please say Aye. Those against, No.

**Ayes.**

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

**Agreed: Recommendations contained in the Report adopted.**

## ADJOURNMENT

**The Speaker:** Honourable Deputy Leader of Government Business, it gives me much pleasure to call on you for this particular adjournment.

I would like to also say that before taking the question I will allow certain statements to be made.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

This adjournment is indeed historic in that it is expected it will be the last for this Session of this administration of the House. As you have agreed, each Member will have an opportunity for parting words. Therefore, at this time I move the adjournment of this Honourable House sine die.

### Recalling Dissolved Assembly in case of Emergency Section 47A of the Constitution

**The Speaker:** Before putting the question, I would like to remind Honourable Members that, although we have six days remaining until the dissolution, the House can be recalled if there is a matter of urgency. I would also like to draw the attention of Honourable Members to section 47A of the Constitution, which deals with recalling a dissolved Assembly in the case of an emergency.

Just for the information I will read through it: **“47A. If, between a dissolution of the Legislative**

**Assembly and the next ensuing general election, an emergency arises of such a nature that, in the opinion of the Governor, it is necessary for the Assembly to be recalled, the Governor, acting in his discretion, may summon the Assembly that has been dissolved and that Assembly shall thereupon be deemed (except for the purposes of section 48 of this Constitution) not to have been dissolved, but shall be deemed (except as aforesaid) to be dissolved on the date on which the next ensuing general election is held.”**

We do not expect that there would be such an emergency, but I thought that it would be of interest to bring this section of the Constitution to the attention of all Honourable Members.

It is now my intention to open the Floor for short comments. I would ask Members to not take advantage of the two hours normally given for debate, but to make their comments as short and to the point as possible.

Does any Member wish to speak? The Second Elected Member for Cayman Brac and Little Cayman.

### Closing Statements by Members

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. I chose to go first to set the tone and length of what would be considered a short contribution.

Mr. Speaker, I have more degrees than a thermometer, however what I have learnt over the past four and a half years of being a Member of Parliament far exceeds what I have learnt up to that point in my life. I truly thank the people of the Cayman Islands, especially those in the constituency of Cayman Brac and Little Cayman who made it possible for me to be here and experience the past four and a half years.

I thank all Honourable Members for allowing me to be part of such a distinguished group. I have gained much experience from each and every one on both sides of this House: on issues of parliamentary procedure, I have learnt so much from my colleague in North Side; on the manner of upholding an office with a great degree of humility, I learnt [much] from the Third Elected Member from Bodden Town. Each and every day as we attended Parliament there was some lesson to be learnt, and to you I also express my gratitude.

As a country we have many challenges ahead of us. The electoral district of Cayman Brac and Little Cayman too has many challenges. I look forward to being part of the solution to some of those challenges—hopefully as a Member of Parliament—but in whatever capacity I will undertake to be a part of the force that looks to meet these challenges.

On 11 May we all will be facing our grade sheet, as we have heard in this Parliament so many times. We will get our report card. I would like to say that all Members of this Honourable House have

demonstrated throughout the four and a half years—but especially during the aftermath of Hurricane Ivan—that we all have one common goal. We are all interested in the betterment of this country, we all share the same beliefs that we have a beloved Cayman Islands and people, and we have all worked for the betterment of the Caymanian people.

I have had a very traumatic four and a half years also. I served on both sides of this Honourable House during the one term, the first year as an Opposition. I have learnt a lot and had the opportunity of working along with the Opposition at that time, the Hon. Gilbert McLean, the Hon. Juliana O'Connor-Connolly, Dr. the Hon. Frank S. McField, and my good friend from Bodden Town, the Third Elected Member.

Mr. Speaker, I cannot bear to conclude this four and a half year term without making a special mention of my colleague during that first year as Opposition, and the one individual that I have spent the most quality time with in this Parliament, my friend from East End.

My good friend from East End and I have represented the Cayman Islands on many CPA conferences as far away as Namibia, Africa, and in the region of St. Kitts and Nevis; I have great respect for that gentleman and I thank him for the close kinship that we have had over the past four and a half years.

The latter part of my time in this House I spent as a Member of the Government's Back Bench, working along with some of the most distinguished group of Parliamentarians under the leadership of the Honourable McKeeva Bush.

I also thank all Members of the United Democratic Party and the Government for this experience. My four and a half years have not all been positive. I have certainly developed my fair share of critics, but I know that when I leave here today, with all that has been said about me, none of my critics can say that I did not work hard, that I was not accessible to the people of Cayman Brac and Little Cayman, that I did not use my time in this Honourable House to work for the betterment of the people of the Cayman Islands, but especially the people of Cayman Brac, and Little Cayman. My critics have said all but they cannot say that the people of Cayman Brac and Little Cayman were not represented in this Honourable House, that there was not a voice in this Honourable House on their behalf.

Mr. Speaker, my critics have had a great field day, and now that we are at the eve of a general election I am sure they will continue. But I ask to be graded on 11 May on the basic fact that during the four and a half years much has been accomplished for the district that I was elected to represent. Much has been achieved for this country during the time that I was a part of the Government. I know many in this country may have different views of how I live my life, but I would like to say to this country that if I was

coming to you asking to be a husband I would strongly discourage it! But I am not applying for that role, I am applying to be the representative of the people of Cayman Brac and Little Cayman. And for that simple fact I am asking that this one good term be rewarded with another term come May 11<sup>th</sup>. If I am evaluated based on the merits of the contribution made I think I deserve another term.

Mr. Speaker, living to my initial commitment to be brief, I thank you, this country and the people of Cayman Brac and Little Cayman.

**The Speaker:** I wish to thank you Honourable Member for your high respect for the time of the House. Does any other Member wish to speak? Does any other Member wish to speak? The Honourable Minister for Education.

**Hon. Roy Bodden:** Mr. Speaker, I thank you for this opportunity to express my sentiments on what is certainly a sobering and momentous occasion. It was a privilege to have been elected to serve the people of Bodden Town, not only in the last four years but the preceding years. It is with a sense of great humility that I rise to express these sentiments acknowledging that this could not have been done without blessings from God.

As I look back, especially through my formative years of growing up, I sometimes remind myself and my colleagues that we tempted fate on a few occasions, and I firmly believe that there was a grander plan for us [and that is why] we were spared.

In the arena of politics, particularly adversarial politics as is the Westminster system, often times we have to resort to being other than we would normally be. In the cut and thrust of debate sometimes we let fly—and I have on a couple of occasions done so. So this opportunity affords me the chance to apologise to Honourable Members who may have come at the short end of my temper and who may have interpreted my barbs as being arrogant. It was all in an attempt to gain political opportunity and political one-upmanship, and I hold no malice toward anyone.

For me, too, it has been enlightening and a learning [experience]. And history was made. I sense that there is still a residual bitterness which lingers in the memories of some persons.

Mr. Speaker, I firmly believe that whatever transpired should now be firmly placed behind us, because all of us (and I can speak from the experience of socialising and discussing with all Honourable Members here) have the same common objective, and that is what is best for these Islands.

As difficult as it may be, we should put certain experiences behind us and prepare for the future. Not only prepare ourselves but prepare our communities and constituencies. These four years have been a learning experience, and we have seen new and colourful characters come to the Legislative Assembly—



all, I might add, served to remind those of us who like to think that we are wise, that we cannot rest upon our laurels.

Going forward I can only say as Frederick Douglas, that great abolitionist, said—if there is no struggle there is no victory. I am reminded too of Martin Luther King, who in the height of the Civil Rights Revolution had this to say; the ultimate measure of man is not where he stands in comfort and convenience but where he stands in times of controversy and challenge.

I have always measured my performance in times of challenge and controversy, and I seek and implore the good people of Bodden Town to return me once again to serve them. I am proud to partner with my colleague because we have always stood for honesty and integrity and we will be standing once again for honesty and integrity and an energetic and enthusiastic approach to representing our constituents. I hope that my time here has served to inspire those on the outside and on the inside, and that I have been seen for what I am, which is a person who wants to do well.

I had (as you would recognise, Mr. Speaker, because you were in that position earlier) a daunting mandate to carry out. I did so to the best of my ability as efficiently and effectively as I could believing that when a man does his best angels in heaven can do no better.

Mr. Speaker, I have accepted criticism with graciousness and humility. That is symptomatic of one who realises that man is fallible, that there will be the time when Roy Bodden, as a Minister or as an individual, cannot do everything that he is expected to do. There will be those who say more could have been done, and those who will say that nothing at all was done. I consider that par for the course and accept that as constructive criticism. But what I do not have to accept is anyone saying that in the carrying out of those duties I have been less than conscientious or that I have used my position of trust for self-aggrandisement or for anything other than what was honest and loaded with integrity.

I am sure that when the tally is made the infallible discretion of a majority of the Bodden Town people will come through. I am a realist and I sometimes reflect on other eventualities, I would be unwise, and it would be most impolitic of me if I would say that I were to take anything for granted.

I am happy and humbled that I have been able to represent my constituents as I have represented them. I hold no malice towards anyone and in the upcoming campaign I shall try, as I have done before, to be a worthy opponent. I wish no one ill, indeed I look forward to returning and working with colleagues on both sides of the House and I shall do my best to continue to set a positive example for my colleagues within these hallowed Chambers and to those persons outside, particularly those persons who

put their trust and faith in me to represent them honestly and wisely.

Thanks could go to many persons, and I have said first that all thanks go to God. I want to say to you, Sir, that you have my appreciation for maintaining the dignity of this Honourable House and this august body under some trying times and difficult circumstances.

I want to say to my colleagues on both sides of the House, it was my pleasure and a learning experience working with you. I have some very dear and great friends on that side, beginning with the Leader of the Opposition, and I am sure that one of these days before the great getting-up morning, we will be able to laugh, be comrades and friends as we once were.

To his younger, and sometimes seemingly more energetic, colleagues, the Second Elected Member for George Town and the Elected Member from East End, respect is due. We know what we share when we go in the dining room. So I caution any other interpretation of any exchange from the Floor of the House, particularly as the relationship between the Second Elected Member for George Town and I goes back a long way from school days.

He just reminded me that he will ensure that I have a long and happy retirement. I believe him, but what I am trying to avoid is for him to put me into retirement when I do not wish to go!

Mr. Speaker, the Member from North Side is the wise one; the resource when it comes to the Standing Orders and their interpretation, and a very dear and great friend who never changed colours. She never shows a different emotion, how I admire that lady. And to my colleague, the Third Elected Member from Bodden Town, who is always humble and straightforward—operating with a quiet dignity and life in here would be very difficult without them. I told my colleagues on the Government Bench they have the advantage of saying, ‘politicians may come and politicians may go, but we go on until the pleasure of the Governor.’ Would that we had that kind of life and luxury. But we are men and women of a different metal. To my colleagues on this side of the House, I cannot speak too much of them and I will not go into them individually except to say that it has been a pleasure.

Mr. Speaker, I wish for Madam Clerk and her staff Godspeed during the hiatus and to say that their assistance was appreciated and will always be remembered. I thank God that I have had the opportunity to serve and shall do my best to be a worthy opponent and shall return—in spite of the good wishes of my friend, the Second Elected Member for George Town—to serve my people again. Thank you.

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

**Mr. V. Arden McLean:** Mr. Speaker, first of all let me thank you for giving me the opportunity to speak at the historic closing of this Honourable House.

My journey into these Chambers did not begin in 2000. It started long before when I was a water boy for Mr. Warren Connolly. It may be said that I was his protégé.

Mr. Speaker, when I approached my father in 1992 to tell him that I was considering the final step of that journey to seek office through the democratic process, he tried to discourage me. But he knew the child that I was. He knew that was not going to be possible. But he nevertheless warned me, and his warning was very straight. He said, "You do it. But if you at any time embarrass my family, do not come back to my house". He promised to ostracise me from his family.

I entered this Honourable Chamber a little over four years ago as a young individual, thinking that I knew everything. In my maiden speech to this country, whilst trying to control myself, I said that I would not stand for anything that was fabulous. During that campaign my slogan was four words—honesty, integrity, justice and Arden. I stood by that, and today, as I leave this Honourable Chamber for possibly the very last time, I have maintained that.

I also said on 8 November 2001 that I was not concerned about the public and criticisms from my family and if I was to do anything untoward in this Country I would be skinned by them long before the public reached me.

Mr. Speaker, I thank the people of East End for having given me the opportunity to represent them. I am willing, able, and ready to continue to represent them. But it is their choice. I was reminded recently when I saw an old book that I had read many years ago, the autobiography of Castro. In it he said, "you may paint me a devil but be objective about it" that is all that I ask. Mr. Speaker, if the people of East End had not given me this opportunity I know it would have taken me the rest of my life to develop the way I have over the last four and a half years. I will forever be indebted to the people of East End. On May 11<sup>th</sup>, if they see fit to return me here, I am ready and willing to continue.

Over the last four and a half years there have been some trying times in here. We have had some very difficult times. If my father could see me now he would understand those trying times, because it has changed my life dramatically. I have learnt so much from so many people in this Honourable Chamber, every Member of this Honourable Chamber has taught me something. There were times in recent months that the Minister of Education and I have gotten off at some heated times. To the Minister of Education, and to all on the other side, I say I do not hate—because I learnt a long time ago that half of the people you hate do not know that you hate them and the other half really do not care whether or not you hate them—I hold no malice. Why should I hold mal-

ice? This august body is made up of nothing but Caymanians and we will forever be a part of this landscape.

I enjoy this beloved country that we all call home. I know, like all other Honourable Members, you may show us someone else who loves this country as much as we do, but no one that loves it more than we do.

Mr. Speaker, if I were to say that I would like to come back on this side of the House I would be telling this country a lie. I have served my time in the Opposition. And it has been invaluable time. I have learnt beyond my wildest dreams what it means to be a part of this Westminster system. I believe that I am ready for the other side. If I do not have that confidence then no one else will.

When I came in here I knew what my limitations were and I knew that I was not ready for the other side, I knew that I had to serve my time out, and I believe that I have done that and done it well.

Mr. Speaker, there are opponents to me in this community but if there were not then I would be doing something wrong and something would be wrong with me. I welcome opposition because it strengthens me and gives me the opportunity to see where I have not fulfilled the promise that I have made to myself or to this country. I do know that if a man does his best, what else is there. I can only do my best and I believe that I have served my country well, and when the smoke is cleared we will all know what our report cards read, whether it is 'F', 'A', or 'A+'.

Mr. Speaker, I thank the people of East End sincerely, from the bottom of my heart, for having given me this opportunity. I had a meeting on Monday night and I said to them that what I have become they have made me and I truly believe that. Whilst I have had a part in that, the people of East End have played the bigger part. I know that at this stage in my life this is the best time for them to retain me in order for me to give them dividends from their input to me.

I would like to thank the Second Elected Member for Cayman Brac. We have spent many weeks overseas trying to develop ourselves. Representing this country it is something that I honestly value. As much as I have travelled before as a young seaman, and as much as I had learned during that time, the four and a half years that I have spent here travelling on behalf of this Honourable House and this country, I have learnt much more. I would encourage anyone who comes into this Honourable House in the future to pursue.

I want to thank the Second Elected Member for West Bay also. The former Governor, Mr. Smith, called us when we came in here, the young Turks; I have seen this young man develop from a young Turk into what is today a very promising young man. Young is relative when it is coming from me. I am not that much older than he is, but I have a lot of time for this young man.

I want to thank the Ministers, as much as we have had our times in questioning, and me becoming extremely animated at times, we understood the goal and our one objective was this country. I became extremely animated in here and tested your patience, Mr. Speaker, on many days—also the former Speaker, the Minister of Planning at this time, also our dearly departed Speaker, Captain Mabry—but I guess it is the passion in me for this thing called politics. For that, I apologise—not that I tested you but that is who I am.

Mr. Speaker, it would be remiss of me to leave here today without thanking the staff of this Honourable House. As much as I can say I have learnt from my colleagues, I believe I have learnt equally from the staff. They have guided me, taken care of me and carried me through the last four and a half years. When I came in here green, I did not even know where to go, they took me by my hand and led me around this place. I could not even find my chair! I believe that there may have been a feeling of obligation on the part of the Deputy Clerk to lead me around because she is from East End and she did not want East End to be embarrassed! But nevertheless she and the others have gone beyond their call of duty to assist me and show me the ropes. I am eternally grateful to them.

To my colleagues on this side I can say with much confidence that I have found a little nest that has similar eggs in it. It is a matter of them hatching and we all popping out at the same time. Mr. Speaker, I have been friends with many on this side for a long time. The Leader of the Opposition, the Second Elected Member for George Town (who claims to be my family), the Member for North Side and the Third Elected Member for Bodden Town, we were opponents at one time. I will never forget that the Third Elected Member for Bodden Town and his father in law, in 1992 tagged me as 'Arden you are harden' and my cousin on the Government's Bench (the Honourable Gilbert McLean) keeps referring to me as that.

That was the time when we were on the opposite sides during an election. I can hear Mr. Haig saying, "Arden you are too harden." Those were good times. I have learnt so much from them, and I have the utmost respect for the people on this side, and I believe that we deserve to be the next Government—that is without disrespect to anyone that is the objective of an opposition in this environment without being disrespectful. To them I say thanks, especially the Member from North Side who has carried me as well as anyone in this Honourable House has.

Mr. Speaker, there have been trying times and the country is faced with many challenges, particularly in the aftermath of Hurricane Ivan. The time has come for this country to come together to face the challenges together.

After the storm in East End the people who came to the rescue of the people of that district, there

have been many of those. In keeping with the shortness of this contribution I will not try to name them all, but there are a number of those that are in general categories that I would like to name, such as the shelter wardens, the rescuers, volunteers, even those who volunteered for the distribution of food under my leadership. There was a cross-section of people who did that. People came from all over this Island because I believe that they trusted me and that they trusted people like Darrel and Oswell Rankine. When I say cross-section, I mean cross-section, they loaned and drove their vehicles to distribute food in that district.

From the Minister, Mrs. Juliana O'Connor-Connolly, to the accountants, carpenters and electricians all came out to assist me in that district. To them I am very grateful.

To Mrs. Olde, this country—and in particular the people of East End—will forever be indebted to this generous woman. I would like to again publicly thank her for assisting the people of East End and in particular for me to be a part of that. I will never forget the contribution she has made to my people.

Last, but by no means the least, my family. I could not have done this without my family and as you all know I have a new wife, prior to her becoming my wife she stood by me through thick and thin. It is true that family is your support. She has put up with more from me than I could expect from any other human. The late nights, me being miserable and all the rest; she is truly a wonderful woman.

Also my mother, who is the last in that era of my life. She has always been my guiding light and as always encouraged me, and I thank her.

To my siblings, three brothers and two sisters who stood in the public and defended me because they know who I am and know what I will and will not do. To my third sister who is the peacemaker in the family—when all seemed like it was going downhill she always stepped in to encourage me. My other sisters and brothers are tough people and will criticise and deal with me accordingly, but she is always the peacemaker in the family, and for that I thank her and I thank them for criticising me whenever I needed it! They did not spare me as well as they will spare no one else.

I thank my family and my two sons whom I have been taken away from somewhat to be able to make this contribution to my country. But they understand and they support me. I thank them for allowing me to be away from them to make my contribution to this country.

Mr. Speaker, I ask the people of East End to give me one more term on May 11<sup>th</sup> to continue to make the contribution that I started. I am not here to build a legacy, I am here in service to and for my people—whether from East End, George Town, West Bay, Cayman Brac, Little Cayman, North Side or Bodden Town, it does not matter—but in particular the people of East End. I enjoy being in service to my

people and I look forward to being returned here to continue that service.

To your good self, Mr. Speaker, I thank you for putting up with me and bringing and maintaining such respect to the Chair that you so ably occupy.

Once again to all my colleagues, good luck and maybe all of us will not be returned but it has been a great journey and we could not have been here at any better time in the history of this county. It was a perfect learning experience for me, and I know that goes for the rest of you. Maybe on 15 May I will see all or some of you back here.

Thank you, Mr. Speaker, and may God bless the Cayman Islands.

**The Speaker:** Does any other Member wish to speak? The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker, for this opportunity.

This is a special occasion for all of us here after four more years of serving the people, and in my case the district of Bodden Town.

First of all, I would like to thank my heavenly Father for this opportunity, my family, and especially my wife who over the past four years has experienced some difficult times where she had two encounters with cancer. But thank God the chemotherapy is now finished, the port is out and she is on her way, with the help of God, to complete recovery.

I want to thank you, Mr. Speaker, and Ms. Wendy for all her help and advice, and all of the staff of the Legislative Assembly, especially in recent weeks the wonderful food, whoever has made the selection, and I think we all enjoyed it.

I will be brief because the next thing I know we will be taking a break on the adjournment before we can adjourn!

I want to really thank the people of Bodden Town who have put their faith and trust in me over the last three terms—twelve-plus years—and if it is their will and the will of God I look forward to serving them again. Bodden Town is a very special district. As we know, it was the capital of these Islands. As I look across and see my two colleagues, who will still have some degree of power between now and 11 May, I ask them to continue to do their best in trying to secure as many in Bodden Town and throughout Grand Cayman who have suffered such devastation and also the urgent repair of the Bodden Town Civic Centre which serves as a hurricane shelter.

Mr. Speaker, we are less than three months from the hurricane season, with many homes that people still have not been able to rebuild to a standard. As I said in the meeting a few nights ago, it will take less than a hundred mile-an-hour wind and rain to cause serious devastation to these homes and peoples' lives. So I am asking the powers that be and those out there in the public domain that may be in a position to help some of these people—I urge them to

show their humanity in helping those who have not been as lucky as others.

This has been a special Legislative Assembly, things that have transpired over the last four years have never happened before. As we go forward all of us have the best interest of these Islands at heart, it is just that some of us may have a different approach in reaching that ultimate goal. I encourage all of us as we go forward to think of our people.

To the people of Bodden Town, I have been there for you in times of joy and I have been there for you in times of sadness. With the help of God I will always be there for you. I look forward, over the next few weeks, to meeting more of these people and visiting them. There are so many good things out there that we can try and help them with. I encourage all of us as legislators to look at that aspect and talk with our friends and families. I know the Minister of Health had a program a few nights ago, Neighbours Meeting Neighbours, especially the senior citizens look forward to something like this where we can council and console them. Far too many of our senior citizens have passed on in the last few months. Let us make them as comfortable as possible and provide for them whatever benefits and assistance we can.

I quote from a little book which has a lot of history. It was given by my father-in-law (the late Haig Bodden) to Mr. Truman [Bodden] on 27 December 1978. It is a quote by Mr. Joseph Parker, which says, **“Never throw mud. You may miss your mark, but you will have dirty hands.”** As we go through this election maybe we can bear this in mind, we are all Caymanians and only we can tear down these lovely Islands. There is a lot of building that we need to do and only we can do it. It is not going to be easy but hand-in-hand we can do it. We must focus on the rebuilding of these great Islands. Nowhere in the world can compare to what we have here. May God bless us all.

**The Speaker:** Does any other Member wish to speak? The Elected Member for North Side.

**Ms. Edna M. Moyle:** Thank you, Mr. Speaker.

I have listened to my colleagues on this side, but I think my remarks will be a bit different.

First of all I would like to thank the Honourable Minister of Education for his kind words. I would say to that Honourable Minister that my personality does not change because I hold no ill will against any man.

Having sat in this Parliament as Deputy Clerk for some nine or ten years, and having acted as Speaker, I specifically recall Mr. Haig Bodden, the representative for the district of Bodden Town, and Mr. Benson Ebanks, who was a Minister at the time. In this Chamber they got at each other in no uncertain terms, but when they walked through that main door to the Common Room they were great friends. That is what we need to encourage in this Legislative As-

sembly. What is said within this Chamber should remain and not be carried into the Members' dining or common rooms. This is how I have tried to live my life for the past twelve years that the people of North Side allowed me to represent them.

When the history of this four and a half year term in this Legislative Assembly is written it will surpass any other. We had the fight just after the General Election to form Executive Council; we had the vote of no confidence to gain power; we had the failed affordable [housing] scheme; the suspension of Standing Orders . . . when added up for the past four and a half years, will probably surpass the entire life of this Legislative Assembly.

Questions have been put before this Parliament that have never been answered. Particularity on the matter of questions, we all know that questions are the only vehicle the Opposition (who is in the minority) has of gaining information. It is extremely important that any Government sitting on that side should answer questions that have been asked by the Opposition. That is to mention but a few.

Many Members will probably ask, "Where is she going?" Where I am going is that I pray and hope that those who fill the seats of this Hallowed Chamber after May 11<sup>th</sup> will look back and learn from the mistakes that have gone on.

Before I leave this Chamber, I wish to thank the Official Members of this Parliament. The Honourable Chief Secretary, who was the Financial Secretary prior to taking up this position, who has been a gentleman to both sides. Even though the Opposition was in the minority he gave us the respect due. The Honourable Attorney General, I cannot sing his praises too loud for how he has assisted the Opposition in understanding legislation brought before Parliament—those of us that needed the advice.

Mr. Speaker, the Honourable Financial Secretary, a young Caymanian, it makes me proud that he now fills that seat. I believe that with the necessary experience, over the years the history books will tell us that Mr. Ken Jefferson—this young Caymanian that has taken on such a high position in our Government—will make us proud.

Mr. Speaker, to you I would like to say that I have been impressed with how you have operated the Chair. In my opinion, you have operated it as it should have been—at all times protecting the rights of the minority, yet not allowing the Government's business to be stifled. I say to you, congratulations!

To the Clerk and the staff of the Legislative Assembly I say thank you. Although at times I may have differed with an explanation on a Standing Order . . . that is me. I am very particular about procedure and I know the Clerk knew when I argued it was just for both of us to arrive at the right interpretation of those Standing Orders. To all other Members in this Parliament I say that I have enjoyed working with you—to those who have been here over the past twelve years, the eight prior to this four and these

four. But it is time for us to part ways. There are some of us who will be returned and there are some of us who will not be returned; there are some of us who need not be returned—and I do not call names. Those who think that I am speaking about them must go deep within their heart and soul and search to think why I would say such a thing.

To the people of the beautiful district of North Side who gave me the opportunity for the last twelve and a half years to represent them, I would like to say I was honoured to be your representative for the past twelve and a half years. You must now judge me by my record and you must not judge me based upon lies that are being spread. You must look at what has been achieved for your district and say that Edna tried. You must look over the past four years and remember that I was removed from Executive Council where projects can get done. And when we look at the Opposition and the Government I must say the two Ministers that have assisted me over the past four years are the Minister for Roads and the Minister for Education. I was not in a position to bring through projects for my district, but I assure the people of North Side that although I was not able to achieve, it did not stop me from asking.

I say to the people of North Side this evening, that I would be more than proud to serve you the people of North Side. You must look deep in your hearts, where this country is now is a very crucial position, and it is no time for inexperienced people and those to make their way to this Parliament through deliberate lies and character bashing.

I will not run an election campaign on character bashing, but I say to my opposition if you go to the campaign with it then you are opening yourselves up to the same thing. Let us deal with issues, policies, achievements, but let us not get into this low scum type politics.

Mr. Speaker, with those few words I thank you.

**The Speaker:** Does any other Member wish to speak? The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

I, too, would like to echo my sentiments before the adjournment of this Honourable House.

Four and a half years ago when I was first elected, I expected it would be a challenging time, but with the advent of 11 September 2001(9/11) and 11 and 12 September 2004 (9/11and12) the challenge far exceeded my expectations. However, the past six months have been the greatest test in modern times of our strength and ability from what we have experienced from the wrath of Hurricane Ivan. I dare say that it is going to be quite a while before these Islands are returned to the position they were in prior to Hurricane Ivan.

By nature, Caymanian people are very resilient. With the help of God we will come back stronger

and better but this can only be done by neighbour helping neighbour. It can only be done if we all work together and help carry our share of the rebuilding load.

The general election looms before us. It is at this time that I would like to thank the people of West Bay for affording me the opportunity to represent them in this Parliament for the past four and a half years. I would also like to say to the people of West Bay that I am again putting my hat in the ring in the upcoming election.

As we begin campaigning let us conduct ourselves as leaders in a professional and dignified manner. We have all learned so much from these four and a half years. Let us take this learning experience and understanding and bring it to the leadership process. Let us campaign on issues that face these Islands not on personalities. Let us do what we were elected to do, which is represent our people to the best of our ability and try to better these beautiful Islands and bring them back to the standing they were before Hurricane Ivan.

Mr. Speaker, at this time I take this opportunity to sincerely thank you for the professional way in which you have handled the Speaker's position over the past two years. You have been fair and equitable in your rulings.

To the Clerk and her dedicated staff, thanks for the many long hours you have put in to this job you are appreciated by all Members of this Parliament.

Also thanks to Miss Anita for making sure that we were all well fed.

My sincere thanks and gratitude to the dynamic West Bay United Democratic Party Committee for their unwavering support and countless hours of working side by side, it is all much appreciated.

Thanks be to Almighty God for brining us this far, we have so much to give thanks for. We ask for His continued blessings on these beautiful, beloved Cayman Islands.

It has been a privilege to serve the people of West Bay as their representative and it is my sincere hope that they will afford me this privilege again for another four years.

Last but not least, I want to thank my entire family for their unwavering support through these last four and a half years.

With those few words I want to say thank you and thank all Members of this Parliament for a wonderful and great four and a half years.

**The Speaker:** Does any other Member wish to speak? The Honourable First Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, on this occasion it is oftentimes a tricky time to travel. I know this is a time that is normally allowed for the elected side of this Honourable House to wish each other well and to say thanks to their various districts for putting

them here in this Honourable House and thanking them for the privilege of giving them the opportunity to represent their districts and also to represent the country of the Cayman Islands.

The comments I am offering will be on behalf of my two Honourable Official Colleagues and me. The Honourable Minister for Education said that as Officials we serve at the pleasure of His Excellency the Governor, and that is true. We do not have to be thinking in terms of getting on a platform and seeking to be returned through the electoral process to this Honourable House. With that aspect being set aside, there are many instances where we have shared the same common concerns.

Oftentimes the issues that are raised in this Honourable House are issues that we feel quite emotive about and we often have views on it although the way we express our views will oftentimes differ because the position that is taken by the Official side will have to be very neutral and we will have to do our best to conceal our emotions at times. But what is important is that we are all citizens of the Cayman Islands and this is our country, and what affects one affects all.

I have observed Honourable Members in this House, so have my two Official Colleagues. Oftentimes the exchanges will be heated on both sides, but I have always observed (and I am sure that they will endorse this position) that there is one common output being sought, and that is what is within the best interests of the Cayman Islands. They will approach it from different angles but I have always deduced that they are striving towards a given outcome, and that is what is best for the community at large.

My suggestion to my elected colleagues is that before they hit the campaign trail everybody should take at least a week off. I also say that to you, Mr. Speaker, because you are also going out there and I have to commend you for the way you have conducted yourself as our Honourable Speaker. I know it is a short time between now and 11 May, but even if thanks are not said to the Honourable Elected Members of this House I, on behalf of my Honourable Colleagues on this side, would like to say thanks to yourself and all Honourable Elected Members for your commitment and dedication in the service that you have given to this country.

Oftentimes the public at large will judge Members of this House based on the exchanges that they hear from these meetings. But I often observe (as I have done today) where we have Members from the Government side and Members from the Opposition sitting in the Common Room and there were mutual and respectful exchanges amongst each other. Oftentimes the public at large will have difficulty separating politics from the relationship and they will think there is a great level of animosity. I would like to say to the people of the Cayman Islands that that is not the case and they would have had some of the most hardworking representatives in this Parliament to

have ever represented their cause at any point in time.

Mr. Speaker, there are quite a lot of challenges ahead for the country at large and I know that all Honourable Members of this House have been taking those challenges seriously. We are just coming out of the aftermath of one of the most challenging hurricanes that the Cayman Islands have ever experienced. It has devastated Grand Cayman from West Bay to East End and we have seen in terms of how the people of Grand Cayman were embraced by fellow Caymanians in Cayman Brac. We saw the community coming together in order to deal with these challenges and we have also seen in terms of the occasions that were taken to visit Little Cayman, the three Islands came together as a single country. For this the people of the Cayman Islands must be commended.

Just as how today has been a very peaceful and respectful day where Members have been cordial towards each other, it is my proposal on behalf of the Official Members and the Government that this should be the approach that is taken on the Campaign trail. The thrust and the focus should be on issues. And I just want to say to Honourable Members, I would like to see, after 11 May, that many of the faces that I am now looking at will still be here. But I am sure that they will be going out there and there will be strong exchanges, heightened emotions, and other faces may be here; but it has been a privilege for my two Official Colleagues and myself to have worked with you, the Honourable Members of the Legislative Assembly.

Thanks to Ms. Wendy and the staff of the Legislative Assembly, and also thanks to the Civil Service for the support it has given to the Government Administration and Members of the Legislative Assembly.

I conclude my remarks by reading two short verses from Colossians chapter 3 and verses 23 and 24. This is the Apostle Paul speaking to the Christians. Being inspired by the Holy Spirit he said; "whatever you do, do it heartily, as to the Lord, and not to men; knowing that from the Lord you will receive the reward of the inheritance: for you serve the Lord Jesus Christ."

Everyone that is here is not here by accident, and everyone that has passed through these hallowed halls has not gone through that experience by accident. The Divine Creator has intervened in their lives and put them here to represent the people. I employ Honourable Members to seek His guidance in all things, even when going on the campaign trail.

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? The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, I believe my colleagues have, thus far today in presenting the final Public Accounts Committee Report, heard me for a substantial period of time. So, as has been customary for me over the last two years, I am going to be brief.

Mr. Speaker, I used to be a very lengthy speaker when I first got here. In fact, one of my fond recollections and proud memories is changing the speaking time from four hours to two hours. There were occasions when I might have regretted it a bit, because there were moments where I just wanted to talk a little more.

Firstly, I thank Almighty God for giving all of us this awesome opportunity to serve our country in this manner. It is always a distinct minority within any country who gets this opportunity to be placed in this position of sacred trust. We have been given a mandate by our fellow citizens to come and represent them and their views. We move motions, debate bills, and conduct business on their behalf.

Mr. Speaker, without sounding as if I am reading an obituary, I would like to thank our hard working and dedicated committee and committee Members from the district of West Bay. I would like to thank the Leader of Government Business, Captain Eugene Ebanks, and Cline Glidden Jr., for having had the faith to entrust me from 1999 as part of their team. I had never been involved with politics, and I had never been on a platform, endorsed anyone, delivered a political speech, or even a member of a committee. So having made that decision was quite a surprise to many people in the community and members of my family.

I believe I made the decision in the right way, which was gaining first the support of my wife, and the two of us taking many months of prayer and thought before answering the initial inquiry of whether or not I would be interested in standing for election.

Mr. Speaker, I decided to do this at a very unusual and awkward time in my life. I was only 27 years old at the time. I had just returned home from New York and I had a career with the accounting firm for which I worked ahead of me. My mother has always been the rock in my life, a very unassuming woman, a woman who taught me from a very early age that the most important thing is to be honest and forthright and to not back down when challenged. So she had many fears and trepidations about my entering politics and initially did not want me to do so. She thought that I should have started my family, built my home and a lot of normal things that a poor mother wishes her son who took advantage of the opportunities afforded him, gaining an education and becoming qualified as an accountant. Her reaction was understandable.

However, Mr. Speaker, I think she understands now that ultimately God has a plan for all of us and God has a plan for all of our lives. I would like to believe that my decision (and ultimately what I believe would have been a big surprise to many people for

someone like me to have come with the background that I came from) to enter politics and be successful must have been the divine hand of God that was upon me and my life.

I would like to thank every Member of this House. I have learnt invaluable lessons over the last four and a half years, and every Member has contributed to my growth and maturity as an individual and as a young parliamentarian.

Mr. Speaker, it needs to be reiterated, it needs to be talked about by all of us to our friends, family and constituents, that what they hear and what they perceive of us when we are in here and when we are engaging in debate on highly emotive matters, and when we use highly emotive language and tones, that is simply the nature of the beast. There are many who would say that you should not do that. That is easy to say on the outside. But when you care passionately about your country and about an issue, human nature takes over.

I am one of those who, when approached by my constituents about the Opposition, always do unto others as I would have them do unto me. I do not get engaged in derogatory and accusatory talk. In this upcoming Election I do not personally believe there is one person who is putting themselves up for Election who has the intention of doing this country harm. I believe every person who puts themselves up for election is a brave individual and should be respected for doing so.

There are those who have more in common on particular issues, and perhaps you then get the creation of what is called sides. However sides have not separated the Members of this House. Just today the Government and the Opposition were in the lunch room and we had a good lunch together. In fact we have to apologise because we went over the allotted time you gave us by half an hour because we were enjoying ourselves so much. At the end of the day we are human beings, we are here to represent the people, and there is no hatred or malice.

I have come to enjoy the nitpicky manner in which the Member for North Side approaches procedure. I had to remind the Members who did not think that I needed to read my entire speech today that she advised me that is the tradition of the House. So I honour those things and I honour that lady because she cares, and tradition is very important. These will be broken at times and new traditions will come about.

The Second Elected Member for George Town and I . . . from the time there was a change in Government there was always that little 'tit for tat' and the two of us often engaged in heated debate in regard to certain positions. I have learnt a lot by sitting and listening to that Member, I have learnt about myself. That is what life and debate is about. I believe we all have to be big at this type of occasion and be honest.

I have also thoroughly enjoyed working with the Deputy Leader of Government Business; he is a gentleman who takes great pride in technical points and doing things by the book. That is very important for young parliamentarians, like me, because a lot of times when you enter the Chamber and you are young and fresh and want to see good and responsible change, it is always good to have the older, more experienced parliamentarians here who can temper that enthusiasm and give you good guidance.

I have greatly enjoyed working with all of the Speakers because this has been a challenging and ever changing four years. I believe that no class of legislators have been through (what I often dub) an indoctrination of fire the way we have; September 11<sup>th</sup>, constitutional modernisation, the European Savings Directive, the Attorney General and EuroBank fiasco, immigration modernisation. We have had three Speakers, and I have thoroughly enjoyed working with every one. I believe that every one who served as Speaker in the four years has done an exceptional job.

I recognise that due to the passage of Hurricane Ivan this campaign season is going to be so much different. It already is different! We are nine weeks away from the Election, and who can truthfully say that we are in a campaign season? Nine weeks from today all of us are going to be busy running around from polling station to polling station busy trying to make sure that all of our supporters get out because that is the ultimate goal—get your supporters out. Hopefully they are voting for you, that is the bottom line. We are all going to be scurrying around because it will be an hour and seventeen minutes before the polls close, nine short weeks from today.

Mr. Speaker, I had the opportunity to make some very new friends in this time. The Third Elected Member for Bodden Town, having worked with him on the Public Accounts Committee, is a gentleman who shows you through his action that politics is politics but at the end of the day doing what is right is the bottom line. I had never met the Elected Member for East End until after the last General Election. From the very early times that we were here the two of us struck up a good friendship. In fact, very often when we see each other he will ask how my father is doing. My father often remarks of the long conversations they have and how he likes to talk with the Elected Member for East End.

I think that is because a lot of times when you have things in common you tend to become friends. I say to the public of this country, do not think it strange, but think it good when you can see elected representatives who are on opposite sides able to be friends in public. Do not think in suspicious manners. If I am seen speaking to or hanging out with a Member of the Opposition, so what? That is politics and politics is but a subset of life. Life is not a subset of politics. We must be sure that that is ingrained in our people, we must ensure that as Elected Representa-



tives we show through our actions that that is what it is all about. At the end of the day, while it is an important subset of life, it is but a subset.

Mr. Speaker, from the time I was about fourteen years old, when you first got elected, feeling such a sense of pride—having never met you. I knew I wanted to become an accountant, therefore that meant a lot to me. And after being elected the two of us have fondly referred to each other as “dad” and “son”. I know at this point there will be a few Members who will need a paper towel to wipe the tears because I can see the sadness in their eyes. We must interject humour because laughter is indeed one of the best medicines.

Mr. Speaker, I certainly wish all Elected Members of this House well. I wish the Leader of the Opposition and his family well in this election campaign, I wish the Minister of Education and his new bride well (who by the way is from my district). I have enjoyed working with all of you; and, yes, we beat each other up but at the end of the day let us improve the socio-political life of this country. Let us lead by example during this campaign season. Yes, there will be beating up on issues, there will be jostling for position to see who forms the next Government; but at what cost? I believe the type of maturity that has been exhibited in this country over the years needs to be continued and we need to continue to enhance it.

Mr. Speaker, I ask the citizens of this country to be patient over the months to come. I understand that a lot of people do not have their lives restored. A lot of people still need roofs to be fixed, ceilings to be hung, walls to be built, and that makes it even more difficult to engage in the politics that inevitably flow once the Writs of Election are issued and dates are set in place.

So I ask them for patience and to remember life and possessions were not acquired over night. Be patient and thankful because God has spared our lives, we are here.

I ask for us as Members to not engage in personal attacks during this campaign season. I ask for us to travel the high road and talk about issues. Inevitably all of us will have different perspectives on our respective performance as parliamentarians and as representatives of the people. That is not what I am talking about. That is not personal attacks. I think all of us understand what a personal attack is. Let us check that at the door and let us engage in a responsible and clean campaign. Let us ensure that whilst politics is inevitably divisive that we demonstrate through our action and behaviour that, whilst it can be divisive, there does not have to be hatred or animosity.

Mr. Speaker, I have thoroughly enjoyed the great honour that Members of this House have entrusted in me individually during these four years. I came in as a newly elected Member and I was made Chairman of the Public Accounts Committee. I thank Members for that opportunity. I have learnt so much

during these four-plus years. I thank Members for allowing me to sit on the Standing Business Committee, the Committee that is responsible for setting down and arranging the business of the House. That has been an invaluable learning experience.

I thank the Members of the local Commonwealth Parliamentary Association Branch for affording me the travel opportunities to regional conferences to represent this country. I have learnt so much over that time.

Mr. Speaker, I have personally had a very interesting four and a half years. I have gone from an unknown accountant, to an Elected Representative, to a father, and so much of my perspective on life has changed dramatically.

I would like to thank my wife for her patience and understanding because I understand that it is difficult to have a three-plus year-old daughter and a seven month-old daughter and the amount of time I have to be away from home causes difficulty with a young family. So I thank her for her patience and understanding.

I would like to end by thanking all the staff of the Legislative Assembly for all of the courtesies and patience shown over the four-plus years. I believe that this country has progressed impressively in many spheres over these four years. I am confident that ultimately I will be judged for being a positive contributor to that advancement and development.

I would like to encourage more young people to become engaged politically; to become engaged in leadership representation, because there is no sense of looking at the generation ahead of us and complaining we have to become engaged and let our voices be heard. We have to volunteer to sit on committees; we have to create dynamic social organisations in this country that advances the socio-political life of this country. We have to mature. We do have a lot of work in that area.

I would like to also thank the Official Members for the guidance and advice that they have shown over the past four plus years. I would like to also remember that we have been through two Chief Secretaries and I would like to thank the former Chief Secretary, Mr. James Ryan, for all the contributions he has made to the country and to the House. I wish the new Chief Secretary a lot of luck because he has a tremendous job in front of him.

The new Second Official Member, I wish for him wisdom because his job is ever important.

Lastly, the Third Official Member—and another young Caymanian—Mr. Kenneth Jefferson, I wish him all the luck and good fortune in the future because he will need it. He will find that as the dust continue to settle after Hurricane Ivan he is going to be pulled in many directions and there is going to be many agendas dressed up as national good put to him, so he is going to have to be wise.

Mr. Speaker, true to my word I would like to thank all Honourable Members: thank you for this op-

portunity. I thank my colleagues for being patient as I delivered these brief few words. Thank you.

**The Speaker:** Just to say, in the interest of fairness and equity, we could continue the way we have been going. Thus far we have had four Elected Members who have spoken from the Government's side and three from the Opposition and the Honourable First Official Member. I will again call for someone to speak but I hope that someone will get up quickly so that we do not have to wait for a long time.

Does any other Member wish to speak? The Second Elected Member for George Town.

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

This is a poignant and moving point in the life of Elected Representatives in this Honourable House. I view it with a great deal of enthusiasm and optimism, as I believe do many people in this country, because it marks the start of the transitional period into a new and better Government following the Elections on 11 May 2005.

Mr. Speaker this experience for me is one for which I will be forever grateful. Whatever may be the result following 11 May 2005, I know that these four-plus years in this Honourable House have given me an education I could not have paid the best money in the world for. You do not attain degrees from the University of Life, but you do learn the most important lessons of all. The baptism of fire which greeted all of us on arrival here following the elections on 8 November 2000 has (for me in any event) made me a better and stronger person. And for that, as I say whatever the result on the 11 May 2005, I shall always be grateful.

The opportunity to have served my people, the people of these islands in general and the people of George Town in particular, is one that I have always been so very proud of. I have done my best over these four years to discharge my duties as an elected representative to the best of my ability. It has been without a doubt the most controversial and tumultuous time in the politics of the Cayman Islands and I believe that any examination of the history of this country will lead all to that conclusion.

Our country has undergone tremendous challenges over the course of these four years. We are still very much in the recovery mode following the events of 11 and 12 of September 2004, in the form of Terrible Ivan. It is going to take a tremendous amount of time, energy, resources, fortitude and vision to bring this country back anywhere close to where it was before Ivan fell upon us.

Those who are not so much keen on examining the history of this term and would like many of the regrettable events which occurred during this term to be forgotten and to be hidden under the mask of amiability, friendship and camaraderie, ought also to consider what the future of this country will hold if this

country does not get following these elections a government which can work together. It would be a travesty! It would be a disaster if we as a people allow what happened following the elections on 8 November 2000 to occur again.

It would be a disaster if we allowed what transpired on 8 November 2001—one year later—to have to happen again.

In this period of rebuilding and recovery, which calls for unity in its government, which calls for nation-building and healing the country, we must have a government that can work together, that stays together, that lives together, that speaks with one voice which sees one vision and which works towards one united goal. That, I believe, is the essential lesson that must be distilled from the events of this past four-plus years.

The country must not leave it to chance for elected representatives to cast about to try to find a group of persons who hopefully can work together. I believe the country must elect a group of individuals—a team of people, a party, whatever you want to call it—who share a common vision and who have published a common philosophy; a government which is able in advance to say to the country *'if we are elected this is your government. This is what we stand for. This is a government you can trust.'*

We will fail again if things are left to chance. History has proven that this country cannot leave it to 15 disparate souls whom they elect to try to form a government based on coalition, based on individual interests and aims. It is not going to work.

On the eve of the elections, and in the final hours of this House, my plea to the people of this country is to look carefully at what has transpired these four years. Look at what this country has to do in the years ahead. Ask yourself, how critically important it is that all who are elected and form the government can pull together. The future of this country rests upon that.

There is often talk these days about the need for unity. However I believe that many times the mistake is made that unity means that no one ought to disagree with anything that is proposed by the government. That is not the case. This system of government which we are practicing, in my view, is still very much in an embryonic state. The Westminster system which we have adopted requires a government and an opposition. There are good reasons for that. It is one of the critically important checks and balances; indeed, it is one of the few in this model of the Westminster government.

Unity does not mean that the opposition must agree with everything that the government proposes merely because the government proposes it. What unity means is that you have a government that is not constantly fighting amongst itself, a government which is not so caught up in internal battles that it is incapable of acting in the best interest of the country. That is

what the country should bear firmly in mind as we approach the elections on 11 May 2005.

We must seek to elect a government of unity; a government you can trust. There is much left to be done. Personally I spoke a little earlier about what this experience has meant to me, what it has done for me as an individual. Everyone knows what I did before I had the honour to be elected to the Honourable House. I have always been one who has been involved in the community through one vehicle or another, however I can say that nothing I have ever done in my life has given me greater personal satisfaction, has left me feeling more whole, more useful as a human, than representing the people of these islands and in particular the people of my district of George Town. I say that with the deepest sincerity from the very bottom of my heart.

There have been many challenges. There have been even more disappointments. I live frustrations day to day and in some respects I am not a very patient being. Sitting where I currently sit (and I trust that no one will consider me arrogant by saying this) I have felt over and over again that my abilities, my God-given talents, my education and my experience have been greatly underutilised because I am a Member of the Opposition. That has left me on many occasions, disillusioned and disheartened. Thankfully, I was also born with the great gift of optimism, for I am rarely down for more than a day no matter how bad things may have become. I always bounce back very swiftly.

I have also found a quality which I perhaps did not think I had, at least to the degree that it has become, and that is forbearance and forgiveness. Perhaps that is a maturity that has grown as a result of my experiences here. Despite all that has been said and done, the changes from being a supporter of the government to a member of the Opposition, the cut and thrust of debate and the hurtful things that have been said and done, I can honestly say that I bear no Member of this Honourable House any ill will. Of course I have been angry. I have been upset many times. But it is a very temporary condition with me. All Members of this Honourable House I hold in regard. Any Member who has made it here deserves my respect, because he or she is a representative of the people.

Those who have done more than one term, I elevate them to a new level of respect. I disagree fundamentally with the approach of this government. However, there will be plenty of time in the weeks to come for me to make that case to the people of this country and, in particular, the people of George Town. I do not believe that today is the time for that.

We all have had a very solemn and important duty to carry out. Henry Clay said in 1829, "**Government is a trust and the officers of government are trustees and each are created for the benefit of the people**". That is a sentiment that I have buried deep within my being. Everything I do, everything I have

tried to do in the discharge of my duties that principle is at the forefront of my mind. To the people of George Town, I know that they know that I care deeply about them. They know that I care deeply about the future of this country. This is not an easy row to hoe.

I know politicians the world over have a bad name, and much of that is deserved. But I have endeavoured—and I will always endeavour—to ensure that the office which I hold, the trust which I hold given to me by the people, is discharged, that there is no breach. Because everything on earth has a lifespan; even the earth itself shall one day cease to be. But I wish that whatever criticisms may be hurled about me, whatever is said about me, no one will ever be able to say that I have been anything but honest, that there is any question about my integrity in the discharge of my office. They may say that Alden McLaughlin was an idiot, they may say that he got it wrong. But I would die before anyone can honestly, truthfully hurl any criticism or insult at my personal integrity.

I believe that the people of George Town, in particular, know that about me. I believe that they will return me following the elections on 11 May 2005. However, if they do not, I thank them for having given me this opportunity to serve them. It is the highest honour that I believe can be bestowed on any member of a community of a country. To be told by the people that you have their trust, you have their mandate to go and represent them in the House of Parliament or its equivalent.

I wish to be part of a Government that will bring a new culture to the governance of this country. I wish to be part of a government that will usher in an era of government in the sunshine, where there is access to government information, where the black-box mentality that has existed in the government in this country almost since it began is done away with, where freedom of information is generally available, where there are regular press briefings; a new era of honesty in government, where legislators are required to subscribe to a code of ethics, where there is a standing ethics committee of this Honourable House to enquire into any questionable conduct of members of the Legislative Assembly; an era of government, a new culture of government which respects human rights, freedom of the press, freedom of expression become sacred in this country; an era in which government is consultative, where people have the opportunity to participate in the decision and policy making that is a necessary part of the governmental process.

That is something that I believe is so fundamentally necessary to the future of these islands. The country must have a government it can trust if we are going to be able to move this country to where it ought to be, if we are going to be able to benefit our people in the way that they ought to benefit; if we are going to be able to stand on the international stage and say to people you can trust the Cayman Islands, we are a country that respects all of the international require-

ments, we are a country that conforms to international norms—we are a government you can trust!

I will not encroach further on the time of this Honourable House, but to say in closing, thanks to the many persons who have assisted and supported and encouraged me along the way. I wish to pay particular tribute to the staff of this Honourable Legislative Assembly who has always cheerfully and efficiently assisted in any request I have had. They are often the unsung heroes in the many battles that go on within the walls of this hallowed chamber, kept here until all hours of the night and into the early morning and they do so unfailingly, they do so unquestionably, they do so with the greatest of grace. I think that we ought to publicly thank them for their hard work and attitude.

I also wish to pay tribute to the many people who have worked as members of the Peoples Progressive Movement as we have sought to develop that organisation over the course of these three and a half years, who have assisted and continue to assist us day by day in preparing ourselves for the immense duty and honour of forming the next government of this country and the development of policies and the development of the organisational structures that are going to be so critically necessary in this new era, this new culture of governance of which I speak.

I should also say that none of this, that is service as a legislature, comes without tremendous personal sacrifice and tremendous sacrifice on the part of the many families involved. Other Members of this Honourable House have paid tribute to their families and I do so to mine also. I do not think that sometimes those who are outside of this Honourable House truly understand the degree of sacrifice involved in being a representative. It is an onerous and difficult task. Those of us who are here are here because we wish to be here, but that in no way makes less the task that we have. It is a task which means that you are on duty 24 hours a day, seven days a week, every day, every week of the year. There is no time that your MLA is not on duty. That is the philosophy that I have been taught. That is the philosophy of the policy I live by.

I wish to pay particular tribute to my good friend and colleague, the Leader of the Opposition, who has been my mentor, my guide and almost a father in some instances over the course of many years, but particularly these four years. He is a source of great wisdom, immense strength and character. He is the most patient, forgiving, longsuffering individual I have ever known. Some who really do not know the man have no idea of the depths of his insight, his tremendous strength and resolve, his great love and commitment to this country. A lesser man would have long since shrunk from the tremendous task that he has undertaken and the tremendous task he still has to face, having gone through the upheaval, the turmoil, the disappointment and the personal hurt that he has suffered. I have learned so much from the way he is able to handle those situations. He is and will al-

ways be an individual for whom I have the highest respect and regard.

I also wish to pay tribute to my other colleagues on this side who have been a great source of strength, inspiration, guidance and advice, particularly the Elected Member for North Side and the Third Elected Member for Bodden Town, both of whom are old soldiers in this army and who bring tremendous experience to our side and have offered me in particular invaluable advice about life and particularly about life as an elected representative.

I am sure there is bound to be someone or others that I ought to have thanked whom I have neglected to thank. To them all you know who you are and you do have my sincerest thanks.

It is only for me now to wish all Members of this Honourable House all the very best. The campaign will no doubt be robust, but I believe that we should concentrate on keeping it issue driven and concentrate on depersonalising it as far as possible. Let us remember at the end of the day, as others have said, we are all seeking this office for the same reasons—to offer this country what we believe is the best administration available. With those words I say to the people of this country not farewell but adieu.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? The Honourable Deputy Leader of Government Business and Minister for Health Services.

**Hon Gilbert A McLean:** Mr. Speaker, this is a momentous occasion when we are seeing the end or we are on the brink of the ending of one four year political term. This Legislative Assembly, which was formed in the year 2000, is about one week away from its dissolution. I could not and would not try to take this time to extol any virtues in my colleagues. I respect them all. We all have our duties to perform and in the business of politics we do not get the chance to hug and kiss one another as I believe we genuinely would like to do.

The Westminster system of Government is one that is predicated on adversarial action, on confrontation. Out of that confrontation and those arguments we all hope evolve the best form of democracy. All of the textbooks on this subject tell us that, and I subscribe to it, not trying to change its ancient practice and customs but just understanding that that is the reality of it. So far, it has done us well in the Cayman Islands.

Mr. Speaker, first of all I would like to thank you for your service as Speaker and your service as a Minister in working with you. There are a lot of firsts in this beloved country of ours that have taken place in the past four years. Never before in the history of Parliament or politics in the Cayman Islands has a minister ever chosen to demit office and allow one of his colleagues to take that office and to help keep the brotherhood and the political fraternity that members

before me have spoken about. You have served well as a minister, Mr. Speaker, over the years. I certainly believe that, although remarks have been made and arguments have taken place on your rulings. I think you have presided well over this Parliament to date and for that I thank you. You have always been available as well for consultation and I think that is a major part of what a Speaker is expected to do.

Mr. Speaker, I appreciate all the Members of this House, each of us with our varied personalities, way of speaking, way of behaviour. It is what makes this House a dynamic entity, for these hallowed halls are not alive; it is just a beautiful, majestic looking place that we function in. It is we—the Members—who have made it whatever it is, and that is ALL of the Members, not any particular one.

It reminds me, Mr. Speaker, of something said by William Pitt the Younger, back in 1805, on 9 November. He said about England these words, and I quote: **“I return you many thanks for the honour you have done me; but Europe is not to be saved by any single man. England has saved herself by her exertions, and will, as I trust, save Europe by her example.”** So I do not attribute what happens in this House to any one individual, but by the dynamics of all of us. I do appreciate each and every one for a very particular reason because vested in each of us is the majority trust of the people in each of the districts from which we come and which we represent. That is the simple, inescapable truth.

The people who I really extol and praise are the people who are residents and members of various districts, who must decide every four years to choose among a field of persons each one protesting to be able to do the best job. Whether or not the electors get it right, that is the democratic way and certainly once we are chosen then there are certain inescapable duties which we should perform.

Mr. Speaker, I have been a very fortunate person in that I have been elected a number of terms to this Honourable House. I have been elected from two separate districts and I know that it has never been achieved what a past legislature liked to talk about every now and then, the late Anton Bodden, “not through filthy lucre” it has been on the basis. It has been on the basis, for whatever the reason, that I have been able to earn the trust of a majority to elect me.

Mr. Speaker, I am very privileged and honoured to be a legislature in this country and I keep reminding myself that my present position came about as a default. I started out in 2000 in this Legislative Assembly as an Opposition member. Most of the other persons on the other side were members of the Government. It was the way the another legislature liked to say, the late Haig Bodden, “the way the cookie crumbled.” And crumble it did on that memorable occasion for me as well. I well remember that.

So Mr. Speaker, I could moan what happened then, like the Opposition would try perhaps to let the

world believe, they have been wronged by the government of the day. I do not see it as being wronged. It is the dynamics of politics. It has been a highly unusual four years. The Constitution has been tested and proven to work. That is what brought about the change in the executive.

This four year term has seen a change of three Speakers. It has seen, as I mentioned also, a minister demitting office and another minister taking over of his own free will and accord. Mr. Speaker, you were not dismissed. It has seen the most devastating hurricane since the '32 storm that I heard my grandmother talk about. It has seen us living through an earthquake. It has seen a deferred election. It has seen the largest supplementary budget that has ever been passed in this country. And now it is on the brink of a new general election about seven months away from the usual time. This has been an extraordinary four year term.

Personally, I would not have missed it for the world. If I were to change anything, I guess I would only try to change the hurricane and the earthquake, but everything else was a good learning experience, and one which I can pass on to my grandchildren and great grandchildren hopefully at some point in time.

On becoming a minister, I do not stand here and make apologies for that. As I said, a change came about. It presented an opportunity for me to do what I believed I could do and had experience in doing. Mr. Speaker, whatever the future I am satisfied in my mind and my conscience that I have contributed to the life of this country by achieving certain things which stands the public good.

This government at this time has faced challenges no government in the history of the Cayman Islands has ever faced. Never! Simply because the things that happened during these four years have never happened before . . . whether or not the Opposition could do a better job we will never know because they were not there to do the job at that point in time. What the future holds, of course, is left to be seen.

In serving in this Legislative Assembly, Mr. Speaker, I am sure you know I find considerable interest and pleasure in the proceedings and the practices of Parliament. I hope that when the next House comes about we will see better use of time and more respect for this institution. It is bigger than all of us and when all of us are moved off the scene it is going to still be here.

We do things here in a certain way, and we should do them in a certain way. I am the first to say that it has not always gone in the normal way that would have been more beneficial in the use of time and in conducting business.

I want to thank the staff of the Legislative Assembly, the Clerk and her staff, they have always been helpful to me. I know of no department in Government that has knowledge of its workings like the staff of this Legislative Assembly and that is the truth.

I have developed that idea over time. I thank them as they continue to serve. The next government will be one that is going to have to face many challenges also. One thing that I sincerely hope is that the mental mode that most of the people, if not all of the people of this country is presently in because of the aftermath of the disaster which hit us, will not in any way lead anyone to believe that the best type of person to choose on 11 May are brand new people that have no idea about the business of running government. For if we do, I fear for myself, my family, my friends and this country. That is one message I would surely pass on to everyone.

The Electors of this country ought to think very, very carefully about that situation. Wherever that majority may come from and however it might come I think that the public should see to it that we have people elected who understand the business of government and have the experience and the skills of running Government.

Among the things I hope will happen when another government is sworn in, is that we will take ourselves out of 35 years of constitutional darkness, and that we will go about instituting the constitution which has, in effect, been agreed and decided upon. It is good for all of us. It is good for this country. There is no way that a logical or rational mind can justify keeping ourselves in 35 years of constitutional darkness when the outside world . . . I would not say they call us, they *accuse* us of being the fifth largest financial centre in the world. Good heavens! What about our political economy?

As Members think about it and as they campaign during the forthcoming election I hope that they will be sensible enough to tell the people the truth about our constitutional state that is working against us. We fight and deal with external forces on a daily basis that imposes certain requirements on us and we are in a helpless place constitutionally because we do not, in effect, speak for ourselves. We should try to lift ourselves up a little, get a little closer to doing that. Like some of the other BOTC's, whom we like to believe we are so much better, we should try that route. They have greater standing in the world politically than we do, yet we boast how much money we have and how well off we are.

Mr. Speaker, I wish to thank the people of Bodden Town, the majority of the people in Bodden Town who elected me in 2000. I wish to say that I will, with God's help and being alive next Wednesday, go to be nominated. I will be in the political race. I trust I will meet with favour with the electors once again. I have never claimed to be all powerful. There is but one. But I do claim to know something about Government and doing the business of Government and certain things I have achieved. There are certain things I have achieved, there are numerous things I wanted to do, but the impossibilities with governance made it impossible for it to happen. And, after all, I only had three years of it. So, I thank them most sincerely and I

ask them that they will once again return me and my good friend and colleague, the Minister for Education, and of course the other Member of the team, the group that we run together, Mr. Mark Scotland.

Mr. Speaker, lastly I would like to say that in an attempt to help the district of Bodden Town, we have been able to have Cabinet agree to \$1 million which is to be dispersed over the next several weeks and that an announcement as to exactly when this will start and who they should contact and so on that will be made known to them.

We need unity as a people; but when we talk about unity in politics there we are in truth talking about unity among the various un-united parties and groups. For any group to form a government will require cooperation and certain undertakings and certain unity in that regard. I just want to leave this thought—it took the group of people that presently form the government to do what has not taken place from the 60s that is to accept that the way of doing business is via the party system which in effect drove the opposing group in the House to form a party. I think at least in that regard we have moved forward. How well that works is all dependent on the people who want to make it work.

Mr. Speaker, the success of this country has to lie, I believe, with people who have some vision of where we need to go, some commitment to take it there bearing in mind the overall good. If along the way some people benefit individually, so be it. But there are limits to everything and the chief driving force should be that we are serving country over self. We are paid to do that, and I think that is an ideal that all of us should work toward.

Mr. Speaker, again I thank you, I thank all Honourable Members of this House for the opportunity that I have had to act and interact with them. I thank the Official Members of this House with whom I will be working a few weeks yet for their assistance and guidance and opinion and their friendship over a period of time. And lastly, in the forthcoming elections, one can preach it, but I do not necessarily think it will happen, it never does, there will be the mud, and there will be the treachery and there will be the rumours. I would wish to assure any Member who is opposing me that I intend to give as good as I will get. But I do wish, as the saying goes, that the best man and the best woman will win. Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? The Honourable Leader of the Opposition.

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

Mr. Speaker, some have tried prior to me, but I will prove that it can be done in short order. Mr. Speaker, there is a time and purpose for everything under heaven. Today is perhaps the only day in the life of the Parliament in these Islands when we can truthfully call each other—all of us—colleagues. So in

that regard, this is my third day in a Parliament of this nature.

I have to say that the composition of the membership during this term has also proven to me that it is a whole different ballgame, a whole new kettle of fish. There are some of us who have been here longer than others, Mr. Speaker. You are one of them. I am certain that you have never had to sit and listen for long before now under these circumstances. It tells that everything is changing.

Let me quickly do what is absolutely necessary and say a special thank you to my Honourable colleagues. In different ways they have interacted, we have had differences and some of us are going to return and we will have more differences yet. However, as the common theme has been heard from other Members, the fact is that in the cut and thrust of political debate, emotions will fly. But at the end of the day, one of the responsibilities and obligations that we have when we enter these halls as representatives is to hold respect for each and every other individual who comes the same route.

I wish to thank all of my colleagues this afternoon for the time that we have spent since 15 November 2000. The staff, as usual, especially for people like me who have been here for a while, you watch them grow in their jobs, you watch them get better at their jobs and you just wish that they would be here forever. So I have to say a special thank you to the Clerk and all of the staff and that is from the top to the bottom. I notice one of my colleagues specifically mentioned Anita, because she makes sure we are well fed, I will not try to single her out for reasons that we might think I would wish to do so but, certainly, Anita herself has been an institution here also and she is absolutely very accommodating, just like all the other members of the staff.

As for your good self Mr. Speaker, as I said before, we will be on the campaign trail and we will find ourselves on opposing sides. But I say to you very personally, that you certainly have taken the office of Speaker to a height that I personally have not seen before. That is not to make comparison with any previous Speakers, because every one that I have experienced here has always done a fine job. But I have to give you personal credit, Sir, and I would, almost in tongue-in-cheek, say that you should stay there for a while. But that is said in jest.

I sincerely mean what I said, Sir. I have to commend you for the job you have done while you have been the Speaker of this Legislative Assembly. You have been fair, which is what I truly respect you for. Even when we have differed, we have been able to talk about it and even when we agree to disagree we can do so like gentlemen. That is exactly how life should be, and I would trust that we would be able to be like that in the future.

I was sitting and listening to everyone and thinking about the first day I entered these Chambers and I was sworn in. It was on 25 November 1992, and

I remember the first four years here and I thought I really wished that I could go right back and live those four years all over again. I realise that it was being a bit selfish, so I dismissed the thought because the truth of the matter is as time goes on and we all count the experiences that we have had, we realise that we have to flow with those times so that we can use that experience we gained to benefit the people and the country and the type of representation that we give.

Here we are again with every single one of us who are now elected Members, going in to the political arena to seek re-election. There are some things that we have to recognise. The Minister of Health mentioned a lot of things that were first-time happenings in the Legislative Assembly during these four years. But with all of those things that have happened, I believe that what is most important and incumbent upon us as representatives is to use each and every experience, bad or good, bitter or sweet, fearful or not, to be able to serve the constituents and our country better in the future for each and every one of us who may return.

There needs to be, in my view, a total separation of the functions . . . and some have alluded to it and some have spoken about it, but I want to spend a minute to say with total sincerity that the people of this country do not deserve for us to drive them into a frenzy. It is only us that can do it. So when we go to get re-elected, the Minister of Health said we always say it, but it seems like it just cannot be done. I challenge all of us, and I do not exclude myself, to do everything that is physically possible to allow our campaigns to be issue driven.

You see Mr. Speaker, especially those of us who are now elected, not one single one of us has an excuse that we have not been able to be exposed—even those of us who are on the Opposition—to the inner depths of all of the issues and challenges that face us. So, we cannot cry ignorance to any of it. On the campaign trail it is up to each of us and each group as to what position we take. There are some of us who will have some advantage because the Government has had to enact policies. For us on the Opposition, we are able to scrutinise after the fact. The Minister of Health was perfectly right when he said that the Government had to deal with all of the issues as the Government, the Opposition did not have the opportunity because they were not the government and perhaps we will never know who would have done it better. However, Mr. Speaker, none of us needs dwell on that because, as he said, we will never know.

The people of the country will decide who their next elected representatives and government are and there is none of us in here so fool to not know that the voters in these three islands are very sensible. Lots of them you do not hear or see anything from in between, but they will do what they have to do come Election Day. I have every confidence that they will do again like they have done in the past.

So, Mr. Speaker, in looking at where we go from here, and knowing that we are just a few days from dissolution, the other challenge that I want to issue to all of us representatives is to be very conscious of all of the happenings in the recent past and the plight and the state that so many of our people are in. It is going to be a difficult chore to be able to combine a campaign in the middle of our recovery, but that is the way that it is. Some might wish to think that perhaps it should have been another time. The fact of the matter is that the recovery mode is going to be for quite some time, and if we are practical it would have been impossible to get in a perfect situation before we had an election. That is the difficulty, and of course we would not have had the right to extend it into a long period of time because that would be depriving people of their own constitutional privilege and right. However, let us make every attempt to be able to do that and to be sensitive to the needs of many of our citizens.

On a very personal note, I am not very good at this part of it, I must be honest. But I have experienced a level of pride and in the same breath a great level of humility to know that the people of the district of George Town have returned me on three successive occasions to be their representative. I believe that I am nowhere near ready to quit, because I have much left in me. I have lot left in me that I can offer because by now they know me. But now they know just about everything about me, including my weakness and my strengths.

The biggest reason why I desire to serve another term is because there is something in me that if I am not allowed that personal satisfaction of knowing that I have helped, I am just miserable. My family cannot live around me, that is just the way I am and that is how I am made.

I will be part of a group that will be seeking to be elected come 11 May 2005 to form the next government. The government who is the government now will be seeking to be elected come 11 May 2005 to continue as the government. Today I am not going to get into that debate because, as I said earlier, the good people of the Cayman Islands will make their decision. The beauty of that is that when it is all over there is not one of us who will not have to respect that. I like a system like that.

I have to thank all of my many friends who continue to rally around me, many of them are not in the political arena, and I will call no names. I know that they know who they are and I want to thank many of them for being there from the very beginning and for having the faith in me, knowing full well that they are going to assist for me to be there again.

To all of my colleagues, it may sound difficult for me to say that I wish them all well, because I am going to be part of a team that is going to attempt to unseat the government, but I truly do. If I were to be dishonest, I would say I wish them all success in the elections. I am not going to say that because that

would be dishonest. But I want to say that I wish them all well. I cannot wish everybody, because there are only 15 seats and I want more than the Government has now to be the Government, so I cannot wish all of them to win. But outside of that, I also wish to say to all of my colleagues here that, on a personal note, I consider every one of them my friends. I may not deal with each of them in the same manner, more so because many of them I have known longer than others and if it is God's will that I get to know them for a longer period of time, maybe they will enjoy the same rapport that I do with those who I have known for longer periods of time.

I noticed the Minister of Education was, in his address, mentioning me and with great confidence he said that we would once again be friends. I have news for him Mr. Speaker, the fact is, although there have been difficult times, I have never not been his friend, so he must know that.

With all of those things, and with all of the differences that we may have and will have, let us leave here this evening with those common thoughts in our minds wishing to get through this process, but always doing whatever we can in our thoughts and deeds, that everything we say and do is for the betterment of the people of these islands.

I want especially to say to the people of the district of George Town that the PPM will be on the campaign trail between now and the election. They can expect to see us and interact with us. We are not going to be pressuring anyone, we are just going to be doing our usual thing, living with our people, caring for our people, finding out what their concerns and their disappointments are and seeing if we as representatives can make a difference in their lives and as a result in the life of this country.

Mr. Speaker, finally, I wish to pay homage to my family who has been long suffering because of the amount of time that I am not at home being a representative. Unfortunately for them, for the next few weeks it is going to be as bad as it ever was or perhaps a little worse. But they are almost used to it now and that will balance itself out after a little while.

Again Sir, let me say a special thank you to all of my colleagues here. There have been many challenges and many experiences gained during this last, just over four years. I still, with humility but with great expectations, am very hopeful that the people of the district of George Town will return me so that on 18 May I can be sworn in again and continue the job that I am in the middle of. Thank you, Sir.

**The Speaker:** Honourable Members, I know that there is one more Elected Member that no doubt wishes to speak, and I would like to make a few comments myself, but I have been advised by the Clerk that Mr. Gould would like to have a few minutes to change the tape, so I would ask you all to please remain in your seats.



### Proceedings Suspended 6.15 pm

### Proceedings Resumed 6.17 pm

**The Speaker:** Does any other Member wish to speak? The Honourable Minister for Planning.

**Hon. Juliana Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

As I sat here and listened and contemplated on whether or not I should join the tributes, I was almost tempted not to in that for a very long time I felt that certainly it was the death of the Parliament and we were only missing the bouquet. I am a little bit reluctant to make a farewell speech in that I am confident in the good people of Cayman Brac and Little Brac who have exercised their judgment and carried out their due diligence that allowed me the honour and the privilege of having served them in the past eight plus years.

I can say that truly it was a tremendous experience. I have served in many varied capacities and at each time the overriding factor, indeed the factor of paramount consideration, was what was in the best interest of my constituents and in which capacity I could best serve them given the conditions at the time.

I should wish up front to express my sincere gratitude to your good self for allowing me the opportunity to switch roles at a time when I thought it was most important. Indeed, I will be eternally grateful and on behalf of the people of Cayman Brac and Little Cayman let me at this juncture convey their greatest wishes and expression of gratitude, because it took certainly a big man to make such a move and we are eternally grateful for that position.

I wish to thank the colleagues who also supported the move at the particular time. I trust that the role I have played in the ministerial capacity as in my other capacities that they certainly have seen it as one where I have done it to the best of ability.

Mr. Speaker, next Wednesday will pose another occasion on which I will be humbled and having to make the decision this weekend of which two of a number of persons who have offered to nominate me will not be easy. Perhaps I will play the lawyerly way and take them all and then they can choose on the day. However, I say that to say that when one takes the time to be still and acknowledge that God is exactly who He is—Almighty God—that He at all times and on all occasions picks the most opportune time to elevate one's self.

I have strived throughout my political career thus far, even in the height of campaigning, not to take the time to say I have done this, or I have done that, or what have you, and I certainly, from the very inception, have ensured that everyone who sits on my platform, from my chairman right down, understands well and clear that it is not going to be a smear campaign. In fact, there are too many issues facing our country

at this time for us as a Caymanian people to be divided. But I will not take this opportunity to speak specifically on the necessity for unity and in the different areas that unity is required. I believe that if any lesson has been learnt from Hurricane Ivan, and indeed the subsequent follow up with the earthquake, is that for this country to move on and to be successful in its recovery process it will not just take one man.

As the renowned poet Kipling said "No man is an island" and indeed if it takes a Party to do it, or if it takes a coalition government, it matters not to me. What matters to me is that we have 15 qualified (and not necessarily from an institutional or tertiary level but qualified) from the school of life and experience who can come and sit in these hallowed Chambers, maintain the integrity with their honesty. And with the foresight and vision to go on acknowledging that we are coming from a Christian heritage, one that we should in no way form or fashion be ashamed of but that we should herald whether we are in a domestic front or in the international forum.

In my own constituency there will be, as in yours I am quite sure, a number of candidates that will be coming forward. I would ask my constituents to take the time to remove the personal element from the formula come 11 May 2005 and exercise their discretion to cast the all important vote or votes for the persons they feel best suited for the position and that they would take some time to read the manifestos. Take some time to sit down with the various candidates and do not be persuaded by gifts or any other things that come up during election time because those are all temporary. Unfortunately, it has become a tradition, not only in the Caymanian political scene but indeed perhaps across the world spectrum. But I would greatly encourage people to not be blinded, and it is a great temptation at this time as there is dire need within our community.

People are basically thinking about the necessities of life, the food the water, the shelter and the temptation is great, but I would ask in particular with my own constituency that people view very carefully those that come there with alms and gifts because as far as I am concerned, Mr. Speaker, it is a great indication that they feel that such a person's vote is for sale. I believe in particular for the women who had to fight so hard back in the late 50's to get the right to vote in the first instance that they should guard these persons coming with gifts.

The other thing I would wish to warn against is the numerous fabrications and lies that seem to infiltrate the campaign process. I would ask persons to be extremely careful and do as I know they are capable of doing, sift through to ensure that they are relying and making their decisions from an informed position and that they would return persons who are of the highest calibre so that this House at no particular time can be bought into disrepute.

Although we are here as trustees for the people it is a very onerous position. I believe that we must

strive each day with each Bill, each Motion, each question, each matter of procedure before this Honourable House, to ensure that when we leave this political platform and move on that we will have left a legacy that our children and grandchildren can be duly proud of and one that will not have any stains whatsoever.

Come next week, and with the help of God, I shall be launching political campaign. There is a sense of enthusiasm as we close down today for that day to come. I have waited for it, perhaps some two and a half years. More than ever before and I am busily working towards completing all of the last minute details and I look forward with the help of God to march on for the people of Cayman Brac and Little Cayman.

I wish to thank my family for appreciating the long hours that it has taken to do the service and for their understanding of the deep commitment, love and appreciation that I have for the people of the Cayman Islands in general, but in particular of the people of Cayman Brac and Little Cayman. It is something that I love, so I find it quite easy to do. Many of my friends have asked why I have taken the road of giving up teaching or my legal profession when perhaps in the latter it was a bit more lucrative. But I have learnt from a very early stage that money is just that. Perhaps the love of it is still the root of all evil, but there are some things in life that money cannot buy and one of those things is being of service to the fellow man.

I trust that at the end of my road, be it the end this particular term or several terms to come, that if I look back on my life I can truly say not that I did it to the best of my ability but at all time I tried to lift up the name of the Lord and to have served my country with the most sincere degree of honesty.

Mr. Speaker, with those words it only leaves for me to thank your good self for the role that you have played in your varied capacities, for the advice and support that you have given, not only to me as an individual but indeed to my constituents over the terms that you have had in this Honourable House. I wish to thank my Honourable colleagues for the various roles that they played. Sometimes it has been the role of creating the hot water to see whether Juliana, "the teabag," was able to make the tea that she was put here to make. Other times it was a more complimentary role. Be that as it may, Mr. Speaker, at all given times it was a learning curve.

I wish to thank the Clerk and her staff for their great assistance during the tenure of the time that I served as Speaker, for all of the assistance and the care and the concern that they showed and certainly as a member and minister of this House I wish also to thank the Serjeant, the persons dealing with the recording, the press. They would have realised in the past eight years that I am not one of those persons, for my own reasons, that like to see myself in the press or hold press conferences because that is just not my style. I prefer to do my work quietly and get on

with it. But that should not be misunderstood for any lack of respect of the press. I consider their role as a most important function, I respect them for what they do and I believe that any democracy can only exist when we have a fair and very active press in our community and that they should at all times be a freedom of expression as I believe is the case in most modern democracies.

I wish to thank in particular, the staff at District Administration, the public works department and the various other government institutions, including but not limited to the fire and the hospital agencies on the Brac. I wish to thank those who have through the years from 1992, when I first decided to throw my hat in to the political arena, for their support and their trust that they have put in me.

Finally, I would wish to thank the church and those persons who daily prayed for me, because without God's help I could not have achieved what I have been able to achieve thus far. I rest assured in the confidence that all things work together to good for them that love the Lord. I would pledge my allegiance to Him and to the people of Cayman Brac and Little Cayman, to the people of the Cayman Islands in general.

I thank all Members for all that they have done, and if they were any particular times that they felt that I have wronged them they know that I am a woman of forgiveness and oft times I go to persons in Chamber and outside of Chambers and beg forgiveness even when I know that I was not the one who erred.

Mr. Speaker, I believe that it takes a person who has instilled the Holy Spirit within them to make a statesman. The country has reached a juncture where, yes, anyone can be a politician; but I do believe that for the next four years the country needs to look seriously at insuring that there is either the return or the selection of persons who can rise to that occasion. Otherwise, we would have done history and our country an injustice.

I thank you for your patience and indulgence.

**The Speaker:** Honourable Members, as mentioned earlier, I too wish to make a few short remarks on this auspicious occasion.

Today, this 9 day of March 2005, marks the culmination of over some 32 years of my public service to the people of the Cayman Islands—16 years in the civil service and 16-plus years as a political representative for the district for George Town. Honourable Members, judging from the way I feel today, with the help of God I do believe that I have a number of good years remaining in me.

During my 16 years in the civil service, I gained a tremendous amount of experience in the inner workings of Government, having filled the senior position of Deputy Financial Secretary and a principal or permanent secretary in the Government.

After 16 years in the civil service as Cayman's first professional accountant in the early 1980's, I entered the private sector where I eventually reached the position of managing partner for the local accounting practice of Thorne Riddell/KMG [Chartered Accounts], a Canadian based firm.

I was first elected to this Honourable House in 1984, and November 2004 will mark 16-plus years of active service as an elected representative for the district of George Town. The time spent in this Honourable House has been a most challenging period in my life, but it has also been a most satisfying time. Of my 16-plus years in this Honourable House, I have been privileged to serve seven of those years as a Member (now Minister) of Government, and I will have spent one year and five months as Speaker when the House dissolves on 15 March 2005.

I must say, and be truthful to you, that the biggest challenge as Speaker was not being able to participate in the cut and thrust of debate in this Honourable House. Perhaps they should change the name of this position from Speaker to "Listener" because somehow I think I was mistaken when I thought I might have been able to do more speaking! My track record and stewardship in the various positions in which I served as an elected representative of my people speak for themselves. It is therefore not my desire or intention to go into any details in that regard at this time. That will be done at a more appropriate time.

What I wish to focus my comments on at this time is to thank the people of George Town for the trust and confidence they have placed in me over the past 16 years. May I repeat, I wish to thank my good people of George Town for their trust and confidence which they have placed in me over the past 16 years and to say that with your continued support it is my intention to give you another four good years of representation, if elected in the general election scheduled for 11 May 2005.

I must also say that during the political campaign . . . and I have tried to keep my political aspirations out of my position here as Speaker, but I would say here and now that I will also be asking the people of George Town to support my political colleagues in the People's Democratic Alliance.

I wish also to thank my political colleagues whom I have had the pleasure of working with over the past 16 years. I have some pleasant memories of those years and, of course, some not so pleasant. All in all I am convinced that the time I have spent in the political arena has made me a better human being. Perhaps my most pleasant memories will encompass the time spent with the staff both in the ministries in which I served and indeed with Ms. Wendy and the staff of this Honourable House.

As my most recent posting, I can highly recommend to my successor in office the efficient and pleasant staff of the Legislative Assembly. We have worked well together and I shall surely miss them

when my tenure as Speaker draws to a close on the dissolution of this Honourable House on the 15<sup>th</sup> of this month. I shall nonetheless look forward to attending our Monday morning devotions which I started shortly after assuming the position of Speaker of this Honourable House.

As mentioned earlier, although there is the remote possibility that the House could resume prior to its dissolution on 15 March, it nonetheless seems likely that this will be the last meeting of the House before its dissolution. Accordingly, I wish to take this opportunity to thank you, my colleagues, for helping to make my job as Speaker an enjoyable one. Though on a few occasions it may have been challenging, I am very satisfied that at all times I tried to carry out my duties with fairness and impartiality.

As these islands get into the full swing of a political campaign, I would ask that we each conduct ourselves with dignity, honour, and integrity. I wish each one of you who plan to contest the general elections, God's speed and his blessings. To the Official Members, may I congratulate each one of you for the apolitical and independent role you continue to play in this Honourable House?

I also wish to thank each individual who has in one way or the other assisted me during my political career; most importantly, my dear wife and family who have stood by me through the good and bad times alike.

I certainly look forward to being back here and once again working with many of you, my colleagues.

In closing, I wish to say that in my opinion what these Islands need at this crucial time is a good government. Not just a government, but a good government capable of dealing with the many issues facing these Islands at this time, individuals comprised of the very highest calibre.

May God continue to bless each Member of this Honourable House and your families and to bless the people of these beautiful Islands we all call home. Thank you.

**The Speaker:** The question is that this House do now adjourn sine die. All those in favour, please say Aye. All those against, No.

**Ayes**

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

**At 6.39 pm the House stood adjourned sine die.**

**Table 1: Budget Estimate and Actual Results for the Year Ended 31 December 2002 and Actual Results for the Year Ended 31 December 2001- Combined Funds (Except General Reserve)**

	Original Estimate 2002 \$m	Approved Estimate 2002 \$m	Actual 2002 \$m	Actual 2001 \$m	Increase/ (Decrease) 2002 %
<b>REVENUE</b>					
Local Revenue	<u>340.073</u>	<u>340.073</u>	<u>316.694</u>	<u>287.628</u>	10.11
<b>EXPENDITURE</b>					
Recurrent	269.766	274.237	252.295	259.384	(2.73)
Capital Acquisitions	5.034	5.461	3.064	3.941	(22.25)
Capital Development	15.998	17.512	14.543	22.156	(34.36)
Statutory	49.786	49.786	49.923	46.968	6.29
<b>TOTAL EXPENDITURE</b>	<u>340.584</u>	<u>346.996</u>	<u>319.825</u>	<u>332.449</u>	(3.80)
<b>(DEFICIT) BEFORE FINANCING</b>	<b>(0.511)</b>	<b>(6.923)</b>	<b>(3.131)</b>	<b>(44.821)</b>	<b>(93.01)</b>
<b>FINANCED BY</b>					
Local Loan	12.000	12.000	10.866	49.607	
External Loan	<u>0.000</u>	<u>0.000</u>	<u>0.000</u>	<u>0.097</u>	
<b>SURPLUS FOR THE YEAR BEFORE TRANSFERS TO RESERVES</b>	<b>11.489</b>	<b>5.077</b>	<b>7.735</b>	<b>4.883</b>	
<b>NET TRANSFER (TO)/FROM GENERAL RESERVE</b>	<b><u>0.000</u></b>	<b><u>0.000</u></b>	<b><u>(1.500)</u></b>	<b><u>6.900</u></b>	
<b>SURPLUS AFTER FINANCING</b>	<b>11.489</b>	<b>5.077</b>	<b>6.235</b>	<b>11.783</b>	
<b>CASH MOVEMENTS BELOW THE LINE</b>					
(Increase) in Imprests			(0.369)	(0.047)	
(Decrease)/Increase in Deposits			(3.954)	2.407	
(Increase) in Advances			(1.445)	(1.445)	