

**TUESDAY  
3RD JULY, 1990  
10:20 A.M.**

**MR. PRESIDENT:** Prayers by the First Elected Member for West Bay.

**PRAYERS**

**MR. W. McKEEVA BUSH:**

Let us Pray.

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

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

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

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

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

**GOVERNMENT BUSINESS**

**AMENDED MOTION AS AMENDED TO REJECT THE REPORT OF THE STANDING  
SELECT COMMITTEE ON STANDING ORDERS**

**MR. PRESIDENT:** Proceedings of the House are resumed.  
Continuation of the debate on the motion as amended, to reject the Report of the Standing Select Committee on Standing Orders.  
The Honourable the Member for Education continuing.

**HON. BENSON O. EBANKS:** Mr. President, on Friday when the House resumed, I had reached a certain point in my contribution, but before picking up on that specific point this morning I would like to enquire whether the First Elected Member for West Bay has yet handed to the Clerk the paper that he claimed to have been the first, the original draft of Government Motion No. 3/90....

**MR. PRESIDENT:** Clerk?  
The Clerk has not received it.

**HON. BENSON O. EBANKS:** Thank you, Mr. President, I did not expect that she would have. When the House opened on Friday evening I had pointed out that in Anguilla there are two official members of Executive Council and the Legislative Assembly; the Honourable Attorney General and the Honourable Financial Secretary and that their Finance Committee is comprised of the full membership of the Legislative Assembly. Therefore, the two Official Members are full voting members of their Finance Committee.

In Montserrat there are two Official Members of Executive Council and the Legislative Assembly, the Honourable Attorney General and the Honourable Financial Secretary. Their Finance Committee is comprised of the full membership of the Legislative Assembly. Therefore, their two Official Members are full Members of their Finance Committee.

In the British Virgin Islands there is one Official Member of Executive Council and in the Legislative Assembly, that being the Honourable Attorney General. Their Finance Committee is comprised of the full membership of the Legislative Assembly. Therefore, the one Official Member, the Honourable Attorney General is a full membership of their Finance Committee.

In the Turks and Caicos Islands, there are three Official Members of Executive Council in the Legislative Assembly, who are the Honourable Chief Secretary, the Honourable Attorney General and the Honourable Financial Secretary. Their Finance Committee is comprised of

the whole membership of the Legislative Assembly. Therefore, the three Official Members are full members of their Finance Committee.

This demonstrates beyond doubt that there is precedent in the other remaining British Dependent territories in the Caribbean for what Government Motion No. 3/90 is proposing or attempting to do. I issued the challenge to the Members on the other side of this House on Friday, who have bound themselves by collective irresponsibility to use yesterday's holiday, to attempt to get information to prove me wrong on what I just said, that is about the Official Members being Members of Finance Committee in those four other remaining Dependent Territories. If they were unable to get information to prove me wrong they should have called a meeting last night to tell the people of this country that they had misled them and that they were sorry. I have not heard of any public meeting having been held, so I can only assume they are still prepared to attempt to mislead the people.

I also said on Friday that I felt that the *Caymanian Compass* (as our only daily newspaper), owed the country a debt of favour and that they too should have worked overtime yesterday and Sunday if necessary, to get the facts and write a factual article on the subject instead of the tripe which they have heretofore been writing on this subject.

I have not been able to read all of the paper this morning, but as far as I can see, they too have ignored the challenge and I say that I hope that tomorrow's paper, if they needed that much time to eat humble pie, will contain an article such as I suggested.

I also pointed out that Anguilla, Montserrat, the British Virgin Islands, Turks and Caicos Islands, all have Constitutions which are more advanced than ours. They have a ministerial form of Government with a Chief Minister who would select his other Ministers, not having them elected to Executive Council by Elected Members of the House, as we have here and that with the type of advanced Constitution one would expect to see fewer and fewer Official Members, if any, both on Executive Council, in the Legislative Assembly and consequently in the Finance Committee.

I also suggested to the *Caymanian Compass* that before they wrote their article, they should make a study of constitutional development in the colonies and tell the country, how constitutions are developed and advanced. So it is perhaps of that rather more enlightening article which I hope will come from them, why they did not have it in today's paper.

It is interesting to note that even in the neighbouring Caribbean, that is, Anguilla, Montserrat, British Virgin Islands and the Turks and Caicos Islands, the number of Official Members vary according to their stage in constitutional development.

In the case of Anguilla and Montserrat, they each have two Official Members, that is, the Honourable Attorney General and the Honourable Financial Secretary. The reason (in my opinion) is that the Chief Minister fills the role of Leader of Government Business and therefore, replaces the Chief Secretary or as in our case, would be the Honourable Administrative Secretary. In the case of the British Virgin Islands which is the most advanced, there is only one Official Member and the Honourable Attorney General is the one Official Member, the Chief Minister of course replacing the Chief Secretary and there is a Minister of Finance, the Portfolio of Finance I believe often being held by the same person who is the Chief Minister.

In the case of the Turks and Caicos Islands which had to take a step backwards a few years ago because of the fact that a group similar to our group, of seven Members who have bound themselves by collective irresponsibility, fooled the people just as those seven over there are attempting to do now and the British Government stepped in and suspended the Constitution...

## POINT OF ORDER

**MR. GILBERT A. McLEAN:**

Mr. President, on a Point of Order, Sir.

**MR. PRESIDENT:**

State your Point of Order.

**MR. GILBERT A. McLEAN:**

Mr. President, the Member is imputing wrong doing that was committed by Members of Government in the Turks and Caicos to the Members of this House. Those Members went to prison, some of them are still in prison.

**MR. PRESIDENT:**

I must say I have not followed that as an imputation yet, if the Member went on he might well come to that but I do not think he has, yet.

**HON. BENSON O. EBANKS:**

No, Mr. President, I said they had fooled the people into getting into power. I did not mention anything about the more unsavoury acts of those Members because it is not germane to the point I am making. I merely made the point, to point out that because we are Dependent Territories, the British Government will always step in if the Executive Council or the Ministers (whatever you want to call them), go haywire. In fact, the new constitution of the Turks and Caicos Islands at the moment is modelled very much off our own except...

## POINT OF ORDER

**MR. G. HAIG BODDEN:** On a Point of Order, Mr. President, is the Member going to let the Clerk have these documents that he is quoting from?

**HON. BENSON O. EBANKS:** I never referred to a document, Mr. President, and the constitution of the Turks and Caicos Islands, I am sure is in the Parliamentary Library and furthermore, as far as I know the copy of Sir Roy Marshall's recommendations and study was sent around to all Members of this House at the time. So we all have copies. If the Member was not in the House at the time, then maybe somebody can lend it to him or he could check the library. But I was not quoting.

**MR. PRESIDENT:** Before you continue, there is a difference between quoting from a document and referring to it or paraphrasing. This is well clearly set out in *Erskine May*.

**HON. BENSON O. EBANKS:** Mr. President, let me assure the Member and his colleague, they will not succeed in distracting me, I have my notes logically written and I will always go back to them.

I was making the point that the new constitution of the Turks and Caicos Islands is modelled very much off of the Cayman Islands' Constitution except that their Members of Executive Council are called Ministers instead of Members.

So the basic difference in the constitutions of those Islands is that (a) they have one, two or three Official Members in the Legislature, depending on their stage of constitutional development and (b) they have a ministerial form of Government with the Chief Minister appointing the other Elected Ministers and allocating their portfolios; as opposed to our system where our Members of Executive Council are Elected by the other Elected Members of the Legislature and the Governor assigns the portfolio.

It is interesting to note what Mr. Walter Wallace, a Foreign and Commonwealth Advisor to the Dependent Colonies said in an interview published in the *Caymanian Compass* on 3rd of April 1990. I am going to read from my notes but if the Members want the article put on the Table I can, I have a copy of it resting right here, Sir. This is what he said in part:

"... But although on paper it [referring to the Cayman Islands Constitution] does not look very advanced in practice it is operated in a much more advanced manner.

The wording of a Constitution is not quite so important as the spirit in which it is operated..."; adding; "...there had been practically no interference from the United Kingdom in the Cayman Islands affairs in recent years..."

He continued, "... Cayman's Members of Executive Council were almost indistinguishable from Ministers..., the difference being that Ministers would generally be appointed by a Chief Minister, who would allocate their portfolios, rather than being elected by the other Members of the Legislative Assembly with portfolios allocated by the Governor..."

And he continues, "... Even territories which were advanced constitutionally to a ministerial system such as Montserrat, retained the official members as full members of the Assembly."

End of Quote.

So Members and the public should know that the Foreign and Commonwealth Office is very much aware of the position in these Islands and what goes on here. It should also be seen that they will not be surprised by what we are attempting to achieve by Government Motion No. 3/90.

Here is perhaps a very good place to put right what our colleagues, the seven Backbenchers, who have bound themselves by collective irresponsibility, have been misrepresenting what the resource speakers at the recent Commonwealth Parliamentary Association held here on 23rd to 25th April 1990, had to say on this issue. The Backbenchers have only read excerpts which of themselves do not give the true facts and position as put forward by those resource speakers.

Mrs. McLaughlin, the former Clerk of this Assembly in her topic, 'The Relevance of our Standing Orders on the Form and Content of Speeches to Today's Political Needs', had two very important and fundamental comments relative to this issue, that is Government Motion No. 3/90. At page 55 of this report (and a copy was circulated to every Member on Friday, so I hope they do not ask that this one be tabled), she said:

"Seventeen years later Standing Orders were redrafted and passed by the Legislature on 8th September, 1976. They were amended in 1985, revised and published on 25th November, 1985, following the establishment on 25th March, 1985, of a Standing Orders' Committee comprising of the whole House. I will speak later about Standing Committees of the whole House.

These Standing Orders were further amended on 2nd September, 1986. With the establishment of a Standing Orders' Committee there will now be periodic review and revisions of the Standing Orders."

And on page 57, the learned lady said;

"Standing Order 74 - Public Accounts Committee. One of the most powerful committees of the House is this Standing Select Committee which operates through the session. The provision is that it shall consist of five Elected Members."

I have made reference to the Public Accounts Committee because I will be dealing in greater detail with it later on. Suffice it to say at this point, I made the point in my contribution on Friday that most important Committee did not meet and report to this House for the period 1980 to 1984.

I would also like to read in some detail what the resource speakers had to say about Finance Committee. So that it will be readily apparent that what is being attempted by Government Motion No. 3/90 is, entirely on all fours with what those resource speakers said. It should also be noted and remembered that most of all of what has been said in quoting these resource speakers was in fact, the response to prompting and answers from the local CPA membership. From then, they were attempting to get some legality and respectability placed upon the arrogance and imagined power also, to attempt to prove Government was attempting to ride rough-shod over them in undemocratic fashion.

I believe that this report, the official report of the first local seminar on PARLIAMENTARY PRACTICE and Procedures should be required reading for all adult members of this community and also older school children. So that it can be seen that what was really being attempted, not just with Finance Committee, but about Members misbehaviour in the House and all the rest of it. Needless to say that while the resource speakers as guests of this Branch could not be rude, they went as far as possible to put those Members straight. I might add that it was obvious to them that we had a bunch of renegades on our hands.

I will get to the document now. I have read what the learned lady, the past Clerk of this House had to say and my first extract is on page 60, still with Mrs. McLaughlin in the Chair and it is dealing of course with Finance Committee. The Third Elected Member for West Bay said:

"But do you think that the reason why it is referred to the Finance Committee is because the Finance Committee consists of Elected Members only? I mean, what is the relevance of referring it to the Finance Committee as opposed to dealing with it in the House as a whole?"

Mrs. McLaughlin replied:

"Well, because is not that the Committee which deals with monetary matters? Finance Committee does not deal with anything else. It does not give approval for anything else but monetary matters; matters of finance which have been sought or expenditures made."

And our friend from Jamaica, Mr. Ripton McPherson the former Speaker of the House there, continued:

"Thank you, Mr. Chairman. I think that my friend who just made that position should be reminded that the intent of the motion in the House itself is to deal in broad principle with the proposals that have been put up. In referring the matter to the Committee is to be able to deal in great detail with every item that is brought up under the supplementary estimates, or under the estimates.

So the difference being that it is intended that on the floor of the House the broad principles are to be dealt with, but the details are to be looked at in Committee. That is my understanding of it."

And Mrs. McLaughlin said:

"You are perfectly right, and this is why I asked if any of you would add to whatever I had to say."

That is meaning the other resource speakers had anything whatsoever to add to what she said. Mr. Pierson, the Member for Communication and Works made an interjection and said:

"Mr. Chairman, and Mrs. McLaughlin, I think that in considering the Finance Committee we must think of it as a Standing Committee of the Assembly, and, as such, our Constitution states in section 42(3);

A Committee of the Assembly established under this section shall act in accordance with the policies of the Government of the Islands and with any directions given to the Committee by the Governor.'

So the Committee is a Committee of the House and it is not a separate powerful body on its own. I think that needs to be understood."

made an interjection,

The Chairman then, the First Elected Member for West Bay

"No, if I may add, if Members allow, our Standing Orders are very specific in that they say that there should be 12 Elected Members who shall be the Finance Committee. So it is very clear who makes up the Finance Committee. It does not say the whole House. Certainly someone must have had in mind, if Members allow me, to set up Finance Committee specifically in that way because civil servants who would spend the money, make up the number of the House. Therefore it might not have been proper for them to vote also."

And then the Member for Education made an interjection:

"I would like to point out that if that was the reasoning the Financial Secretary, who is an Official Member, would not have been the Chairman of the Committee. I believe that it followed the composition of many Committees of the House in that it was felt that Official Members, who are civil servants, were otherwise fully employed and therefore were relieved of the responsibility of attending Committee meetings.

One should remember that these Standing Orders were drafted....", (and I am referring in the first instance, Mr. President) "....before Executive Council became a full time job for Members. I think it might be of assistance if we could ask our visiting resource personnel to indicate whether, in their experience, a Finance Committee is so composed that the Government of the day is basically hamstrung in carrying out its policies. I think this would be a good question."

I continue, "I do not believe that anywhere else in the world are you going to find a Finance Committee comprised of sufficient numbers that could, in fact, thwart the policies of the Government. I would like to hear from our visiting resource personnel, maybe on the composition of the Finance Committee or a similar committee, because I know some people do not have a Finance Committee, they have a Budget Committee."

**HON. W. ST. CLAIR-DANIEL:** I think, Sir, the point is that the Finance Committee, as I see it, in these Standing Orders as in any Standing Orders, is a Committee which would examine the details of the estimates and can not by itself approve these estimates...".

Now I want to underline that, Mr. President:

"I think, Sir, the point is that the Finance Committee, as I see it, in these Standing Orders as in any Standing Orders, is a Committee which would examine the details of the estimates and cannot by itself approve these estimates...".

He continued,

"...If one looks at the Standing Order which is being referred to, I think that one would see that under subsection (2), after these estimates or supplementary estimates have been forwarded to the Committee, a Motion comes before the House. That is, at any time after a paper has been so referred to the Finance Committee a Member of Government may give notice of a motion 'That the Finance Committee approves the proposal (or proposals) set out in the paper;' and such a motion shall be considered in Finance Committee.

The matter should eventually come to the House and the House is the only authority, really, that can authorize expenditure. That is the process in all Parliaments."

He continued:

"In St. Lucia we have what we call a Standing Finance Committee; and things like that are referred to it and it then reports back to the House. The House approves, and then the Appropriation Bill or Supplementary Appropriation Bill comes into effect. It is really the Bill that authorizes expenditure. Sending it to the Committee gives the opportunity for detailed consideration of the provisions which are being requested."

Mr. President, this quote I am going to give now is the interesting one because it is the contribution of the Honourable Sir John Sharpe and it is at the top of page 62. You know, he was quoted time and time again to try to prove the case against this motion, but he was one of the most helpful speakers for our cause out of the lot, although the Members of the opposition did not read all he said. He commenced his contribution by saying:

"Yes, I am not sure that I can be very helpful because prior to our present Constitution (ours is in some respects like yours, but quite significantly different, too) we did have an Executive Council that did include senior civil servants. But in the House of Assembly we did have a Finance Committee consisting of a Chairman and three other Members who were appointed by our elected Speaker."

And he goes on to say:

"It was not entirely satisfactory because very often the Executive Council would advance proposals that were going to require the expenditure of money, and Finance Committee would not support them, or the House, even, would not support them."

I remember once when I first got in we increased the school leaving age to 16 as a consequence of a message from the Governor from the Executive Council. But then we could not agree how to raise the money to pay for the additional teachers and additional facilities, and all this sort of thing."

So now we have a Minister of Finance whose sole responsibility it is, as part of the Government, to exercise that requirement."

Mr. President, how they sorted it out when the public go and get a copy of this document and read it, they will find out that how they sorted out their problem shortly after he became a Member, that is Sir John Sharpe, was that they started a party system and their party enjoys something like a two third majority of Elected Members in the House and that that party has been sitting consistently as the Government ever since. The opposition in Bermuda has never ever formed the Government.

Let me read the Honourable St. Clair-Daniel again on page 63:

"I think, if it is a matter of the composition, well, in St. Lucia the Standing Finance Committee comprises all the Members of the House. It is presided over by the Speaker, but it could be presided over by the Minister for Finance. As was pointed out earlier on that, under the Constitution for the Cayman Islands there is not a Minister for Finance but there is a Secretary for Finance...."

Of course, Mr. President, like any of us, he is human, what he meant was there was the Financial Secretary, and he takes that position.

And he concludes:

"When the Constitution changes, if it ever changes, then the changes would be made to accommodate whatever changes there are...", that is changes in the Finance Committee and in Standing Orders.

In answer to further questions, Mr. Ripton McPherson had this to say, this is at the bottom of page 63, Mr. President:

"Thank you, Mr. Chairman.

I would merely like to indicate what the procedure is in Jamaica, as I think was the question that was being asked in connection with other territories.

In Jamaica the procedure is that the estimates or supplementary estimates are committed automatically to the Standing Committee of the entire House to be dealt with, that is the Finance Committee."

And on page 64, Mr. McPherson continuing, commenting on Mr. Daniel's suggestion that it would be a good idea for the Minister of Finance to chair Finance Committee, this is what he said:

"I do not share the view of Speaker Daniel that it is necessarily a good idea for the Finance Minister, or the person in charge, to be the Chairman of that Committee because I think he is a person on the hot spot and he should be available for questions to be asked - and have somebody else Chair that committee. I think that

may be more desirable, but those are your rules. So the specific answer to your question is that in our case they go to the entire membership of the House which forms the Standing Committee on Finance."

in Cayman again, said:

Mr. President, we go to page 65 and the Member for Education

"I am afraid I have to leave, but it would be interesting to hear comments. We are talking about Elected Members and the Senate as opposed to Parliament. We understand fully the functions of the Senate and that the Senate is a non-elected body. But it would be interesting to hear some opinions where your constitution constitutes the Assembly of elected and Official Members. And as Speaker Daniel has said, even though these matters go to Finance Committee and someone mentioned that when the report is brought back it is deemed to have been accepted, that that is not the end of the story. It is the Appropriation Bill that, in the final analysis, authorises the spending of the money, which is done by the whole House. And without the Appropriation Bill the Finance Committee does not mean anything, in raw terms. So it would be interesting to hear that being expounded upon."

Works also said:

Of course, Mr. President, the Member for Communication and

"Mr. Chairman, I just like to apologise also. We have to leave for Executive Council meeting. But it is a very interesting topic. I wish I could stay."

But it is interesting that none of those resource speakers were from any of the territories that I have mentioned and have what we have, or have what we are attempting to have. Jamaica of course, is an independent country, so is St. Lucia and Bermuda has had a very advanced constitution for many years. So the question of Official Members sitting in their Parliament has been done away with in the case of Jamaica and St. Lucia, from the time of independence, at least, and in the case of Bermuda, probably even before Jamaica became independent.

So when we are quoting these good gentlemen who came here to share their knowledge with us and trying to teach us something, we should try to learn from it and not misquote them and mislead the people.

**MR. TRUMAN M. BODDEN:**

Mr. President, I am taking a Point of Order here. If he is saying any of us here misquoted those speakers in what we read out, then I think he should pinpoint who it was and we can go back and see.

**MR. PRESIDENT:**

I think that the Member said, misquoted and mislead the people. Was that the order of the words? This is a statement of his opinion, he is saying that the misquoting mislead the people. I think that is a fair statement, you may disagree with it, but I think it is a reasonable statement. He is not questioning your motives in so doing.

**MR. TRUMAN M. BODDEN:**

Mr. President, misquoting with respect, is a statement of fact and, therefore, I think he should say what was misquoted because what was read from at least by me, came out of the transcript. There is an imputation that I have intentionally misread something wrongfully that I had before me with intention to influence the public.

**MR. PRESIDENT:**

That is a fair statement, but I think it has been said on both sides of the House, the term misquoting has been used loosely to mean not quoting fully. And that has been said by both sides of the House on this particular document. I think we must try to be more careful.

I have in fact, while you have been speaking this morning, made a note of a number of expressions which have been used on both sides of the House in the last ten sitting days also. My intention is to write to all Members of the House suggesting that we try to avoid the use of these terms in future and try to do it voluntarily rather than depend on the Chair to pick everybody up all the time.

It is very much a matter in the hands of the House. I do not see it desirable that the Chair should listen intently and pick up every single offensive or almost offensive word. It becomes impossible to interrupt the proceeding like this all the time, very much a matter for Members. So I think the point made is clear that this is not a misquotation we are talking about and we admit that it is not that and your point is valid in that regard.

**HON. BENSON O. EBANKS:**

Yes, Mr. President, I could not agree with you more. But if the Member had followed my trend of thought and my contribution, he would have understood that what I was really saying was that what they said had been taken out of context and that while the truth might have been read from the extracts by the Honourable Members, it was not the whole truth.

In other words, they did not read all that the people said, they had omitted those very important remarks which put what they had said in the context that I am now doing it. I

have to admit, I too am only reading extracts and I agree with the Member that as long as what he read is correct, he is not misquoting. But the point I was really trying to make is that they were taking it out of context and that should have been obvious from what I said.

I believe that the real purpose for that Member rising was because I had not reached him yet and that is where I am at now, I am going to quote him next.

The Third Elected Member for George Town got his oar in trying to dig away at what Government had been doing and the procedure in Cayman and he said, this is on page 65 about mid way down. I quote:

"I would just like to ask the Resource Speaker if she could tell us what she thinks the impact of a full House dealing with detailed estimates or supplementary estimates would be if that arose; rather than dealing with it in the Finance Committee?"

Mrs. McLaughlin had this to say:

"Well, I think that this has already been covered by Mr. McPherson who very clearly pointed out that in a full House you have the Elected Members plus the Official Members as well, and if you were to go into all the details of supplementary financial matters it would take up a lot of time of the House. Whereas, in a Committee you would be able to properly bring in some other questions which perhaps may not even be allowed in the House. But the time of the House would be more appropriately devoted to giving a decision on a matter which had already been considered by the elected Members of the House in great detail."

What the lady Member was saying there was that in accordance with our Standing Orders when (and I think we will come to that being re-emphasised again by Mr. McPherson I think it was), in a Committee it is less formal, Members that are allowed to speak as often as they can to make their point, use their full powers of persuasion, whereas, in a full House the rules say you speak once on a subject.

In fact, what I have just said, I did not realise it was this near, is the very next comment by Mr. Ripton McPherson:

"Mr. Chairman, thank you, Sir.

I think there is also another very important aspect of the matter going to the Committee and it is this. A Member of the House can only speak when there is a question before the House, and he is only allowed to speak once on that question. Now, in a Committee he can speak as often as the Presiding Officer will allow him. In other words, anything that comes up the Member has a right to raise, to reply to it, to ask questions about it and it is very much an informal matter and more informative. As I say, in addition also, because you are in Committee other people can come in. The civil servants can come in and answer questions about the matter."

Following that is a comment by the Chairman, the First Elected Member for West Bay and this is what he had to say:

"For the information of Members, we have crossed the time for our break, but seeing that we are so well into the topic I am wondering whether it would do well to carry on and have an early adjournment? Are Members in agreement? Good, we do not have the Government here to object ... so are there any more questions or queries?"

Mr. President, I want to underline that comment, **"We do not have the Government here to object..."**, always introducing politics into a CPA function which should be free of politics and they were reminded time and time again of that in this seminar. That is why I say it should be required reading for every interested person in this country, Sir.

Then the Second Elected Member for Cayman Brac came on the air:

"The question I would like to ask follows on that about the Finance Committee Standing Order 67(1); that a financial matter shall stand referred to Finance Committee. Would it be considered a breach of Standing Orders if that particular Standing Order was not followed? If that Standing Order was waived or suspended would it be considered a breach of Standing Orders?"

Of course I do not need to remind Members what was being led up to there. It was the meeting before that the Member for Health had moved the suspension of Standing Orders in order to bring a Motion approving a loan in principal. This is important because the Resource Speakers are very, very careful to distinguish between a loan, supplementary estimates and the full estimates. This is what in fact, I



believe that Mr. St. Clair-Daniel was misled in the beginning, but he soon found his feet with the help particularly of the First Member for Cayman Brac. He had this to say:

"Well, it could only be a breach if it was done without authority. But I do not think that any House would want to waive that right to examine supplementary estimates, because supplementary estimates arise when there is over-expenditure or where perhaps a substantial amount is being removed from one head to another head and things like that. The House having given authority for expenditure for a certain sum which is then being over-expended, only the House can give that authority and the Standing Orders provide that it should go through to the Standing Finance Committee. If the House itself decided that it should not be referred or that that Standing Order should be suspended, or should not be observed, then there is no breach. But if anyone does it without the normal consultation well, then, the House really would object to that being done. Only the House can decide changes in its procedures."

The Second Elected Member for Cayman Brac continued:

"I agree with Speaker Daniel. We have had a very interesting instance where a number of us argued that it was a breach and that it was against the whole intention of Standing Orders for a financial matter not to be referred to Finance Committee..."

(I am reading from page 66 Mr. President)

"... to be examined in detail, and so on. A majority of the House voted to suspend that Standing Order. It was a supplementary, a sum as large as \$1.5 million..."

But, as I pointed out what we were dealing with was the agreement for Government to seek a loan for \$1.5 million. It was not the Supplementary Appropriation Bill. In fact, the Bill authorising the expenditure of the raising of the loan and the authorising of the expenditure is on our desk today:

"... The argument put forward by the opposition was that it went against the whole principle of referring matters to the Finance Committee and, more particularly, to let it be within the ambit of the Elected Members to decide on the particular financial package."

**HON. ST. CLAIR-DANIEL:** Mr. Chairman, I know that some jurisdictions have what is called a Finance Bill which would authorise expenditure up to a certain amount before authority is sought from the whole House. But it has to be done if there is a matter of urgency about it and things like that, but it must still come back to the House, it is done with authority under Finance Bill. I do not know the exact circumstances but it would be rather strange for a procedure like that to be taken. It is rather unusual, I have never heard that kind of thing."

And then the Third Elected Member for West Bay chimed in:

"Just for the benefit of our visiting guests. The only reason why it was done that way was because the Government ensured that they had a majority to deal with it in the House by binding the three Official Members on the collective responsibility."

And this is where the First Elected Member for Cayman Brac came in and threw the cat in the pigeons.

"Mr. Chairman, Mrs. McLaughlin. Would you find anything wrong with the procedure of approving, in principle, a Government Motion asking for authority to borrow \$1.5 million, without referring it to the Finance Committee?"

**HON. ST. CLAIR-DANIEL:** I do not know, but Motions of that nature are not normally referred, I have not examined it against the Standing Orders here, but they are not normally referred.

A Motion is brought to the House for borrowings and the House debates that and determines whether the Government or the authority can proceed for the borrowing. That is what is normally referred to as the consent; an indication that this is being agreed to by the Executive Council, it is done and a certificate produced. They can move it and the House decides.

There is nothing wrong in a motion, as far as I know, being brought to the House seeking permission to borrow any sum of money. And the House decides on that. It need not go to Finance Committee.

What is normal procedure in the Saint Lucia jurisdiction is that it is only the matter of estimates or supplementary estimates that are referred to the Standing Finance Committee; not the seeking of approval of borrowing. Borrowing is done on the floor of the House and the Minister moving this, the Finance Minister, would give the reasons why he wants to borrow the money. The House, by its vote, would indicate whether he can go ahead or not. Normally banks would never advance that money unless they got the authority of Parliament for it."

And of course, the Third Elected Member for George Town, still digging his oar:

"Mr. Chairman, the point in relation to borrowing is usual through a resolution and, under our law, can be done either through the Finance Committee or through the House. However, having borrowed the money the detailed expenditure of that should normally come back, at least where it is a substantial amount of detailed expenditure, to the Finance committee to spend. So the borrowing looks to me as if it is a separate situation from the ultimate expenditure of that, if it is a ruse to avoid Finance Committee."

MR. ST. CLAIR-DANIEL: No, but I think that the normal reason for borrowing is for some specific project. It does not normally come under the estimates, unless provision perhaps is made under the estimates where a \$10.00 [vote] or something like that, is indicated. For example, a Minister may say that it is for an hospital extension and, not knowing the cost, puts down \$10 in order that that will form part of the estimate. He then seeks the money and then moves the motion. He explains what that is for, and it is on that explanation that the House is moved to agree or not to agree. Then the expenditure is proceeded with. Further...", - and Mr. President, I want this noted - "information that the House gets on it is perhaps if the Auditor General, or whoever audits, says something in his report. The Public Accounts Committee will look at it, but it just deals with whether the money has been spent for the purpose; not to the policy connected with that expenditure. I do not know if Speaker McPherson would...". That is that.

What Mr. St. Clair-Daniels is saying here is, that it should be of no concern of Members what colour the Member for Health intends to paint the hospital. He has said it is for a hospital and that is the authority that he needs to spend the money. But they want to tell him where to build it, how to build it, who should build it, and what colour it should be when it is built and whether any changes should be made to that shortly thereafter.

MR. PRESIDENT: Would it be convenient to take the break?

HON. BENSON O. EBANKS: Yes, Sir, I still have quite a bit to go on this.

MR. PRESIDENT: Proceedings are suspended for fifteen minutes.

AT 11:23 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:56 A.M.

MR. PRESIDENT: Proceedings are resumed.  
The Honourable Member for Education, continuing.

HON. BENSON O. EBANKS: Thank you, Mr. President.  
I want to continue with what the resource speakers had to say on the Finance Committee, borrowing and matters like that. I assure you that I will not bore the House or the listening public too much longer with this. Following what I said before the adjournment, the Third Elected Member for George Town then said:

"Just one other question to you, Mr. Speaker. Is that normally done on a one-off situation or is it something that has been done to cover multiple types of estimates?"

Mr. St. Clair-Daniel enquired "the borrowing?"

And the Third Elected Member said;

"Borrowing. Is it normally just a project as against...".

And the Honourable St. Clair-Daniel said;

"Well, that is usual. It happens sometimes two or three times per year that something like that would come up. In fact, as far as Saint Lucia is concerned, it also arises with the matter of the Government being able to carry an overdraft which, every six months, must be renewed. They come to the House and they say how they have been spending the overdraft, and indicate to the House and explain what the present position is and seek permission to maintain that overdraft."

**MR. TRUMAN M. BODDEN:** One last question to you, Sir...". This is the Third Elected Member for George Town still dipping his oar and treading water, not getting anywhere with his view). I quote:

"I guess what I am really asking is whether that procedure of dealing with a Motion in the House is a substitute for going into detail in Finance Committee on multiple estimates or multiple supplementary estimates."

**"HON. W. ST. CLAIR-DANIEL:** No, no. The supplementary estimates arise only when there is an over expenditure on the full estimates. I am just using the term full estimates to differentiate. That is the only time that that comes up, and if there is an over-expenditure, or change in it, well, then, that goes to the Committee. But the matter of borrowings never goes to the Committee at all."

I want to comment here that we have been accused of wanting to get the Official Members of Government on Finance Committee, so that we can get our grandiose schemes going but it should be obvious to the listening public and even to the most dyed-in-the-wool opposition Member, that any of the schemes which we had in the estimates in 1990, would entail financing by borrowings.

So, if it was merely to get these schemes which they consider grandiose into effect we would not need to bring this motion, we could take the loan through the full House. But we are responsible people and we do not necessarily want to go that route and will not go that route. We want to put this House into ship-shape order, that is why this motion is before the House.

I am not going to deal any more with the Finance Committee but there are two other points which I wish to make which confirms what I said about the rest of the questions. I am going to increase that to three because I think it is important that we, that Members are reminded and that the listening public hears what the Honourable W. St. Clair-Daniel had to say about a Bill of Rights in a colony like ours and I am quoting from page 85, where he said:

"I would agree with what Sir John....", (referring to Sir John Sharpe) "...has said, because when a country is a colony it operates under the imperial protection, and the moment that the internal affairs come under the hand of the local parliament or local parliamentarians, there is need to indicate in the constitution the guarantees which exist for the citizen. The colonies need not do it because there is no need for it. For an independent country or a country moving towards independence, or a country which is in full control of its internal affairs, it is necessary to safeguard the rights of these citizens in the constitution."

That is the argument Government has been advancing, whenever it opposes the motion for a Bill of Rights that is being brought forward. On page 92, we see an example of trying to extract power and a grasp for power which does not exist in our Constitution. The Chairman, the First Elected Member for West Bay, in that case said;

"We have one problem and that is, if the Governor advises the Executive Council other Members might not be advised."

The Member for Education said;

"Surely that would be the case in any country where the Cabinet is not always permitted to share certain things with other Members", [in our case, referring to the Executive Council.

The First Elected Member for West Bay came back saying;

"But surely that would be serious state's secrets, as we would phrase it, but not normal day-to-day functions."

And this is what Sir John Sharpe had to say;

"Well, I think you have to accept a certain responsibility for all this. After all you are elected by the people and they show their confidence in you by electing you. You elect the Executive Council, and so you are placing some confidence in their judgement also to act on your behalf."

It seemed to me that when I use the phrase in presenting this motion, Government must have its way and the opposition must have its say, that was construed as arrogance and that I had coined that phrase, but I had heard it at the seminar. I had benefitted from the seminar although I could only attend a few days and do other things in between. I cannot leave this until I quote from page 98, what Sir John Sharpe said, this is what what Mr. John Sharpe said;

"As I mentioned this morning, one party is the Government and one party the Opposition. One party is in and one party is out. Their roles are succinctly explained in the saying: 'Government must have its way - the Opposition must have its say'. That is really the basis of the responsible system of Government; that the Government must have its way, but the Opposition must have its say."

So that was no great genius of mine who coined those words, that was no less than the gentleman whom they held up as being quite an authority on constitutional matters. So I hope that this little exercise in reading these extracts has helped some.

**MR. PRESIDENT:**  
which page is it?

Could I just have the reference to that one again, I missed it,

**HON. BENSON O. EBANKS:**

Page 98, Sir.

**MR. PRESIDENT:**

Thank you.

**HON. BENSON O. EBANKS:**

Before I finish reading I am glad that I did not hand in these clippings this morning. I said they were here although I was not quoting directly from them. There is more of what Mr. Wallace had to say about the constitutional position and I think it bears repeating. He said when he was asked a question whether the British Government was anxious to cut colonies loose or give them their independence, he certainly said;

"Indeed we do not have anything with which to push... if Cayman says no that is it, we cannot cut you adrift."

However, he said:

"... certain safeguards, particularly the Governor's reserve powers and the disallowance powers, would be kept as long as the British Government was responsible for the good government of the Caymans.

The Minister (referring at that time to Mr. Timothy Eggers, who was the Minister of State for Colonies, said that as long as we have responsibility we must ensure that we have the necessary powers to discharge that, said Mr. Wallace "This had been the case in Montserrat where following scandal, the responsibility for off-shore finance had been shifted with the agreement of the local Government to the Governor."

If there is any doubt about this article I am prepared to have it tabled. I am finished with the paper now. I have plenty of copies of it, in fact, these clippings were among some of the documents that were taken from my desk a couple of Fridays ago, but I found copies.

Now, having dealt with that I am going to attempt to deal with what I see as the main points of opposition to this motion as put forward by the seven Members of the Backbench who have bound themselves by collective irresponsibility. The main reasons why Government Motion No. 3/90 should not be passed according to them are:

1. There is no need for it as we were able to sit down over five days last December and negotiate a budget for 1990, which was acceptable to all, especially the Member for Tourism and myself whose votes were not cut according to them, or were not slated even to be cut.
2. The effect of the motion is to demote the Financial Secretary and give his power and authority to the Governor. That he has been a marked man from the day he voted against the four Elected Members in Executive Council in fact, the Member for East End said that I had turned against the Financial

Secretary and brought this motion to put him down.

I would like to pause here to point out, quite emphatically, that this motion is not Benson Ebanks' Motion nor is it the Member, the Motion of the Member for Education, it is Government Motion No. 3/90, it is a Government Motion.

3. Reason number three. As I see it the four Elected Members of Executive Council have lost their support, are now a minority Government and should resign and we should go to the people to let them decide. We have an attitudinal problem and will not negotiate. An addendum to that is that we need the Official Members on Finance Committee to get tax measures through and to get our hands on Government money so that we the four Elected Members of Executive Council can squander Government's money.
4. That what we are attempting to do is undemocratic, that there is no precedent for it in any other Commonwealth country, or particularly in the Caribbean and that only Elected Members should have authority to spend the Government's money. That we are removing the checks and balances in Government and in Finance Committee.
5. That the Honourable Administrative Secretary having been assigned responsibility for Cayman Brac and Little Cayman does not need to be on Finance Committee and if we were of that opinion, that Cayman Brac and Little Cayman should have one Elected Member or a Member on Executive Council, they had nominated both of the Members of the Assembly from that constituency in 1988, and we had turned them down."

Now I will try to deal with each issue in sequence given above.

I do not know who the seven Backbenchers who have bound themselves by collective irresponsibility think they are fooling. The Finance Committee in December last, was not a pleasant situation. It cannot be pleasant when you plan and work for years to put a policy together only to be told at the time when you are seeking the wherewithal (the money to put it into effect), that "Listen, you have four votes in here or at best five with that of the First Elected Member for Cayman Brac and Little Cayman, and we have seven or eight and we are going to call the shots with this budget". Change it up beyond recognition and you must deal with us or else'. Can you imagine the feeling? One's mind immediately rushes back to the long hard hours of work one has put in with advisors, Principal Secretaries, Heads of Departments and others from you support staff to arrive at what is considered to be the priorities of Government for the year.

The amount of stress and pressure that all the Executive Council Members, including the Official Members (because they were very much involved in the budget process at that time); it requires a lot of stress and pressure to cut the money. To make matters worse, we have in many instances to trim as much as \$30M in excess of what we have in revenue to finance those requests and priorities. The civil servants, including teachers are identified, but had to be cut because the money was not there. Only to be told that those seven who have bound themselves by collective irresponsibility that they are going to set the priorities and to make matters worse, to know that they were attempting to do so without the backing of the Constitution or Standing Order.

The minutes of that meeting tell only part of the story, the real rough times were not recorded because the tough negotiations were conducted in what were termed, informal sessions without the Clerk being present. For example, the road to the new Community College was slated to be cut out because it had been identified as part of the Master Ground Transportation Plan. It was only after I pointed out that the road had in fact been proposed before the Master Ground Transportation Plan had been drawn up and had only been included in that plan when it was seen by so doing it; it would eventually allow the buses and private cars taking children to the several schools to by-pass the centre of town thereby, reducing traffic jams and danger to the children going to those schools.

They had to be reminded that our signed agreement with the European Development Fund, which was financing most of the cost of the Community College with grants, said that is where the entrance road would go. The loan from the European Development Fund being used on the Community College is repayable over forty years with five years moratorium and at 1 per cent interest over 40 years is a gift in anybody's language when one takes into account inflation.

We had to be reminded too, that perhaps more letters had been written to the press about the unsatisfactory condition of traffic on Walkers Road, near the schools than on any other subject. That agitation had ceased only after that road had been proposed which would allow parents and buses dropping and collecting children from the High School, the Middle School, the Cayman Prep School, and the Catholic School to do so from a relatively traffic-free situation. It was only, and only after that had been pointed out that they agreed to leave that in.

In fact, in the final analysis, the amount under that heading had to be reduced to save it. When it came to the vote for the College itself, Public Works Department had included a contingency vote in the estimates of cost for that building. They, the irresponsible seven Backbenchers decided they knew more about building than the staff at PWD. They wanted to cut that out also, or at least reduce it drastically. They wanted to rewrite the contract, which is a standard printed form used by Government for all their

contracts and which I am satisfied was vetted by the technical people and must have been also vetted by the Legal Department. They wanted to say that Hurlstone Construction could not build it, after they won the contract fair and square through the Public Tenders Committee.

Perhaps here is as good a place to say that with this Government, no special favours are done to, or for anyone to get Government's contracts. This Government is not, to my knowledge owed one red cent by the Hurlstone Brothers, nor to my best knowledge do they owe Government anything. They go the same route as all other contractors. They go through the checks and balances of publicly tendering for Government work. The Public Tenders Committee has several members of the public on it, including Mr. Heber Arch of Arch & Godfrey, who is a competitive contractor and who is a bosom pal, if not partner of one of the Members on the other side. So how in the world do they expect Hurlstone Construction to get any favours under those conditions?

I suggest that those seven Backbenchers are measuring our corn by their bushels. Their minds are flashing back to such contracts as the airport terminal which was granted when the Third Elected Member for George Town, the Second Elected Member for Bodden Town, and the Member for East End were Members of Executive Council. The days when I understand that Executive Council did not necessarily take the recommendations of the Public Tenders Committee, but we put that to rest when we introduced the Public Finance and Audit Law in 1985. The Public Tenders Committee has the final say as to who gets a contract now, not in the days gone by.

It would have been interesting to hear about how the contract for the airport terminal furniture was handled. The furniture that was supplied by a firm owned either wholly or in part by one of those three Members and which furniture, I understand, dropped to pieces within the year. Yes, they measure our corn by their bushels.

Now back to the Finance Committee Meeting, and I just want to read a chapter from the opening page of those minutes to substantiate that what I have been saying is correct. I am referring to the Minutes of the Standing Committee Meeting to consider the Draft Estimates of the Cayman Islands' Government for the year 1990, and the Appropriation (1990) Bill, 1989 - First Sitting. The meeting was held on Friday, 8th December, 1989, at 10:25 A.M., in the Committee Room of the Legislative Assembly Building, George Town, Grand Cayman. I am going to quote from the paragraph 5:

"5. DISCUSSIONS:

Before commencing deliberations on the Bill and Estimates before the Committee, the Chairman invited Members to lay on the table for general discussion and consideration their proposed needs and plans for their respective districts. The day will shortly come when the Islands will come to maturity, and the Committee must look ahead, in the interest of the people at heart, in its decisions and commitments which it will make today, he stated.

Mr. Truman Bodden concurred with the Chairman and suggested that the Committee suspend to enable Members to have an informal dry-run on the Budget, and then come back into Committee to take formal deliberations.

IT WAS AGREED THAT THE MEETING SO SUSPEND TO ENABLE INFORMAL DISCUSSIONS TO ENSUE.

6. SUSPENSION OF MEETING:

At 10:35 a.m. the meeting suspended."

The meeting opened at 10:25 a.m. suspended at 10:35 a.m., exactly ten minutes and that is important because it did not reconvene officially until the following Tuesday morning at ten o'clock. So it was during that period, Friday and Monday, that a lot of the horse trading to which I have referred to before went on and were not recorded at the time. It was during that period that we heard all about their plans for their districts and friends and when the then Second Elected Member for Bodden Town wanted to put a post of grafter of trees into the budget for his father.

It was during that period that we heard about the bulldozer for the Agricultural Department. It was suggested that when the bulldozer was not in use for agricultural projects, it could be used to clear the road in the back of Bodden Town, which only apparently, the irresponsible seven knew about. It certainly was not planned by Government or gazetted by Government and I am still wondering whom that one was to be built for.

It was during that period that money was proposed to be cut from Cayman Airways subsidy and a new hospital vote to purchase some 400 acres of land in East End for half a million dollars, land which was represented as being so suitable for farming and to be such a good value for money. That is not news to the House, the Member for East End mentioned that in his contribution to this motion. So it is well documented that what I am saying is true.

I will get to the statement made by the Member for Tourism about the CAL's (Cayman Airways Limited) subsidy in a little while. Suffice it to say at this point that they did not press that one because the First Elected Member for Cayman Brac told them quite straight that he was supporting CAL and that he was even supporting the hospital and the Health Services Plan.

Getting back to the piece of land. That land I think goes back many years in the family and I think it has over 100 owners. The largest of the owners of that land, the man that has the most shares told me at that time that it was most unsuitable for agriculture. He told me that two-thirds of the land is swamp and cliff, that it is so high and rugged that it would make the piece which the Member for East End sold the Government some years ago, look like a beach. The residents of East End tell me that the piece which Government bought is such rank cliff that when it begins to crack in the mid-day summer sun, it reminds them of rifle powder on a World War I battle-field.

I now come to the contribution or the presentation made by the Honourable Member of Executive Council for Tourism. I was accused this morning of saying that certain things had been misrepresented or misquoted. What I said this morning is exactly what happened with this issue. The Member only read one of the three alternatives available in his view, which the Member for Tourism put forward.

I have had to go to great trouble to properly identify the Member for Tourism because we have so many experts on tourism on the other side these days, it is difficult to correctly identify the Member for Tourism by listening to the debates in this House. I am lucky, I have only two vying for my Portfolio, but it seems that all the others have their eyes on the Tourism Portfolio. I cannot determine why, but that seems to be the case. In fact, I understand that one of them takes credit for having prepared the first budget for Cayman Airways and when the directors questioned it because they did not see anything budgeted for fuel in it, he said that is no big thing.

The Member for Tourism put three alternatives before the meeting and here I will read what the Member said. Page 2 of the Minutes of the Meeting, Tuesday, 12th December 1989. He gave the details of the reduction in the load factor after so many American competitors came on the market and he went on to say:

"In view of the situation, he stated that CAL/Government would have to take a decision on one of the following three options:

- (1) That the national airline close down; or
- (2) That Government be prepared to subsidise the Company with larger monetary amounts than have been made over the last three years; or
- (3) That the routes of the U.S. airlines, servicing the Islands, be substantially reduced.

Hon. W. Norman Bodden stated that the matter of the U.S. airline competition and the effect on the Islands economy, as a result, had been taken up with the British Government on 30th November, and would be taken up with the United States Government on 18th December."

Those were the three options and I am not going to anticipate anything, but much to the regret of the seven, they will be hearing more good news from the Honourable Member about those options shortly.

I am not going into those Minutes of the Finance Committee any more because if I did, I would not get anything else done and I do not intend for that to happen. But I would recommend again to those in the audience who are interested, that they can come to the Office of the Legislative Assembly and get copies of those Minutes. It is a public document and it will be a real eye opener. Suffice it to say, that Finance Committee met more than five days. It met for more than five days contrary to what the seven bound by collective irresponsibility would have us believe. The minutes record are of five days of meeting and that included the ten minutes that I was talking about the first day. The days that are recorded were the 8th of December, 12th of December, 13th of December, 20th of December, one long week and 22nd of December, when the Committee considered the Report. God only knows the number of days and hours spent in informal discussions in between which are not recorded. It should be noted that the Committee adjourned after 10 minutes on the 8th of December. It did not reconvene until Tuesday the 12th December, two full days in negotiations and then there is a gap between the 13th and 20th, one whole week. All of that time was spent in what they said we would not do - negotiations! We did not have to do it, but we did it.

They have the audacity to come here and say that the four Elected Members of Executive Council are so arrogant and have such a personality flaw that they will not negotiate. Then they have the arrogance and audacity to come back in here and say that if they had been minded, they could have done without agreeing to a Budget and there was nothing we could have done about it. That is recorded in the *Hansards* of this House, but I have shown on Friday last that there was something we could have done about it. We could have held fast, brought it back to the full House or we could have used the constitutional provisions and requested use of Her Majesty's reserve powers under the Constitution. But we negotiated because as usual, we put country before self and did not want to give the country a black eye, instead we took the black eyes. But by God, this Motion is the remedy for those black eyes and no reasonable and well minded Caymanian would expect us to go through four years of Government with those black eyes. We have too many things, good things to do for this country to allow this to happen.

You know, if you listen to them, you would believe that Finance Committee was really one of the most onerous jobs in this world. But I took the time to do some research and between the 22nd November 1984, and 20th September 1988, for the full four years of that Government it met for

68 hours and 47 minutes total. Subsequent to 13 March 1989....

**[Noise from Public Gallery]**

**MR. PRESIDENT:**

Can we have silence in the gallery please.

**HON. BENSON O. EBANKS:**

....to the 7th March 1990, 12 months, it has met for 56 hours and 54 minutes. For four years it met for 68 hours and 47 minutes and for one year it has already met for 56 hours and 54 minutes not including those two days and one that I mentioned were not recorded plus other meetings that were not recorded in the *Hansards*.

**MR. PRESIDENT:**

break up that?

Would it be convenient to take the lunch break there, or does it

**HON. BENSON O. EBANKS:**

Yes, Sir.

**MR. PRESIDENT:**

Proceedings are suspended until 2:15 p.m.

**AT 12:44 P.M. THE HOUSE SUSPENDED**

**HOUSE RESUMED AT 2:31 P.M.**

**MR. PRESIDENT:**

Proceedings are resumed.

**POINT OF ORDER RULING BY PRESIDENT**

**MR. PRESIDENT:**

Before I call on the Honourable Member for Education to continue, I would like to deal briefly I hope, with a Point of Order that was raised on 27th June 1990, by the First Elected Member for West Bay and the Third Elected Member for George Town and it was in reference as *Hansard* has it, page 2 of tape 102 of 27th June 1990. The Honourable Member for Health was speaking and he said:

"Anyway, the people have to be careful in these things that they are saying we are going to do (and in the context of "they" is the Backbenchers, or seven of the Backbenchers is understood) because we heard a lot about the constitutional change that they want, the independence that they want and how they are going to achieve that by removing the three Official Members."

The Point of Order was taken by the Third Elected Member for George Town that this statement misrepresented, well he actually said "misrepresenting" no one here said that, at least I did not and it was taken up later by the First Elected Member for West Bay in similar terms. I have taken a long time over this because there are a considerable number of references involved. It is not an easy Point of Order and it does reflect on something which we were discussing this morning, that in the course of debate it is all too easy to make positive statements instead of inferential statements in a sequence of argument and logic.

My consideration here is, that as I said at the time the Point of Order was raised, the Member's line of argument was that certain Members of the House had commended statements made in a letter to the newspaper (and this was a letter from the Caymanian Young Businessmen's Association) and that letter included a statement about eventually the Assembly having all Elected Members in it, and that the Member for Health was inferring that the Backbenchers to whom he referred, were supporting that statement and that statement is, that no appointed Members being left in the House, implies independence in normal constitutional progress.

I asked the Member if that is what he meant and he confirmed it. So that is the background. But the point is, that in my opinion, the subsequent, the end of his line of argument where he says, talking to the group of Backbenchers "we heard a lot about the constitutional change that they want, the independence that they want..." and so on. It is my conclusion that he has taken his argument too far, in that he could for example have said, and it is a fair conclusion to say, that but he is giving to the Backbenchers the actual words and in my view that is taking the line of the argument too far and I would like the Honourable Member for Health to... if he has anything to say on that.

**HON. D. EZZARD MILLER:**

Mr. President, I accept your ruling that technically I may have gone too far, particularly in the words that I used during the course of the debate however. That part of the debate I withdraw. But suffice it to say that I still believe that the rationale in the position taken by the Young Businessmen's Association in the removal of all Elected Members from parliament would in fact, lead to independence, Sir.

Thank you.

**MR. PRESIDENT:**  
withdrawn.

The Chair takes note that the words complained of are



Thank you.

The Honourable Member for Education, continuing and for your information you have 32 minutes left to the four hours.

Sorry?

**HON. BENSON O. EBANKS:**

I was speaking to the Clerk, Sir.

Thank you, Mr. President.

When we took the break I was dealing with much of what had taken place in the Finance Committee in December and had to point out how ridiculous the state of affairs that has existed and to show why something has to be done to correct the situation. Now, in my presentation of this motion, I said we had three options. One, to resign, but we are not convinced that the country, once they understand the true position would want that. Two, to seek to amend Standing Orders to reconstitute Finance Committee in the fashion recommended by Lord Oxford and Asquith to provide a Finance Committee comprising of the four Elected Members of Executive Council and three other Members with the Financial Secretary as Chairman. Or three, to seek to amend Standing Orders in the way proposed in this Motion, that is Government Motion No. 3/90 which is the more conventional way and one we thought would have been readily accepted in light of the custom elsewhere, since it would include all the Elected Members as well as the Official Members. However, since the seven Backbenchers seem to prefer some other option. I am sure my colleagues and I being the reasonable men we are, will listen to a proposal from them to amend this Motion in the way suggested by Lord Oxford and Asquith. But if that is what they want, then the initiative for the amendment must come from them. We are comfortable with what we have proposed and we are prepared to see it through.

You know, some wise person once said, "we are all manufacturers, some make goods, others make trouble and still others make excuses". The seven Backbenchers who are all bound by collective irresponsibility can, in my opinion, do the last two very well. Another wise person also said, "The man who rows the boat generally does not have time to rock it" and I would invite those Members together with their supporters on the outside to join us and help row the boat and stop rocking it.

The members of the Unity Team remnants stand over there and talk about us, the four Elected Members of Government now on this side, standing here and berating and belittling persons in the public who cannot defend themselves and about berating the press. They should be ashamed of themselves,

Unless you had the time to research all of the Hansards from 1977 to 1984, you would not know it but I guess you must have heard about it, that was the hallmark of their administration. The Third Elected Member for George Town and the Second Elected Member for Bodden Town and the Member for East End did more of that in those years than we could ever do even if we tried.

The Member for Health, Mr. Jim Lawrence, Mrs. Mary Lawrence, and Mrs. Ena Watler, who dared to write letters to the press; myself and anyone else who dared to do so, were also slammed from pillar to post by those Members from this Chamber. Of course between 1976 and 1980, I did not come to listen to them, but I read about it in the press, and it is a fact that I could tell without any notice when the Assembly was meeting. When the Second Elected Member for Bodden Town would shout out my name, Benson Obadiah Ebanks, the walls of my shop in West Bay used to rattle. Whenever I heard that I said the Second Elected Member for Bodden Town is at it again and sure enough, the next day's paper would carry the story.

They have always had access to the press, always enjoyed special privileges with the press in my opinion. They even had their own newspaper at one time, but like all of their opposition though, it died an aborted death. But the truth is, they are the last people who should shout 'foul' when it comes to the press. It was their Government that brought the Law which was known as the **Voice Law** to stifle the press. It was their Government that brought the Law which made it an offence to publish even a Church newsletter without identifying the publisher and the printer of it. It was their Government that imposed import duty on magazines and newspapers printed overseas by local companies for sale in the Cayman Islands so that they could kill an opposition newspaper and the *Norwester* Magazine.

We are not guilty of that sort of thing and we will never be because we are different animals. We will stand and fight, but we will not stoop to gnaw at the ankles like that species of animal that can only bite at that level unless it can stand on its hind legs. Before I leave the Unity Team Government, I must comment on a remark made by the Third Elected Member for George Town during his contribution to this debate about the late Mr. Jim Bodden. When he was saying we would not communicate, after we had spent the better part of two full weeks negotiating the 1990 Budget with them, he said, "there is one thing the late Honourable Mr. Jim Bodden could do and that was to communicate". I want to agree with him. I believe that is one argument you could not get anyone to take an opposite view on. I got to know that gentleman very well in his last days and he told me many of his secrets, but that honourable gentleman has gone to his eternal reward. Why do they not leave him alone to rest in peace?

I want to say this, if it were possible for him to communicate from where he is today or the day on which the Third Member for George Town was speaking, it is my view that he would have told him what he used to tell the First Elected Member for West Bay so often when he was in this Chamber, to "get thee behind me, Satan".

Now, I wish to deal with the second point of the opposition's objection to this motion, that is, its effect is to demote the Honourable Financial Secretary and give his power and authority to his Excellency the Governor. Nothing could be further from the truth. That I had turned against him even though he probably voted for me and that I am now trying to put him down. Who he voted for is his business, and it is for him only to know and it matters not to me whom he voted for. Even though if I were to go by whom he acted as friend for on Election Day, I would have to say that I probably did not get his vote; and even though he celebrated with the Third Elected Member for West Bay and took him on his victory ride after writing to other civil

servants telling them how careful they had to be not to be seen taking sides in any General Elections, who he voted for is his business. I realise that blood is thicker than water and I have experienced the euphoria of having won an election victoriously, so I have nothing against the gentleman. But to understand where he falls in this picture, we must go back to the Constitution. The precedence and standing of the First Official Member do not come from his Civil Service appointment as the Financial Secretary. His appointment as the Financial Secretary is not a political or official one, whatever you want to call it. He continues to hold that job as long as he performs his duties under the Civil Service General Orders. He is appointed there in a civil post as any other civil servant. He is not appointed to this Legislature as the Financial Secretary. His appointment in here is done after every General Election just as all other Honourable Official Members of the Executive Council. His appointment is from His Excellency the Governor acting on instructions or with the approval of Her Majesty through the Secretary of State. He holds a seat in here at Her Majesty's pleasure. The Governor's letter charging him with responsibility is the same as all other Honourable Members of Executive Council, except that he is appointed the Member responsible for financial affairs while everyone else of course, is appointed to their respective Portfolios. His delegated responsibilities are in the same way as the other six Members of Executive Council and he is required to act as all other Members under section 9 of the Constitution.

For the benefit of Members, I will read section 9, sub-sections 1 and 2 which is the entire section:

- "9 (1) Subject to any instructions given to him by Her Majesty through a Secretary of State, the Governor acting in his discretion shall to the extent that he deems appropriate charge members of the Executive Council with responsibility for any business of the Government (other than a matter mentioned in section 7(1)(c) of this Constitution) or any Department of the Government."

Section 7(1)(c) refers to those subjects reserved for Her Majesty's pleasure through his Excellency, the Governor. Sub-section 2 says:

- "(2) It shall be the duty of a member so charged with responsibility to act in the exercise thereof in accordance with the policies of the Government as decided in the Council and in accordance with the principles of collective responsibility, and to support in the Legislative Assembly any measure decided upon in the Council, unless he has received the prior permission of the Governor to act otherwise or not to support such a measure."

The Member is there under the same conditions as any other Official Member and there are common threads between the Official Members and the Elected Members. For example, none of us can leave the Island without the authority of His Excellency the Governor.

I believe the confusion might arise from the fact that upon the retirement of the last Chief Secretary, the Honourable Financial Secretary being the senior civil servant at the time, was faced with a dilemma. At one time it appeared that he would have to make a choice between becoming Chief Secretary or remaining as Financial Secretary. He had been Financial Secretary then for about two years and was just finding his feet, so to speak, establishing a good rapport with the people in the private sector and so on.

The Executive Council of the day, of which I was a part when consulted, (although His Excellency the Governor did not have to consult us), advised that we thought it was best that the Honourable Financial Secretary remain as such because it could do the country no good changing Financial Secretaries so often. So a way should be found to allow him to remain as Financial Secretary and still assume enough of the duties of the former Chief Secretary, so that he could become the head civil servant. Thus the post of Chief Secretary was abolished and the post of the Honourable Administrative Secretary was created.

It will be remembered that the Honourable Financial Secretary's predecessor as Financial Secretary sat in this House as the Third Official Member, not First Official Member. It is that part of his post which relates to the former Chief Secretary's post that gives him the position of First Official Member and Leader of Government Business in this House.

If I had been interested in doing him any unkindness, I had the opportunity to do so at that time. I have nothing but the highest admiration for the gentleman and this motion does not in my opinion, demote him one iota. He remains the Financial Secretary, he remains the Leader of Government Business in this House and the First Official Member. He will still act as Governor during the absence from the Islands of His Excellency the Governor. He will have a full vote in Finance Committee after the changes proposed in this motion take effect, except when Finance Committee meets, when he is acting Governor, then he will have his casting vote only.

So it will be seen that the Honourable Financial Secretary will not be demoted from captain and be an ordinary seaman as has been charged by the seven collectively irresponsible Members of the Backbench. He will remain the chief navigating officer of his Portfolio, the same as he has always been and the same as all other Members of the Honourable Executive Council have been and will remain.

I have one word of advice for the Honourable First Official Member and that is to bask in the warmth of the admiration of the First Elected Member for West Bay while he can

because he did not enjoy it some months ago. If he, the First Elected Member for West Bay remains true to form, he, the First Official Member will not enjoy it for long.

To show how much we think of the First Official Member, let me tell you what we proposed for him in the salary regrading. The post of Financial Secretary will be provided with a private car to be fuelled and maintained by Government. He will receive an entertainment allowance of \$2,400 per annum paid in 12 equal installments with his monthly salary. Perks that no other civil servant enjoys. We wished we could have done for him, but in the present circumstances, it was impossible I hope, I only hope that the seven Backbenchers will support it when the time comes for them to vote the money.

Objection number three, that we have lost our majority support; one cannot lose that which you did not have. We met, religiously every second Wednesday with the three Members who claim they supported us and we discussed with them all of our plans and what we hoped to do. We listened to their views and it was during those meetings when all of a sudden we heard them call for our resignation. But you know, at the last supper Jesus said "he that dippeth his hand with me in the dish, the same shall betray me", and that is the case with them. They were dipping their hands in the dish with us, but at the same time they were stabbing us in the back. They were only coming to those meetings to see what they could get to carry out.

The Honourable Member for Tourism told them about the proposals for Cayman Airways, they agreed to support it. When the Member came to Finance Committee on that day, the other Members of the Backbench had advertised a meeting and the First Elected Member for West Bay told him that he had not made up his mind, but that he had been invited to speak at the meeting. That Member had more to say at that meeting about the Honourable Member for Tourism stepping down and betraying confidence and trust than any other Member. He had to have known when he was talking to us that he was going to that meeting. He does not have it in him to say what he did on such short notice.

At the last supper, it was also said "The Son of man goeth as it is written of him, but woe unto that man by whom the Son of man is betrayed; it had been good for that man if he had not been born". Now I am not in a position to make such pronouncements, but I would say this, that it would have been better for most of those seven people if they had kept their mouths shut. Every time they open their mouths they fall deeper into the abyss of confusion and unbelief in the minds of their people.

The next point deals with the unreasonable position taken by us on the motion. It says that it is undemocratic and all the rest of it but I have dealt with that. I have shown where all of the remaining territories in the Caribbean have exactly the form of Finance Committee that we are attempting to establish by this motion. And let us get one thing clear, the three Official Members of Government are in this House, with the full knowledge and consent of the people of this country. I am not referring to the three present holders of the job or the post, I am talking about the three posts because when we got our constitutional advancement in 1972, it was done in a most democratic way.

We, the Members of the Assembly, in fact, it had started before I got there, had been hoping for constitutional advancement for years and could come to no logical conclusion. We asked the Foreign and Commonwealth Office to send us an advisor; he came to the Cayman Islands, he made himself available in all the districts, in public buildings an invited comments. Many people went and saw him, others wrote and he came back to the Assembly, we went over his findings with him, he went back to London, wrote his report and it was sent out by the Secretary of State with the Secretary of State's comments. That again, was circulated and the public accepted it.

Contrary to what the seven Backbenchers would attempt to say that the three Official Members have no proper standing in here, that it is undemocratic, that it opens the door to corruption, the opposite is true. Those three posts are here because the people of the Cayman Islands felt that we were at a constitutional stage where we needed three Official Members still in the House and furthermore, the British Government, having ultimate responsibility for our welfare would not have given up those posts in any event. But contrary to what has been said, those three posts guarantee the absence of corruption, they are civil servants not career people, not subjected to political pressures and whims and fancies.

It is my belief that anybody who is afraid to see those three Members in this House and then sitting in Finance Committee like we suggested, is afraid to live up to standards which would have to be met because of their presence here and in Finance Committee.

As far as the fifth objection is concerned, that the Member the Honourable Administrative Secretary need not be in Finance Committee and that Cayman Brac got more during the term when an Official Member had that post. I question that statement.

In 1976 to 1980 while Captain Charles Kirkconnell was Executive Council Member representing District Administration, the Ashton Rutty Civic Centre was built. In fact, I can tell you from personal knowledge that the funding for that was arranged before the Honourable Trevor Foster left office. The Bluff Road to the lighthouse was built; the East End of Cayman Brac was built; the dock was built; improvements to the Gerrard Smith Airport took place; resurfacing of main roads with asphalt, and concrete was done, and the school classrooms were all done.

But the other point is that the Members have charged that if we thought that Cayman Brac should have a Member in Executive Council we had an opportunity to do so in November. The simple fact is and the First Elected Member understands this 100 per cent, if Cayman Brac had sent two people of similar minds to this House, they could have had a Member on the Executive Council. They are of different persuasions. The Second Elected Member would not support the First Elected Member on our ticket and vice versa, so that is why we had to go along with the amalgamation that was possible.

**MR. PRESIDENT:**

I have to ask you to wind up, you have about half a minute.

**HON. BENSON O. EBANKS:**

Yes, Sir, I only want to say one other thing and that is that the First Elected Member for Cayman Brac has acted no other way than as a gentleman throughout the negotiations for the seat for Executive Council and subsequently. He has never once faltered when he promised, told Government that he could support their moves.

I recommend this motion to Honourable Members. I am suggesting that it raises the standing of this House rather than lowers it and that certainly I do not believe that much joy will be had by complaining about it to the United Kingdom.

Thank you very much.

**MR. PRESIDENT:**

Before I put the question to the House, I have a statement to make which is from the Governor. I realise that it is an unusual time to do it, but it is because it is connected with this debate and if I had made it earlier at the normal time, the first order of business in the day, it might have seemed to give an unfair advantage to one Member or the other. It is to do with the question of collective responsibility. I will read the statement and then I have copies which will be distributed to Members.

#### STATEMENT BY THE PRESIDENT FROM THE GOVERNOR

#### STATEMENT FROM THE GOVERNOR

At the sitting of the House on 20th June [and indeed on subsequent occasions], mention was made of collective responsibility and exemption from it, in regard to Executive Council Members voting in the House under section 9(2) of the Constitution. The President was also asked as Governor on what occasions might it be appropriate for Official Members not to take part in a debate on a particular motion and not to vote upon it.

I undertook to consider these issues and to [make] a statement as Governor... [and I emphasise this is a statement from the Governor, it is not a statement from the chair of your House].

There appear to be at least four different occasions when these issues may be involved. There may [well] be others.

First, when a constitutional issue is being debated. It is a well established and in my view, proper opinion that collective responsibility may be lifted in regard to constitutional issues, always provided that Executive Council so advises the Governor.

It seems appropriate that on such issues, Official Members should normally abstain from speaking and voting. A Motion to alter the provisions of the Constitution in regard to the voting rights of residents is a clear example. A motion to institute a Speaker in place of the Governor as Presiding Officer is another example. I have followed this practice in two motions on that [question, the issue of the Speaker. But I must] say that I am [somewhat] uncertain about its validity, in regard to that particular matter. [I say this because] Official Members are full Members of this House and take a full and proper part in all its proceedings, and therefore [it seems to me], have as proper an interest in who presides over it, as do Elected Members. [However, if and when the matter arises again during my tenure, I would like the House to know that] I shall however, continue the precedent [with suggesting to the Official Members that they do not take part and do not vote (that is on a Motion in regard to a Speaker)].

The second [category are] issues, broadly speaking, of a religious nature, sometimes called matters of conscience. I have been able to find a recent instance of this. Collective responsibility can be lifted in such circumstances, provided the Executive Council so advises the Governor."

The "third category is when a motion of no confidence is proposed against the Government. In such circumstances Executive Council may consider and advise the Governor whether collective responsibility should be lifted. The Governor would normally accept that advice, unless he considered it appropriate to act under... section 8 of the Constitution. [This is the section where] the Governor may decline the advice of Council with the prior authority of the Secretary of State.

Now, a related situation is where a vote of confidence (as opposed to a vote of no confidence), is proposed in the [House (that is a vote of confidence in the Government) and there was] such an incident took place during a sitting of the House on 27th April 1988. [I am grateful for that being drawn to my attention]. On that occasion, Standing Orders were suspended at short notice, by a majority of

three votes to two with six abstentions, to enable the House to debate a motion without notice.

The House [duly] debated the motion, which proposed that the House confirm its confidence in the financial management of the Government. When the division was taken, there were four ayes, six abstentions and no votes against. [Therefore, it was carried. But I feel that that incident] does not really illustrate the question, because the record shows no request for the suspension of collective responsibility (the question did not arise). Apparently the Government (with one Member absent) decided to abstain, apparently secure in the knowledge that there would be a majority without their vote of the Government.

It is convenient here to point out that a vote of confidence or no confidence is a separate matter from a motion to revoke the election of an Elected Member of Executive Council under Section 6(2)(f) of the Constitution. The Constitution is quite specific in this matter: a Member of Executive Council may only be removed from Council by a resolution of the Assembly in favour of which not less than two thirds of all Elected Members of the Assembly vote in favour, that is, eight votes out of the 12 Elected Members.

A comparison therefore with the position of the United Kingdom Parliament, of its Prime Minister and the majority party losing votes of confidence or the confidence of the House, is not strictly apt. Cayman has its own constitution with specific relevant provisions.

The fourth category, and this is the situation upon which attention is now specifically focussed [is the issue of this proposed amendment to Standing Orders]. The proposed amendment to Standing Orders affecting the membership of Finance Committee is on the one hand argued as being a constitutional matter; but on the other hand, it is argued that it is a matter for the House to determine, in making its own Standing Orders, not a constitutional matter. The first proposition, if found valid, it is further argued, would mean that Official Members should take no part in debate or vote upon this motion.

In support of the first proposition, it was argued that Finance Committee and its composition is mentioned in Lord Oxford's Report at paragraph 36, and therefore, he considered it to be a constitutional matter.

However, in the outcome, the 1972 Constitution did not refer, specifically or generally to Finance Committee (nor indeed, to any committees of the Assembly created by the Assembly itself)... [The point about that last statement is that] section 31(1) of the Constitution enables the Assembly to make Standing Orders for the regulation and conduct of proceedings and despatch of business. This is a straight forward enabling provision for the Legislative Assembly to set up committees and determine the membership of them...

[Lord Oxford in the report refers to a different type of committee, another different type of committee]. As a result sections 42 and 43 [of the Constitution] provide [for certain] committees to be formed, [apart] from any Select or Standing Committees of the Assembly, [and I shall refer to these as] section 42 committees [to show the difference]. Section 42 committees ... may include persons who are not actually members of the Assembly. No such committee appears to have been set up, or even been seriously considered, over the years since the 1972 Constitution came into force.

It was suggested, that by reference to sections 42 and 43 of the Constitution that Finance Committee must be chaired by the Member charged by the Governor with financial responsibilities. I do not consider this point well founded. Towards the bottom of page 19 of his report, Lord Oxford specifically excludes Finance Committee from the recommendation which eventually provided for section 42 committees in the Constitution [there is a phrase in brackets to which I draw Members attention. Therefore], I consider the distinction to be drawn is on the one hand, between things which are in the Constitution and to change which requires an amendment to the Constitution; and on the other hand, things which are enabled to be done under the Constitution and which may be done without any amendment to it. The [present] motion to change the composition of the Finance Committee, is not in my view (and I am so legally advised), a constitutional matter in the sense that it alters the constitution or proposes to do so. It proposes to alter the Standing Orders of the House. All Members of the House, both Elected and Official, have

equal standing in relation to Standing Orders. They are the Orders by which the House conducts its business and by which it directs its procedures, including the composition and functions of committees. The Official Members are a full and proper part of the activities of the House in that regard (as in others), and the question of their not taking part in the debate [if they wish], or in the vote upon the Motion, does not therefore arise. Further, I note that the Official Members are Members of the Standing Orders Committee under Standing Order 75(2) and that the committee is chaired by an Official Member. The Government, that is Executive Council, has taken a view upon a proposed amendment of Standing Orders; and in accordance with section 9(2) collective responsibility applies. No Member has requested that it be suspended and if he had [done so], I would have asked the advice of the Executive Council.

To recapitulate, collective responsibility is lifted only if it is so requested by one or more Members of Executive Council and if Executive Council has advised in the affirmative and when the Governor accepts that advice.

These are complicated matters and in interpreting them we should have the clearest and fullest regard for the provisions of the Constitution as it now stands, not as it might be: nor, as some Members, perfectly sincerely, may consider that it should be.

I conclude by expressing my gratitude for the opportunity to listen to the views of several Members of the House, including some with differing views or interpretations of some of the points, [I want to make that clear. And having come to my view, I am in no way suggesting that I am binding any Member to that view or that I am disregarding his view, I have tried to take it all into account and take the widest advice I can. But I am sure we would all agree that] it is important that these issues should be clearly set out, in order to minimise misunderstandings both in the House and among members of the public."

I do have here copies for the Clerk and all Members of this statement. Perhaps you would wait on distributing those for a moment, we will take the vote on the motion.

The Chair will now put the question on the amended motion as amended, which is to reject the Report of the Standing Select Committee on Standing Orders. Those in favour please say Aye...Those against No.

**AYES AND NOES.**

**MR. PRESIDENT:**

The Ayes have it.

**DIVISION NO. 19/90**

**AYES: 8**

Hon. Thomas C. Jefferson  
 Hon. Richard W. Ground  
 Hon. James M. Ryan  
 Hon. W. Norman Bodden  
 Hon. Benson O. Ebanks  
 Hon. D. Ezzard Miller  
 Hon. Linford A. Pierson  
 Capt. Mabry S. Kirkconnell

**NOES: 7**

Mr. W. McKeever Bush  
 Mr. John D. Jefferson, Jr  
 Mr. Truman M. Bodden  
 Mr. Gilbert A. McLean  
 Mr. G. Haig Bodden  
 Mr. Roy Bodden  
 Mr. John B. McLean

**AGREED BY MAJORITY:**

**AMENDED MOTION AS AMENDED TO REJECT THE REPORT OF THE STANDING SELECT COMMITTEE ON STANDING ORDERS PASSED.**

**MR. PRESIDENT:**

Elected Member for George Town?

The Motion is passed accordingly, proceedings are.... the Third

**MOTION WITHOUT NOTICE  
 STANDING ORDER 24(9)(viii)**

**MR. TRUMAN M. BODDEN:**  
 move the following Motion.

Under the provisions of Standing Order 24(9)(viii), I wish to

**MR. PRESIDENT:**

I have to advise you that I have already had notice of one

motion so we will read that one and depending on the content of yours, we will decide what to do. So would you give me the text during the interval and we will consider that?

- MR. TRUMAN M. BODDEN:** May I address you on that aspect, then after we come back?
- MR. PRESIDENT:** But of course.
- MR. TRUMAN M. BODDEN:** Thank you, Sir.
- MR. PRESIDENT:** Proceedings are suspended for fifteen minutes.

**AT 3:24 P.M. THE HOUSE SUSPENDED**

**HOUSE RESUMED AT 4:28 P.M.**

- MR. PRESIDENT:** Proceedings are resumed.  
During the break there has been considerable discussion of procedure and I think the appropriate step to take is to adjourn as normal at half past four and then overnight the proceedings can be thought about by all concerned and we can get them ready for the morning. So we have disposed of the Amended Motion in regard to the report of the Select Committee, that is as far as we have proceeded.

**ADJOURNMENT**

- HON. THOMAS C. JEFFERSON:** a.m. tomorrow morning. Mr. President, I move the adjournment of this House until 10:00
- MR. PRESIDENT:** a.m. tomorrow morning. Would all those in favour please say.... The question is that the House do stand adjourned until 10:00
- MR. W. McKEEVA BUSH:** intended to raise. Mr. President, sorry, Sir, but I had informed you of a matter I
- MR. PRESIDENT:** I beg your pardon. Would you please proceed. Had you not agreed with the Honourable Administrative Secretary to deal with this?
- MR. W. McKEEVA BUSH:** within the.... Yes, Sir, but I see he is staying still here so I presume he is
- MR. PRESIDENT:** Please continue.
- MR. W. McKEEVA BUSH:** Administrative Secretary on this matter and told him of my intentions. Mr. President, as I had informed you, I spoke to the Honourable  
Members of the Backbench have been approached by an increasing number of civil servants as to what is the position with regards to the Civil Service salary review and the promised salary increase. Would the Honourable Member give an indication of what is the position with the salary review, so that the Civil Service can be assured that the reason given for the delay in the statement in the news media is due to nothing else.
- HON. J. LEMUEL HURLSTON:** Mr. President, I can give that assurance. The Government issued a press release which appeared in the *Caymanian Compass* on 7th May 1990, and it read as follows:

"Subject to Legislative Assembly and Finance Committee approval, Executive Council has advised that a pay award be made to the Civil Service averaging 22 per cent, and, for hourly paid workers, 18 per cent. Executive Council has also advised that the pay award be made retroactive to 1 January. The award would cost an estimated C\$9.8 million for the 1990 fiscal year.

Revenue measures to supplement funding for this increase will be presented in the June meeting of the Legislative Assembly, said the Administrative Secretary, Mr. Lemuel Hurlston, before the proposal is put to Finance Committee.

Mr. Hurlston said that Executive Council's decision, which was taken following a review of proposals submitted by the staff associations, substantially increases the level of award proposed by Salary Commissioner Donald Pudney, whose report

was submitted in December.

The salary review has also proposed a new minimum monthly pension of \$400. Pensioners receiving larger pensions will benefit from increases ranging from 10 percent to 15 percent. (GIS)."

Mr. President, that statement remains as accurate today as the day it was made and subject to the funding and Finance Committee approval, the proposals remain firm.

**MR. PRESIDENT:** The order is that the Member is called upon to reply, it is not a form of debate but if there is a clarifying question, I am sure the House would not mind.

**MR. W. McKEEVA BUSH:** So to put it clearly then, the matter is awaiting the results of the increase, tax increase as is planned by Government.

**HON. J. LEMUEL HURLSTON:** The matter is awaiting approval of revenue measures which the Government has in mind bringing during this meeting.

**MR. PRESIDENT:** The question is that the House do stand adjourned until 10 o'clock tomorrow morning. Would those in favour please say Aye...Those against no.

**AYES AND NOES.**

**MR. PRESIDENT:** The ayes have it and the House stands adjourned accordingly. I regret my oversight on the statement.

**AT 4:34 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. WEDNESDAY, 4TH JULY, 1990.**



**WEDNESDAY  
4TH JULY, 1990  
10:21 A.M.**

**MR. PRESIDENT:**

Prayers by the Honourable First Official Member.

**PRAYERS**

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

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

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

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

**MR. PRESIDENT:**

Proceedings of the House are now resumed.  
Statements, the Honourable Elected Member for Tourism.

**STATEMENTS BY MEMBERS OF THE GOVERNMENT**

**HON. W. NORMAN BODDEN:**

Mr. President, after several months of negotiations conducted between the United Kingdom Government, the Cayman Islands' Government, and the Government of the United States of America regarding the level of air services operated between the United States and the Cayman Islands, Government is pleased to announce that an agreement has recently been reached which regulates air service between the United States and the Cayman Islands; thus providing a measure of protection for Cayman Airways against excessive United States' airline competition. The details are as follows:

1. Term of Agreement -  
The agreement will remain in force until the 31 of March 1993.
2. Miami Gateway -  
On the Miami/Grand Cayman route United States airlines may operate a total of four round trip flights per day and Cayman Airways may operate four round trip flights per day.
3. Other United States Points -  
At other United States cities served by Cayman Airways namely Houston, Tampa, Atlanta and New York, United States Airlines in total may not exceed the number of flights that Cayman Airways operates except that United States airlines will be able to exceed Cayman Airways flights in these United State cities only by reducing their frequency on the Miami/Cayman route.
4. The Cayman Islands Government has also obtained the right to designate Cayman Airways to an additional unnamed point on the United States mainland, making access to a new sixth gateway city possible.
5. United States Airlines may inaugurate services with no frequency restriction from any United States city not currently being served.

Mr. President, the new agreement will allow the national airline to compete on a more equitable basis with United States carriers. It will provide new opportunities which are

bound to benefit the country, the airline and the travelling public.

The Portfolio of Tourism, Aviation and Trade wishes to record its thanks and appreciation to the United Kingdom Government, His Excellency the Governor of the Cayman Islands, Honourable Members of Executive Council, and our legal council in Washington D.C. for their untiring efforts in helping to reach a reasonable agreement on this most important matter. There are copies of this statement for distribution to all Honourable Members.

Thank you, Mr. President.

**MR. PRESIDENT:**

Clarifying questions?

**MR. TRUMAN M. BODDEN:**

Just a short question. As I understand it, it is basically reciprocity on the number of flights. Is there any restriction on the number of passengers, for example, a U.S. carrier flying in a jet say, twice the size of [Cayman Airways], but double the amount of passengers? For clarity.

**HON. W. NORMAN BODDEN:**

Mr. President, there is no agreed limitation on the size aircraft.

**MR. PRESIDENT:**

We move to the third item on today's Order Paper, Standing Order 31 a personal explanation by the Third Elected Member for West Bay.

#### PERSONAL EXPLANATION THIRD ELECTED MEMBER FOR WEST BAY

**MR. JOHN D. JEFFERSON, JR.:**

Thank you, Mr. President.

Grand Cayman.

Personal explanation with regard to the sale of duplex at Spotts,

The duplex located at Spotts referred to on Friday, 29th of June, 1990, by the Member for Education in his winding up of the debate, was owned by Messrs. Thomas C. Jefferson, Lemuel Hurlston, and John D. Jefferson Jr., and not by Mr. John D. Jefferson Jr., as stated by the Member.

Permission was granted by His Excellency the Governor in 1981 for the purchase. Mr. President, I would like to read our request and the reply from the Governor of that day. Our request was dated 6th of March, 1981 and it is addressed to:

"Your Excellency.

We the undersigned, civil servants hereby seek to disclose particulars of a proposed joint investment in accordance with Personnel Regulation 2.63.6.

Proposal: Purchase of a parcel of real estate with a duplex constructed thereon for the purpose of rental and investment.

Location: Registration section Spotts, Block 28B, Parcel 46

Vendor: Mr. Rex Crighton of Crighton Properties  
P.O. Box 497, Grand Cayman

Consideration: US \$140,000.

We trust that you, Sir, will have no objection to this approval.

Yours faithfully,

Thomas C. Jefferson  
John D. Jefferson Jr.  
J. L. Hurlston."

The reply granting the approval, was dated the 9th of March, 1981 and it is to T.C. Jefferson Esquire, John D. Jefferson Esquire, J.L. Hurlston Esquire. It reads:

"Gentlemen,

I appreciate the frank disclosure of your proposed investment in purchase of land with a duplex built on it, and your seeking my formal permission to proceed with the project.

I am pleased to signify my approval on the understanding that the property is not leased either to Government or Statutory Boards nor to civil servants or employees of Statutory Boards.

Yours faithfully,

T. Russell  
Governor."

The Purchase Price of the Duplex was as follows:

Purchase Price	US\$	140,000.00
Stamp Duty		5,250.00
		-----
Total purchase price	US\$	145,250.00
at \$0.84 =	CI\$	122,010.00
Furniture/fixtures	CI\$	9,020.62
Insurance	CI\$	657.00
Meter Deposits	CI\$	170.00
Miscellaneous	CI\$	194.21
		-----
TOTAL	CI\$	132,051.83
		=====

Adding to that the cost of financing on US\$100,000 at 13.58% for the first year, amounts to CI \$11,025 and the cost of financing for the second year at 17.34% was \$14,910. If you add those two figures to the CI\$132,000, you have a total cost of CI\$157,986.83.

Financing for the purchase was provided by Cayman National Bank in the sum of US\$100,000. The two other purchasers and I are aware of the Lands and Survey valuation. But we wonder why the Member for Education did not lay on the table of this honourable House the other valuation carried out by Crighton Properties as requested by the Portfolio for Agriculture, Lands and Natural Resources which indicates a valuation of CI\$144,855 unfurnished.

I am now pleased to lay a copy of it on the table of this honourable House with this report and, Mr. President, with your permission I would like to read the contents of that evaluation. Dated the 3rd of February, 1983 and it is addressed to "TO WHOM IT MAY CONCERN". It reads:

"TO WHOM IT MAY CONCERN

This appraisal was made for Mr. Kerney Gomez, Principal Secretary of the Department of Agriculture and Natural Resources in the Government of the Cayman Islands [Administration Building], of property located at Spotts in the island of Grand Cayman and defined on the land Registry Index Maps as shown below: -

- Section: - Savannah
- Block: - 28B
- Parcel: - 46
- Area: - 0.2898 acre (12,623 square feet)
- Ownership: - Thomas Jefferson 1/3 share
- John Jefferson Jr. 1/3 share
- Lemuel Hurlston 1/3 share

Note - Not to transfer without consent of Chargee (RLL Sec. 68)

Title: - Absolute.

This property lies on the northern side of the main road to Savannah. It has a road frontage of 100 feet. The surface is level and dry and is kept as a lawn. The zoning is "Low Density Residential".

The dwelling house on the land is a Duplex with an area of 2,361 square feet, including a front porch of 369 square feet. The floor and the walls are of concrete and the roof of asphalt shingles.

Section one of the house consists of three bedrooms, two bathrooms, living/dining/kitchen and utility room. Section two has two bedrooms, one bathroom living/dining/kitchen and utility room.

The bedrooms and the living and dining areas have been carpeted and the rest of the floor has been tiled. Water is supplied by a cistern of 14,000 gallons.

VALUE OF PROPERTY

Parcel 46 of Block 28B, is valued at CI\$ 15,000.00  
The Duplex, 2,361 sq. ft. has a replacement value of CI\$55 per sq. ft.

	CI\$	129,855.00
TOTAL	CI\$	144,855.00

N.B. This valuation does not include the furniture.

Yours faithfully,

E. W. McHayle."

The details of the sale of the Duplex are as follows:

#### APPRAISED VALUE

House and Land	CI\$	144,855.00
Furniture/Fixtures	CI\$	8,300.00

(and this was confirmed by the Government Evaluator, Mr. President)

	CI\$	153,155.00
Less: Sale Price	CI\$	152,000.00
Net Loss	CI\$	(1,155.00)

#### OR

Cost Of Duplex	CI\$	157,986.83
Less: Sale of Duplex	CI\$	152,000.00
Net loss on Book Value	CI\$	(5,986.83)

I must add that Mr. Vassell Johnson was the Financial Secretary at the time of the sale and not the Honourable Thomas C. Jefferson. The Member for Education tried to give the Members of this honourable House the impression that we had made a 40% profit on this sale rather than a loss as the above figures indicate. There is an irregularity with regard to the purchase or sale of this duplex and we will make ourselves available to any proper authority that may wish to examine the facts.

Thank you, Mr. President. Submitted by John D. Jefferson, Jr., the Third Elected Member for West Bay.

**MR. PRESIDENT:**

Thank you.

Business, Motions.

We now move to item four on the Order Paper. Government :

**Hon. Benson O. Ebanks:**

Mr. President, could I just make a statement on that?

**MR. PRESIDENT:**  
made tomorrow.

I think we should follow the Orders, and the statement scan be

#### GOVERNMENT BUSINESS

#### MOTIONS

#### MOTIONS WITHOUT NOTICE (Standing Order 24(9)(viii) - Procedural Point)

**MR. PRESIDENT:**

Continuing then with the motions in regard to the proposed amendment to Standing Orders. If I may have a word about procedure before we go forward, following the discussions toward the end of yesterday's sitting. The procedure was discussed on the 12th of June, and the *Hansard* recorded the discussions, and eventually the agreed way to proceed on this.... If I may quote from it. It is page 28 of the 12th June, and it is the President speaking:

"... in the interests of absolute safety and correctness, I shall now propose we shall so proceed. We should take the debate on the Report of the Committee. After that there should be a motion which specifically asks the House, assuming the first one is passed, there will then have to be a motion asking the House to affirm or otherwise its view, as taken, on the first proposition on Motion No. 3/90."

That is the actual text of the amendment proposed to Standing Orders. Then the Honourable Member for Education said:

"In that case, Mr. President, ... I want to give notice that I will be bringing a motion for the adoption of the amendments as contained in this Resolution."

The next point then was that late yesterday the Third Elected Member for George Town attempted to give notice that he would bring a motion under Standing Order 24(9)(viii), arising out of the item of business immediately disposed of. That is the motion which we are now going to discuss. It is getting rather complicated. I think I ruled that (and I have discussed this with the Member and explained it), it is clear that the House had notice of the Motion which is listed as No. 6/90, from the Honourable Member for Education, and that it follows the procedures we discussed earlier on.

I understand (indeed I know because I have cleared the text), that the Third Elected Member for George Town will be bringing a motion after the present motion has been disposed of which will arise directly out of that motion.. Therefore, notice is not required for that motion and it can be taken immediately after the present motion has been dealt with.

The Honourable Member for Education - Motion without Notice

- Government Motion No. 6/90.

**GOVERNMENT MOTION NO. 6/90  
AMENDMENT TO STANDING ORDERS CONSEQUENT ON THE REJECTION  
OF THE REPORT OF THE STANDING SELECT COMMITTEE  
ON STANDING ORDERS ON GOVERNMENT MOTION NO. 3/90**

**HON. BENSON O. EBANKS:** Mr. President, I beg to move, Government Motion No. 6/90 - Motion without Notice under Standing Order 24(9)(viii) - Amendment to Standing Orders consequent on the rejection of the Report...

**MR. TRUMAN M. BODDEN:** Mr. President, I wanted to take two short Points of Order, but I would wait until he reads the motion. They will be very short.

**MR. PRESIDENT:** I think it might be convenient to have the motion stated and then...

**MR. TRUMAN M. BODDEN:** Yes, Sir.

**HON. BENSON O. EBANKS:** Amendment to Standing Orders Consequent to the rejection of the Report of the Standing Select Committee on Standing Orders on Government Motion No. 3/90:

**"WHEREAS** Government Motion No. 3/90 to amend Standing Orders was by resolution of this Honourable House referred to the Standing Select Committee on Standing Orders for its recommendation thereon pursuant to Standing Order 84(3);

**AND WHEREAS** the recommendations of the Standing Orders Committee thereon have been rejected by this Honourable House pursuant to Standing Order 72(5);

**AND WHEREAS** the will of this Honourable House that Standing Orders be amended in accordance with the text as set out in Government Motion No. 3/90 was indicated by the affirmative vote on the first resolution of that motion;

**BE IT THEREFORE RESOLVED THAT** Standing Orders be amended by:-

- (1) deleting Standing Order 73 in its entirety; and
- (2) inserting a new Standing Order, to be numbered 62A, after Standing Order 62, and after the heading "FINANCIAL PROCEDURE", which shall read as follows:

" Finance Committee. 62A (1) There shall be a Committee of the whole House, to be called the Finance Committee, for the consideration of the estimates of expenditure, financial bills and other business referred to it by the House or by the Governor or by the Financial Secretary.

(2) Subject to Standing Orders 81 and 82 the deliberations of the Finance Committee shall be in public.

(3) The provisions of these Standing Orders relating to Committees of the whole House upon bills shall apply to Finance Committee, save that in the event of any conflict the provisions of Standing Orders 63 to 68 shall prevail, and save that Standing Order 55 shall not apply

except to the extent provided for in Standing Order 57(2).

(4) For the purposes of Standing Order 67, the Financial Secretary may at any time, whether or not there is a Meeting of the House in progress, and either of his own motion or upon the request of a Member of Government, ask the Presiding Officer to summon a meeting of the Finance Committee. Upon the receipt of such a request the Presiding Officer shall summon a meeting of Finance Committee at the earliest possible date, or at any other date proposed by the Financial Secretary."

**MR. PRESIDENT:**

Government Motion No. 6/90 has been duly moved. Before I invite the Mover to speak, the Points of Order.

#### POINTS OF ORDER

**MR. TRUMAN M. BODDEN:**

Mr. President, I have two short Points of Order.

It appears that once this motion has been moved that the proceedings of Standing Order 84(3) would come into play. Now, I appreciate this has just been previously gone through because that Order states that:

"84 (3) When the motion is reached, the mover shall move the motion, and after it has been seconded, the question shall be put forthwith that the motion be referred to the Standing Orders Committee and if that question is agreed upon no further proceedings shall be taken on that motion until the Committee has reported thereon."

We have just recently cleared and exhausted that process. However, it seems to me that the Standing Orders are not once again specific and if it had gone on with a little (4) to say that the procedure in Standing Order 84(3) shall be exhausted once only, it would have been more specific. So what I think the Member may have to do in that respect, and in the other point that I come to, is perhaps out of an abundance of caution to waive these and clear them out of the way because logically there should have been a further Standing Order saying that this process shall be gone through once. Once it is exhausted then a direct motion could go on.

The other point I have is ...

**MR. PRESIDENT:**  
interrelated?

Perhaps could I take the first one first, unless they are

**MR. TRUMAN M. BODDEN:**  
both. But as you wish.

No, not really, Sir. I thought to speed things up I would just give

**MR. PRESIDENT:**

I think it might be, certainly for me easier to take one at a time.

We did earlier, (I think it was on the 12th of June) in discussing this question of exactly how Standing Orders come to be amended, establish that there is perhaps a gap in the Standing Orders. And although my initial view was that this Confirmatory Motion, as I will term it, is not strictly necessary, we did for the sake of safety and completion, lay down the procedure which the House I think agreed with. Which was that a Confirmatory motion would be put.

I think there is not only a gap in the Standing Orders, I think you have to look further than that. It would certainly be desirable if they did say and this process shall not go on going round and round and round. It does not say that, but I think that we could safely conclude that it was not intended that it should go round and round. After all the Standing Orders are there so that the House can conduct and conclude its business in a proper way.

I have looked in Erskine May and I cannot see any sort of comparable procedural situation. I mean, again, a busy House wants to be able to deal with its business. So I think that on the whole we are playing for safety, as it were, by having the Confirmatory Motion. I do not really think the House needs to suspend Standing Orders because it agreed with the Chair when this procedure was outlined on the 12th of June. But if you would think that it needs to be moved for a suspension of Standing Orders then we can do that. But I would want to say that the House does seem to be getting into the habit of suspending Standing Orders rather a lot. If we can agree that the procedures that we have outlined, as we had first agreed, are sufficient then I think that should be sufficient.

Does any other Member wish to comment?

**HON. BENSON O. EBANKS:**

Mr. President, I would like to point out, that this motion is brought under Standing Order 24(9)(viii). Not under Standing Order 84. Government Motion No. 3/90 was brought under Standing Order 84 and it went through the process. But this is a Confirmatory Motion as agreed by all that would be brought once a decision had been taken on the Motion to reject the Committee's Report. And it is headed 'Amendment to Standing Orders consequent on the rejection of the Report of the Standing Select Committee on Standing Orders on Government Motion No. 3/90.'

Standing Order 84 does not come into play on this motion at all. So my submission is, as you have quite rightly pointed out, that

**MR. PRESIDENT:**

The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:**

Mr. President, I cannot see how the Member who just spoke can be right. My understanding of this matter is that the House more or less agreed that if we succeeded in rejecting the Report that the motion could be brought back. But now that the motion is here the procedure for dealing with it remains the same as it had been originally. Where there is a gap, or I believe the proper term is a stone wall, we must remove the stone wall - the stumbling block - which keeps us from going back into the procedure where we went into a Committee because the House did not agree on anything in the motion.

The House agreed to send it to a Committee which was in keeping with the Standing Orders. The Committee rejected the motion. The motion has come back to the House, and if the House wants to proceed we can do so, but we must clear the stone wall out of the way. The Member must move, (and I should not tell him what to do), but he must move the suspension of that Standing Order.

I intend to oppose the suspension vigorously because we have become, as you have indicated, a House that is continually suspending Standing Orders.

There is no way around this. We have reached the stone wall. What we ought to do is to turn back completely. Just leave it as it is and ...

**MR. PRESIDENT:**

Thank you very much. I think you have made your point.

**MR. G. HAIG BODDEN:**

... but if we want to carry on ...

**MR. PRESIDENT:**

I think you have made your point. Thank you.

**MR. G. HAIG BODDEN:**

Standing Order. We cannot jump over it.

Yes, Sir. But if we want to carry on we must suspend the

**MR. PRESIDENT:**

I think you have made your point. Thank you.  
Does any other Member wish to make a point?

I think this is a moment where the Chair has to rule that we should proceed. The House is spending an inordinate amount of time on procedural matters. We have discussed this exhaustively. It was agreed what the procedure should be and I cannot see that there is any, any point in maintaining that the people who frame these Standing Orders would have intended a circular process such as this. It is a reduction to absurdity to use another technical term. I do not believe the House intends to make itself absurd.

Could I have your second point?

**MR. TRUMAN M. BODDEN:**

Second point, very briefly again, is that the other Standing Order that this seems to contravene is Standing Order 24(8) which says that:

"24 (8) No motion may be proposed which is the same in substance as any motion which during the previous six months has been resolved."

That I think is very clear. I do not have to elaborate on that. There was a motion. This is the same motion. It went through its process under the Standing Orders. It was then back as another motion rejected under the Standing Orders and now it is back again. I will just leave that briefly, but I think it is very clear what it says. It is just a question of the relevancy, Sir.

**MR. PRESIDENT:**

I cannot find the exact reference at the moment, but I think this point was touched upon in the discussion on the 12th of June. I think that I then made the point that in fact the first proposition in Government Motion No. 3/90 was not specifically resolved in the discussion on that motion. As indeed your first Point of Order touches on this, it is not a resolution of the House that Standing Orders be amended. It then, in effect, has to go to the Standing Orders Committee. So the House has not in fact resolved itself on the amendment, at that stage, for the question has not been put on that particular point to the first proposition in the motion. Therefore, it has not been decided and therefore the six month rule does not catch it.

Now you and I have discussed this. We are rehearsing our discussion in detail. That is fine.

**MR. TRUMAN M. BODDEN:**

Yes, this was raised and I remember when you did make a ruling on it then. I do raise it now because I did not have a chance to raise it at that stage. But I appreciate that you did make an indication, I would not say a ruling on it.

I really cannot take it beyond that stage, but it would seem to me that perhaps a very quick suspension would solve all of this if the Member so wishes, and we could get on with his motion.

**MR. PRESIDENT:**

No, I must deal with the Points of Order if I could. There is a

further aspect of this. If your points were well founded and that the House had expressed its view and had made a resolution on this issue, then surely there would have been no point in taking it to the Standing Orders Committee. I mean it is either held in suspension while the Standing Orders Committee considers it, which is what the Orders provide; or it is disposed of, in which case it would not go to the Standing Orders Committee.

So I think this reinforces my view that the question has not been decided upon by the House at this point.

The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:**

Mr. President, I was going to say that *Erskine May* would be helpful in this situation if you look at the 21st edition, page 326, which deals with 'Matters already decided during the same session', and it reads, Sir:

"A motion or an amendment which is the same, in substance, as a question which has been decided during a session may not be brought forward again during that same session. The question has been raised, as to whether this rule would apply as between a motion and a bill but so far no case for the application of the rule has been made out. Attempts have been made to evade this rule by raising again, with verbal alterations, the essential portions of motions which have been negatived. Whether the second motion is substantially the same as the first is finally a matter for the judgment of the Chair."

And I want to elaborate on that part afterwards.

"In some cases the second motion has been ruled to be substantially the same as an earlier motion. The same rule has been applied to an amendment renewing a motion which had been already negatived. Some motions, however, have been framed with sufficient ingenuity to avoid the rule."

"However, a question which has not been definitely decided may be raised again. Thus a motion or amendment which has been withdrawn, or on which the Chair has declared the question not decided when it appeared that fewer than forty Members had taken part in a division, or for some other reason, may be repeated. In such cases a Member may speak for a second time in the resumed debate. Where a certain course in relation to the procedure of the House has been rejected on a particular day, it may be revived on a subsequent day."

To the portion regarding the judgment of the Chair, I just wanted to mention, that this is very important in this particular rule. Because an earlier edition of *Erskine May* (and I could let you have the number of that Edition maybe tomorrow because I have it at home) states on page 290 that this is one motion that the Chair should not put - the motion to do away with the time frame for bringing back something that has been dealt with already. And ..

**MR. PRESIDENT:**

I must interrupt you. There is no question of the Chair doing that in the sense that that does not arise. It simply does not arise.

**MR. G. HAIG BODDEN:**

All right, Sir, I only mention ...

**MR. PRESIDENT:**

Nobody has proposed a motion that the six month rule be waived.

**MR. G. HAIG BODDEN:**

Yes, Sir, but I only mention it because I thought it was so important because anything we do here today is going to set a precedent for subsequent Speakers. And this is set out clearly in *Erskine May* as well. So we have to be careful with what we do.

**MR. PRESIDENT:**

I agree entirely.

I think the crux of this is in the first sentence that you read out: "A motion or an amendment which is the same, in substance, as a question which has been decided during a session may not be brought forward again during that same session."

The House of Commons talks about 'session'. Our rule says six months, but the arrangement is the same. The point here is that this question has not been decided. The resolution on the first proposition of Government Motion No. 3/90 has not been decided. It cannot under our procedures be decided until it has been to the Standing Orders Committee.

If your argument is, as I have just gone over it a moment ago, that the question has been decided, then there is no need for it to go to Standing Orders Committee. This is the point about this.

The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:**

For sake of clarity, Mr. President, following on what you were



saying. The matter came to the House. It went to the Standing Orders Committee where the matter reached finality as far as the Standing Orders Committee is concerned. We came back and that recommendation was rejected, was finished, completed. That would say to me, according to *Erskine May*, we did finish the matter. Votes were taken. The Government did not win it, but it was taken. The votes do count. The status quo was maintained. Mr. President, it was a committee turned into the Committee of the whole House.

I cannot see that we can go on in light of *Erskine May* in that the matter had reached a vote. If no vote was taken then maybe we could say there was no finality or decision made. But a decision was made. The votes were taken.

Thank you, Sir.

**MR. PRESIDENT:**

I think there were two separate things here. You are talking about the proceedings in Committee. And if I got it correctly you said it was finalised in the Standing Committee. The vote was taken. It was finalised, and I think you said, "As far as I am concerned", but the exact words do not matter.

And we come back to what we did discuss I think again on the 12th of June which is the relationship of the House and a Committee. A Committee cannot dispose of business on behalf of the House, particularly when it is a matter referred by the House to the Committee. The Committee Reports and then the House disposes of the Report. And that is what has happened in this case.

**MR. W. McKEEVA BUSH:**

Yes, Mr. President. You are right in the first instance, I guess, concerning the matters in Committee. But remember now that the matter did come back to the House and a vote was taken in the House.

**MR. PRESIDENT:**

Yes, but that was a vote on the rejection of the Report of the Committee. That vote was not on the amendment to Standing Orders ...

**MR. W. McKEEVA BUSH:**

Which dealt with the amendment that he is now proposing.

**MR. PRESIDENT:**

I am sorry, that is not a resolution which has been decided in the sense of the six month rule. You cannot confuse that matter with the other. They are separate. The amended Motion rejected the Report of Standing Committee. If you remember in the discussion the Motion was first put ... are you with me for a moment? The motion as first put sought, in fact to say, I speak from memory but it said something like, 'the Report of the Committee be rejected and the original will of the House as in the first proposition of Government Motion No. 3/90 be affirmed'. Or words to that effect.

As a result of the discussion the Motion was simplified down only to deal with the Report of the Standing Committee, and the House then understood, and I took it to agree, that there would have to be another Motion to deal with the text of the Standing Orders. That was my understanding, and that is the procedure we are following.

**MR. W. McKEEVA BUSH:**

Well, certainly that was the situation at that time, but nobody said that we could not raise an objection, or that we could not suspend or take a vote.

But the relevant, if I may, Sir ...

**MR. PRESIDENT:**

Order. I do not follow that.

Nobody has said that you cannot raise objections or Points of

**MR. W. McKEEVA BUSH:**

such, but any matter.

Erskine May speaks of a matter, not a specific resolution as

**MR. PRESIDENT:**

That is a fair point, but a matter being substance. In other words as *Erskine May* says, it may be attempted, by different wording, to get the same motion back twice. The Chair must watch that. But we are here at the stage before that.

If I may say it again, (and I hope I do not bore the House) the question has not been decided. This is the point here. It has not been decided - the first proposition. If it had been decided there would have been no need to go to Standing Orders Committee.

The Third Elected Member for West Bay.

**MR. JOHN D. JEFFERSON:**

Mr. President, I beg to differ with your opinion because it is my opinion that the House did deal with the matter. It just happened that it dealt with it in the form of the Standing Orders Committee which consists of all Members of the House. So as far as I am concerned, Standing Order 24(8) should stand.

**MR. PRESIDENT:**

I would be the last one to say that no Member is entitled to his opinion but I think we have exhausted this, unless there are points of substance.

**MR. W. McKEEVA BUSH:**

I just want to say, Mr. President, that I think this is a very serious precedent being set. I am not being disrespectful to the Chair in any way, but I want to make you know that I disagree completely with the process taken.

**MR. PRESIDENT:**

In the vernacular, no problem. I might say, I would not say it is a precedent because what we are looking at here is a straight forward question of whether a matter was decided or not. We are not looking at the content or the rewording of a subsequent Motion which well might be a more complicated thing.

The Honourable Member for Education would you wish to speak to your motion.

**HON. BENSON O. EBANKS:**

In speaking to this, Sir, could I refer to the Hansard where you ruled that this procedure would be what would be followed? I do not want to get into this argument, because you have ruled but I think it might be helpful if I read from page 28 of the Hansard where you ruled on this submission earlier. It is at the very bottom of page 28. You said:-

"I think what is perfectly clear is that there is a gap or short coming in the Standing Orders on this procedure. As the Honourable Elected Member for Education said, in Bills procedure (because there is a Third Reading), which is prescribed and followed, that is a clear procedure. But unfortunately, I think, it is now clear we do not have a similar set of steps for motions and amendments to the Standing Orders.

I have considerable sympathy with the position put because my original reading of all this was, there was a gap. It was implicit that the original Resolution would be carried, whatever the Committee chose to recommend. I think in the interest of absolute safety and correctness, I propose we proceed. So we should take the debate on the Report of the Committee. After that there should be a motion which specifically asks the House, assuming the first one is passed, there will then have to be a Motion asking the House to affirm or otherwise, its view, as taken, on the first proposition in Motion No. 3/90.

The problem with the Chair here is that one side or another is going to feel that it has been ruled against. What I am ruling against, in fact, is a shortcoming in Standing Orders. So ...".

And then, Mr. President, I rose to my feet and said:-

"In that case, Mr. President, if you have ruled, I want to give notice that I will be bringing a Motion for the adoption of the amendments as contained in this Resolution."

And when I was called on to introduce Motion 3/90, this is what I had to say when you asked if I wished to speak. I said yes, Mr. President, and then I began:-

"Mr. President, in moving this motion I would like, first of all, to point out that the motion seeks to reject the total Report which would include item 2 of the Report under deliberations. That is that item 68 A (2) of the proposed new Standing Order which states that:

Subject to Standing Orders 81 and 82, the deliberations of the Finance Committee shall be in public.",

will also be rejected.

"I want to hasten to add that the reason for including that in all that is being rejected is so that when the affirmative motion is moved at the conclusion of this motion, it will be included in that so that every amendment will be in one piece of paper. This is for clarity and neatness sake.

In rejecting this Report one must go into the details of Government Motion No. 3/90 to explain exactly what Government seeks to do and will do when this motion and the affirmative Motion have been accepted."

The entire House accepted your ruling on that, and that is the basis on which we proceeded with the motion which was voted upon yesterday. It is abundantly clear. To raise this issue today, it is questioning the decision of the Chair.

Now, as regards the Motion, Sir. I do not intend to make any long submission on this because that too, was settled.

It was decided that the debate on this motion would be held on the motion upon which we voted yesterday. That is why, the debate was so detailed and drawn out, so I am merely moving this motion, and I commend its acceptance to Honourable Members.

**MR. PRESIDENT:**

The Honourable First Official Member.

## STATEMENT

**HON. THOMAS C. JEFFERSON:**

Thank you, Mr. President.

Mr. President, I sat in my seat on Friday and Tuesday listening to the Member for Education winding up the debate on the Government Motion 3/90 and took all that he could dream up in an attempt to ridicule me, but, thank God, when he sat down on Tuesday, he still had nothing on Tom Jefferson. Does that tell him and others about the honesty and integrity of the country's Financial Secretary? You can believe he threw all that he could find and even little things that he alluded to, need correction.

Mr. President, he tried to allege wrong doing on the sale of the duplex at Spotts in 1983 (seven years ago), by quoting from only one valuation carried out by the Lands and Survey Department. But I wonder why the Member did not quote from the private sector valuation which the Portfolio for Agriculture, Lands and Natural Resources requested, which assessed the value of the duplex at CI\$144,855, excluding the furnishings?

Was the Member for Education really trying to get at the Third Elected Member for West Bay? Or was it the Financial Secretary he was really trying to get at, I wonder, Mr. President? Any proper authority, who wishes to examine the facts are welcome by me. We lost money on the sale contrary to the 40.7 per cent profit that the Member for Education tried to create by taking the sale price of CI\$152,000 and the lowest estimated value he could find of the duplex.

When the Member for Education began to comment on who I voted for in the 1988 General Election, I wondered whether he had in mind to bind me by collective responsibility when casting my next ballot at the polls? It is not correct for him to say that I participated in John D. Jefferson Jr.'s joy ride. I did not, and the Member is probably listening to some rumour he heard.

The facts are as follows: Some members of the Third Elected Member from West Bay family were listening to the count of the votes on the following afternoon after the polls had closed. We were at his sister's house which is across the street from mine. Before the final count, I believe was given on Radio Cayman the Third Elected Member for West Bay arrived at the house and we congratulated him and offered him coffee, as he was visibly very tired.

One of his supporters called by to tell the Third Elected Member for West Bay that he should return to the West Bay Town Hall because his supporters were gathering there. The Third Elected Member for West Bay was still looking quite tired to me so I offered to drive him and to avoid any appearance of participating in any joy ride or motorcade, I took an indiscreet route. That is leaving Town Hall Crescent in West Bay, proceeding towards Powell Smith Drive, now Rev. Blackman Road. In essence coming around the back route to the Town Hall to avoid the route of Town Hall Road, which is an established victory motorcade route after General Election time.

I waited for the Third Elected Member for West Bay, in case he needed to be driven back home. He did not, and was taken by his supporters on a victory motorcade down Town Hall Road. After they left, I decided to leave the area and proceeded home by the shortest route which is Town Hall Road, otherwise, I would run the risk of probably meeting the motorcade if I returned by the same route I had come.

And the Member for Education went on to heap a little bit more ridicule by saying, I had written to civil servants and I, myself had not done what I preached. But with your indulgence, let's hear what this circular says.

It is addressed to all Heads of Departments, all Heads of Sections from the Head of the Civil Service dated 1 November, 1988.

**"SUBJECT: POLITICAL ACTIVITIES OF CIVIL SERVANTS.**

The attention of all Government employees is drawn to General Orders Chapter 9, Conduct of Officers, paragraph 11 and 17, which deals with political activities at all times, but particularly during an election period.

It follows from the above that officers should not:

- (a) be actively involved in candidates' public meetings by speaking, being on the platform, distributing literature, or other activity that promotes a particular candidate, or slate of candidates;
- (b) write letters to the press supporting particular candidates, or giving views on political matters;
- (c) canvass or collect funds in support of political candidates;
- (d) hold office in or take part in the management of any political organization;
- (e) place bumper stickers on personal vehicles supporting a particular candidate;
- (f) support candidates by radio broadcast.

You should also refrain from responding to "side-walk" surveys giving your views to reporters on candidates or political issues.

I urge you, however, to exercise your vote on 16 November.

T. C. Jefferson  
Head of the Civil Service."

breached this? I cannot find it. I want to ask that Member, the Member for Education how I

refrained from doing so. But I know there were civil servants who were at the Member for Education's victory parties in November 1988, and who participated in his campaign activities, and I wonder if those civil servants are protected by him?

I have not forgotten the parliamentary procedure, I am going to live by it. No, I realise who you are talking to, but I am just reminding you.

The Member for Education went on to mention how good the Executive Council Members were being to the Financial Secretary. They were providing me with a car, fuelled and maintained by Government and an allowance of \$2,400.

They did not give me anything. The Salary Commissioner recommended a car for me and two other civil servants because our duties warranted it. I could not help but notice how many questions the Member for Education asked about that car. That is my car and it left me to wonder whether he was agreeing to the recommendation grudgingly.

The Member for Education in his winding up gave me some advice and it is courteous for me to give him some as well. It is a little poem I learned from my father as a small boy, it is as follows:

"Speak the truth and speak it ever,  
Cost it what it will;  
He who hides the wrong he did,  
Does the wrong thing still."

Thank you, Mr. President.

[Some members clapping]

**MR. PRESIDENT:**

Order! Order, please! Gentlemen! I think it is time to take the tea break but before we do, I would like to mention one thing, that when we were discussing the procedures surrounding this whole matter, (I do not want to go into them again), I did make the point, page 27 of the record, this is talking about the present Motion. Although I cannot look forward into Members' minds, most of the ground of the debate would have been covered in the debate on the Report of the Committee. I would just like to say to Honourable Members that I believe that the ground is very thoroughly covered and this motion is a Confirmatory Motion and we should not, I think, exhaust ourselves by covering all the ground again.

Proceedings are suspended for 15 minutes.

**AT 11:29 A.M. THE HOUSE SUSPENDED**

**HOUSE RESUMED AT 12:28 P.M.**

**DEBATE ON GOVERNMENT MOTION No. 6/90 (cont'd)**

**MR. PRESIDENT:**

Proceedings on Government Motion No. 6/90, continuing.  
Does any Member wish to speak?  
Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:**

Mr. President, the truth is incontrovertible; panic may resent it, ignorance may deride it, malice may distort it, but there it is. We are dealing with a motion for which no good reason has been given. The motion in itself is contradictory as the third paragraph contradicts the first one, or I might say the first paragraph contradicts the third one, because the first paragraph says that Motion No. 3/90 was by resolution of this House referred to the Standing Select Committee. The third paragraph says:

**AND WHEREAS** the will of this Honourable House that Standing Orders be amended in accordance with the text set out in government Motion No. 3/90 was indicated by the affirmative vote on the first resolution of that Motion;

I am questioning if the will of the House had been determined, why are we now dealing with this motion a second time around?

**MR. PRESIDENT:** If you will take your seat, I will explain to you the procedural position again. In fact I will not, I will refer you to the Hansard of earlier this morning and I would ask you to proceed with the debate on this motion if you have anything relevant to say. I must have made it abundantly clear that this House has debated these issues exhaustively and I call upon you not to test the patience of the House unnecessarily.

**MR. G. HAIG BODDEN:** Mr. President, this motion is perhaps the most controversial motion ever to come before this House. The attitude of the Government and the attitude of the Member who moved the motion has not helped in any way to allay the fears of the public, nor to lessen the impact of this motion. As a Member of this House, I will endeavour to debate this motion in an orderly fashion but at the same time I think on behalf of the people of this country that have been injured, I have a right to reply to the Mover who has set himself up as the self-appointed catechizer of all people in our lands and especially the Backbenchers.

**MR. PRESIDENT:** I am afraid I have to interrupt you again. I must ask you to speak to what was moved and what was said in the motion being moved. It did not include, as far as I recall, what you are now referring to. I am determined that the House shall debate this motion properly. I must make that clear.

**MR. G. HAIG BODDEN:** Mr. President, I must let you know that I am in total disagreement with the motion which is before the House and I am in total disagreement with the manner in which it has been moved. And I am in total disagreement with the style in which the mover has moved this motion.

I understand what the Chair has said, with regards to the procedure on this motion, however my opinion is that if this motion proceeds and results in affirmative action this country will be destroyed. We seem to be in a head-long race with Hong Kong who reverts to China in 1997. We are trying to reach it by 1990.

**MR. PRESIDENT:** I draw your attention to Standing Order 41 (1) which refers to "irrelevance, or tedious repetition, either of [the Members] own arguments or of the arguments used by the other Members...". I appeal to you and I choose that word very carefully knowing that you have been a Member of this House for many years, I appeal to you to honour the Standing Order.

**MR. G. HAIG BODDEN:** Mr. President, I will try not to repeat anything that I have already said. But as I originally started out with 60 pages of notes and have only used 13 so far, I believe I will continue for some time. I appreciate the help of the Chair which you are so generously giving to me, Sir.

I am amazed that with all of the constitutional implications in this motion and all of the procedural implications that we have not so far been given the assistance of the Second Official Member of Government in debate on this motion, to clear the air on what is happening here.

The recommendation in this motion that the Standing Orders be amended and that this resolution be passed is a ridiculous one. Ridiculous from the point of view that what is happening here has not been substantiated by any facts at all. What is even worse is that the reasons given for the presentation of this motion are very flimsy indeed. And the fact that this motion has come back full circle to us should let Members stop and think whether they should withdraw this or whether they should persist in the action which they have started.

It really hurt me to have listened to the pleadings of the First Official Member who spoke in this debate prior to the adjournment. That a man of his integrity should have been placed in such a precarious and delicate position that he felt himself honour bound to get up and let the world know that he has not been dishonest as implied by the mover of this motion.

To think that another Honourable Member had to make a similar statement this morning to show that he is not dishonest as implied by the mover of this motion.

**MR. PRESIDENT:** I think the references that you are making by the Mover of the motion were to a debate on another motion which you should not revive.

**MR. G. HAIG BODDEN:** Mr. President, I am only speaking on what the First Official Member said in this particular motion...

**MR. PRESIDENT:** With respect, you were speaking, you said about what the Member for Education said also. I am making the point that that was in debate on a preceding motion. I have the feeling the House wants me to impose Standing Orders and I am doing my best. I do not like this having to interrupt all of the time. So perhaps we should take the lunch break if it is convenient to you? It is just about time. All right?

Proceedings are suspended until 2:15.

**AT 12:46 THE HOUSE SUSPENDED**

**HOUSE RESUMED AT 2:25 P.M.**

**MR. PRESIDENT:** Proceedings are resumed on Government Motion No. 6/90, the Second Elected Member for Bodden Town please, continue.

**MR. G. HAIG BODDEN:** Mr. President, if the House were to decide in favour of the motion before it, we would be put in a very ludicrous position where we would be the only British dependent territory or perhaps anywhere else that would have handed back the matter of its finances to the Civil Service because this change puts us in the position that we were prior to 1959. To my knowledge there is no dependent territory where the majority of Elected Members could be outvoted in Finance Committee.

If I understand the changes brought by this motion a situation could well arise where seven Elected Members could vote together, the seven Elected Members being the majority of 12, and yet if all the other forces were combined against them the seven Elected Members who hold the majority of the 12 Elected Members would be in a minority position in Finance Committee.

The situation that exists in other dependent territories prevent such a thing from happening. To give just a couple of examples. In the British Virgin Islands there is one Official Member, the Attorney General. In the Legislature there is a Speaker, the two nominated Members and their nine Elected Members. Now, all of these Members of the House make up the Finance Committee. Yet if all of the forces are combined they cannot outvote a majority of Elected Members in Finance Committee.

I imagine the Speaker ..., no they also have a Minister of Finance who is Chairman of the Finance Committee. But this leaves the Attorney General as a voting Member, the Speaker who may not have a vote, which is better to prove my case, two nominated Members and nine Elected Members.

So if these three voting Members gang together, they cannot outvote the majority of the nine Elected Members because the majority of the nine Elected Members would be five and they would not be put in the position in which our seven Members can be put, if all the other people in the Finance Committee got together and voted against us.

Also, if we look at the situation in Montserrat we will find that in this situation the Elected Members, the majority of the Elected Members can be made of no effect like the situation that we would have if the motion which is before the House is approved.

Their finances are handled by Elected Members and although there is a sprinkling of Official Members the elected Members have a clear majority in Montserrat. The Speaker is appointed by the House, but is not an Elected Member. They have two Official Members, the Attorney General and the Financial Secretary and two nominated Members.

Now, I assume that the Speaker does not vote. If the balance of the Members other than Elected Members gang together, they still cannot outvote the majority of Elected Members.

We will find that the situation in Anguilla is much the same, where there are two Official Members and all the Members of the Legislative Assembly are full Members of Finance Committee. I believe we will find in Anguilla that one of those two Official Members must be the Chairman of the Finance Committee and, as a result there would only be one Official Member left and he together with any forces that he may be able to muster could never outvote the Elected Members.

In Turks Island they have three Official Members in Finance. But their situation is altogether different from ours and they do not have a Finance Committee that is the same creature that we know. They have an Estimates Committee and there is a big difference and that would take me probably the balance of my time to deal with this and it is really not relevant. Suffice it to say that Turks Island...

**MR. PRESIDENT:** I am bound to agree with you.

[Members' laughters]

**MR. G. HAIG BODDEN:** ...that Turks Island, the situation is altogether different and perhaps the whole world know why it is different and they know about the Prime Minister going to jail and the Chief Minister or whatever he is called going to jail.

The point I am making is that we would be going back into what I call the dark ages of early colonial life when finances were dealt with strictly by the Civil Service. We moved out of that position a long time ago (18 years ago, I believe it is), when we received the new Constitution and the Standing Orders by which we worked. We became a new creature that had moved forward in our financial, political and constitutional development.

Members must not lose sight that these territories like the Turks Island are all grant-aided and perhaps one or two of them may not be so, but these countries encounter severe difficulties in the balancing of their budgets and really never know when they will be able to do so.

We do not want to put ourselves into a position where the United Kingdom may have to step in and suspend our Constitution. I believe this motion...

**MR. PRESIDENT:** I think you made that point in the earlier debate. I must ask you not to repeat yourself.

**MR. G. HAIG BODDEN:** Yes, Sir.  
But if I can finish the one sentence, I believe this motion would tend to put us in that position.

The cornerstone of our prosperity is our ability to attract and to hold financial investments from abroad. And, if for no other reason we must remain amongst these dependent territories that are now trying to copy our way of life and our way of earning revenue we must remain as far ahead of them as we have always been.

I believe that if this motion is passed, we will see many public demonstrations against it. And certainly this cannot be what the Government wants.

The Caymanian people have been known to stand up when they believe the Government is wrong. One clear example was when the mover of this same motion was a leader in Government and an attempt was made to put through the 1975 Development Plan.

Do we want to go back to demonstrations or will the Government sit down to reason and withdraw this motion for which there is no clear support? The majority of Elected Members, seven out of 12 are against it. We, and I think I can speak for all the Members, we have the clear support of our electorate. The other Elected Member who has indicated that he will support this motion has received a petition which has authorised him not to vote for it.

#### POINT OF ORDER

**HON. D. EZZARD MILLER:** Mr. President, on a Point of Order, Sir. Can I draw your attention to 35(2)? It appears the Member is using the same line of reasoning and argument that he used on a previous motion, Sir.

**MR. PRESIDENT:** I think the Point of Order is valid. I was going to a moment ago say to you that you had already covered this ground in previous debate. But I am reluctant to continue interrupting, it really does not help the business of the House if I have to. So, can I ask you again to make every effort to curb your natural eloquence and stick to the immediate issues in the motion. Is it a Point of Order?

**MR. TRUMAN M. BODDEN:** Just on that Point of Order. Oh yes, I can comment on the Point of Order. Is it out of order to attempt to arrive....

**MR. PRESIDENT:** Do not let us have a debate about it...

**HON. BENSON O. EBANKS:** On a Point of Order, Mr. President. The Member cannot comment on a Point of Order once the Chair has ruled. If he is going to challenge the ruling of the Chair, he must do it on a substantive motion.

**MR. PRESIDENT:** That is strictly correct.

**MR. TRUMAN M. BODDEN:** Mr. President, I am not challenging the ruling of the Chair. If I may just point something out that may be helpful on the Point of Order.

**MR. PRESIDENT:** I have been very relaxed about sharing the debates on Points of Order with the House, but please let us make it to the point, so to speak.

**MR. TRUMAN M. BODDEN:** I will just read it, Sir. It says;

"It is out of order in attempt to revive in any debate or reconsider any specific question upon which the House has come to a conclusion" ...

I say no more.

**MR. PRESIDENT:** That is precisely, that is fine. It says revive a matter or reconsider a question. What it appears to me that the Member was in fact going over the ground; i.e. the matters discussed on the previous motion. That is all.

**MR. TRUMAN M. BODDEN:** The only point I was making is as I understood it, the ruling against me this morning was the other matter had not come to a conclusion. I leave it as it is, but I understand your Point of Order.

**MR. PRESIDENT:** If I may say with great respect, it is a clever attempt, but it will not wash.

**HON. W. NORMAN BODDEN:** Mr. President, under Standing Order 38, Sir. I will draw your attention to Standing Order 38 and move that the question be now put. If you are in agreement, Sir?

#### MOTION - CLOSURE OF DEBATE (Standing Order 38)

**MR. PRESIDENT:**

Order. This Standing Order which I am sure Members have now had time to look at says that "during the course of a debate, [a Member may] rise in his place and move that the question be now put and unless it appears to the Presiding Officer that the motion is an abuse of the Rules of the House or an infringement of the rights of the minority that the question be now put, shall be put forthwith."

So the Presiding Officer has to consider whether it is an abuse of the rules of the House or whether it is an infringement of the rights of the minority. I do not believe it can be an abuse of the rules of the House because it is part of the rules of the House. I do not quite see how that question arises.

Infringement of the Rights of the Minority, I think that in my time in this Chair, this Motion has only been put once to my memory, maybe twice. Once was on the Throne Speech earlier this year and I think there may have been one other occasion.

I think the question the chair has to consider is whether there has been reasonable time and opportunity for relevant expressions of opinion and argument to be advanced. That is the important thing. I have to say that reflecting on the proceedings of the last several days, that the issues in this matter have been given a very thorough airing and been gone over very carefully.

I did say that when we were discussing the procedure on this whole question that on this Motion itself it was a confirmatory type of Motion, that it would not seek to reopen the issues already dealt with in the preceding motion.

So I think I must conclude there is no infringement of rights there and that I am very much aware of the need for the widest latitude in speaking and I believe the House has had it on this issue.

So I therefore, have to put the question, and that is that the question be now put and that is the Motion of closure on this debate. I am afraid the rules are absolutely clear.....I beg your pardon?

**MR. G. HAIG BODDEN:**  
in ...

Mr. President, I would like to draw your attention to something

**MR. PRESIDENT:**

May I just make it perfectly clear that the Standing Order is clear that there be no debate on the question. But I am entirely willing in the interest of the conduct of business to hear you.

**MR. G. HAIG BODDEN:**  
spoken on this important motion?

Of course you realise that none of the Members here have

**MR. PRESIDENT:**

I am fully aware of it. I did refer to the fact that the material points have been thoroughly gone over in the previous debate on the previous Motion. The Second Elected Member for Bodden Town, had you finished? Were you going to quote something?

**MR. G. HAIG BODDEN:**

Mr. President, I was going to draw your attention to the rule that the Motion would not pass if the minority is affected by the rule voted against it. In other words, if the seven of us vote against this, we are the ones that are affected by it. You will still have to continue the debate if the vote is split eight/seven.

**MR. PRESIDENT:**

Why I think you are incorrect on procedure, I do not think that follows. The point at issue here is that the Chair has to consider whether there is an abuse of the minority and that is the issue that I did address a moment ago. The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:**

Mr. President, I am not questioning the Standing Order. I would just like to point out to you that one of our Members had to leave and he has told me he will be back in ten minutes. This was not expected, Sir.

I would ask that you give consideration to the matter so that at least his vote can be recorded, even if you have to follow the Standing Order shortly.

Thank you.

**MR. PRESIDENT:**

is in the precincts of the House?

I would not normally take ... do you happen to know whether he

**MR. W. McKEEVA BUSH:**

No, Sir. As I said, he had to leave for 10 minutes.

**MR. PRESIDENT:**

The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Mr. President, I just wanted to first draw your attention to Standing Order 24(13) because it seems to me that if a motion embodies two or more separate propositions it may be proposed as separate questions. If you will recall, we agree on a part of this motion, which is the one that makes it go public. The other part of the motion we disagree on. They are two separate matters as I see it. I would ask that you look at that aspect. One says Finance Committee be public and the other one says it adds in the Official Members.

What I would like to also refer you to, while you think about that,



is Mays, and I am afraid I only have the 20th Edition. It does say at page 451, the discretionary power of the Chair to protect the rights of the minority by refusing the Closure is frequently exercised.

All I would say is that, we could be prejudiced if the Member who has recently left does not realize this may come on this quickly. We all do have times when we temporarily I am afraid, have to go out. I would definitely ask that you hold on on that, failing that, you know we may be prejudiced.

The other point I would like to make on this (I appreciate what the Standing Order says about us not having a right to debate it), is that the tactics used in the last Motion were to raise new things in the winding up which is highly unusual. Normally the winding up is used to deal with new matters that have arisen during the debate. There were some matters that were new and very important, such as the holding back on which territories had the Finance Committees that some of us may have wished to address because they were very important points which were deliberately held back.

**MR. PRESIDENT:** I do not think you can say they were deliberately held back. You can say they were held back, that is reasonable enough. What I am trying to do is keep the temperature down. The Honourable Member for Education.

**HON. BENSON O. EBANKS:** Yes, Mr. President, being conscious of the fact that this Motion by the Member for Tourism should not be debated in any event, but being conscious of your desire to be seen to be fair, I would like to make two points.

The first is that the Third Elected Member for George Town accepts that 50 per cent of this Motion is not in question. So we are dealing with 50 per cent of it.

The second is, that if we are dealing with minorities and if you accept the argument of the people who are now crying that they are the minority, it is totally contrary to what they have been arguing all along. They have been arguing that the Government was the minority.

So I do not know how they can sing through both sides of their mouths. In other words, at one time they are the majority and now they are crying for protection that they are the minority.

**MR. W. McKEEVA BUSH:** Please, Mr. President, the Member is confusing the issue. They are a minority of elected Members but they are not a minority in this House and we are dealing with a matter in the House at the time.

**HON. BENSON O. EBANKS:** Mr. President, put the Motion to the vote and you will find out who has the majority of elected and Official Members, Sir. The Official Members are total Members of this House.

**MR. PRESIDENT:** We are developing into a debate. The Honourable Member for Communications and Works.

**HON. LINFORD A. PIERSON:** I was just suggesting, Sir, that the Motion put by the Member for Tourism is quite straightforward.

**MR. PRESIDENT:** Sorry, the Member for?

**HON. LINFORD A. PIERSON:** Tourism. The Closure Motion, Sir.

**MR. PRESIDENT:** Oh, I beg your pardon,

**HON. LINFORD A. PIERSON:** And I feel that we should now put it to a vote, Sir.

**MR. PRESIDENT:** I have one or two points to comment upon before we go any further. I do not think there are two separate propositions in the Motion taking your first Point of Order. It so happens that it has come back together and the Member for Education, when he introduced the Motion to reject the Standing Committee Report made it clear, I think at that point, that he understood that the Whole House agreed with the proposition that the Finance Committee be held in public. For neatness and clarity I think was the point. The whole Standing Order proposal would be put back together. So I do not think there is a problem there.

The Members who spoke against the other three parts of the amendment have made it clear that they supported the debate in public point.

So I do not think you should feel caught by that, if I understand that is your problem. You feel caught by the ....hmm?

**MR. TRUMAN M. BODDEN:** It would be interesting if they had given an undertaking not to use that against us, because really, really it is, no, but with respect, Sir. What it is going to mean is that if it is left in, then we will be voting against that too. I can only refer you to it, I cannot go any further than that.

**MR. PRESIDENT:** I understand your anxiety, but it is a technicality and you have made your positions clear. Very clear.

On the second thing, of a vote of Closure in the absence of a Member I fear I can be of no help there. The authorities of the House of Commons are rather different, they have a

huge press of business and I think if a Motion of Closure is moved, it is generally because filibustering has been taking place for example, or the House has a timetable and it must get on with the next business.

several days of debate.

It is rather different from our situation where this matter has had

**MR. W. McKEEVA BUSH:**

Mr. President...

**MR. PRESIDENT:**

Could we just finish with this one?

**MR. TRUMAN M. BODDEN:**

May I just say something on that? For example we have adjourned on what the Member mentioned about Finance Committee these different days. We adjourned because a Member for Tourism had to go to New York or Washington to deal with air rights. It has been the courtesy of this House to wait. We have adjourned Finance Committee time and time again for those Members to come. I think it is very unfair for him to put that, knowing our Member is out.

**MR. PRESIDENT:**

reason...

If I may interject, you are suggesting that this was done for a

**HON. W. NORMAN BODDEN:**

Mr. President, I was not aware, when I moved the Motion on the Standing Order 38, that the First Elected Member for Bodden Town was out of the Chamber. I did not even look in that direction.

Secondly, it is my recollection that Finance Committee was adjourned in the normal course of its deliberations. It was not done to accommodate anything that the Member for Tourism had to do. That is my recollection, Sir. And unless they can produce evidence to the contrary, I will not accept it.

**MR. PRESIDENT:**

Quite apart from anything else, it seems to me that if a committee agrees to adjourn that is rather different from something happening in procedure. A Member who happens to be out of the Chamber is different. First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:**

Mr. President, I want to reassure you that I am not questioning the Standing Order. I wonder, since we are getting close to our break time, whether we could take the break so that the Member from Bodden Town can record his vote, against. When you come back, you are the sole authority according to that Standing Order and you can do as the Chair feels. I thank you.

**MR. PRESIDENT:**

here shortly.

Well in fact, I think it is now nearly 10 minutes so he should be

There was a third point from the Third Elected Member for George Town, that new matters were raised in the winding up on the preceding Motion. I think that is a matter of parliamentary tactics. I am sure that other Members of the House might well use the same strategy from time to time. The Member for Education, you were ..

**HON. BENSON O. EBANKS:**

Mr. President, I was just going to be facetious and say that maybe the First Elected Member from West Bay would like to go to fetch the Member for Bodden Town. I am sure they would not get back in 10 minutes, so there will be two absent.

**MR. TRUMAN M. BODDEN:**

this term, Sir.

I do not think we need any more facetiousness for the rest of

**MR. PRESIDENT:**

I think that we have given considerations to the issues and I am sorry that the First Elected Member for Bodden Town is not here, but I do believe it was not a deliberate tactic on the part of the Honorable Member for Tourism.

later on he can.

I think that it is possible, if he wishes to make his position public

**MR. W. McKEEVA BUSH:**

Mr. President, it is now 3:00, we usually take our 15 minute break at 3:15. I will draw your attention to that, Sir.

Mr. President, it is now 3:00, we usually take our 15 minute

**MR. PRESIDENT:**

You put me at a great difficulty. If we were to move the breaks back and forward for reasons like this, I mean where would I be? You know, it is...

**MR. W. McKEEVA BUSH:**

We have done it before, Sir.

**MR. PRESIDENT:**

Not usually earlier, I do not think and usually for consideration of something by both sides of the House. You have tried. You have done your best. You cannot do anymore. I have to now put the Motion then, under Standing Order 38 that the question be now put. Would those in favour please say aye, those against no?

**AYES AND NOES**

**DIVISION  
NO. 20/90**

**AYES: 8**

Hon. Thomas C. Jefferson  
Hon. Richard W. Ground  
Hon. James M. Ryan  
Hon. W. Norman Bodden  
Hon. Benson O. Ebanks  
Hon. D. Ezzard Miller  
Hon. Linford A. Pierson  
Capt. Mabry S. Kirkconnell

**NOES: 6**

Mr. W. McKeewa Bush  
Mr. John D. Jefferson, Jr  
Mr. Truman M. Bodden  
Mr. Gilbert A. McLean  
Mr. Roy Bodden  
Mr. John B. McLean

**MR. PRESIDENT:** Motion is carried.

**AGREED BY MAJORITY: THAT THE QUESTION TO GOVERNMENT MOTION NO. 6/90 BE PUT.**

**MR. PRESIDENT:** In accordance then again following Standing Order 38. The question will now be put on Government Motion No. 6/90. Would those in favour please say ay, those against no.

**MR. W. McKEEVA BUSH:** I am sorry, Mr. President, I did catch what we were voting on.

**MR. PRESIDENT:** I said, Government Motion No. 6/90. Sorry, I am getting a little hoarse, even though I do not do much of the talking. I will put it again for the sake of clarity. This is the question being put, following the procedure under Standing Order No. 38. the question being put on Government Motion No. 6/90. Would those in favour please say aye, those against no? Clerk, would you take a division, please?

**AYES AND NOES**

**DIVISION  
NO. 21/90**

**AYES: 8**

Hon. Thomas C. Jefferson  
Hon. Richard W. Ground  
Hon. James M. Ryan  
Hon. W. Norman Bodden  
Hon. Benson O. Ebanks  
Hon. D. Ezzard Miller  
Hon. Linford A. Pierson  
Capt. Mabry S. Kirkconnell

**NOES: 5**

Mr. W. McKeewa Bush  
Mr. John D. Jefferson, Jr  
Mr. Truman M. Bodden  
Mr. G. Haig Bodden  
Mr. John B. McLean

**MR. PRESIDENT:** Motion is passed accordingly.

**AGREED BY MAJORITY: GOVERNMENT MOTION NO. 6/90 PASSED**

**MR. PRESIDENT:** I would like to inform the House at this point that of course Standing Orders are not yet actually amended until Section 31 of the Constitution is complied with, that is the Governor must approve the proposed amendments.

The Third Elected Member for George Town.

**MOTION WITHOUT NOTICE  
(Standing Order 24(9)(viii))**

**PRIVATE MEMBER'S MOTION NO. 15/90  
REFERENDUM**

**MR. TRUMAN M. BODDEN:** Mr. President, under Standing Order 24(9) sub-order (viii), I would like to give notice that I am going to move a Motion without notice and this has been circulated to other Members and it reads:

"WHEREAS Motion Nos. 3/90 and 6/90 deal with a very important matter which has been the subject of extensive public debate and it is in the best interests of the Cayman Islands that the electorate's view be sought on it.

**NOW THEREFORE BE IT RESOLVED AS FOLLOWS: -**

- (1) That His Excellency the Governor be requested not to approve under Section 31(1) of the Cayman Islands (Constitution) Order 1972 the amended Standing Orders amended under Motion 6/90 and to await the outcome of the referendum hereinafter mentioned;
- (2) That a short Bill be introduced and fully dealt with during this Legislative Assembly meeting for a referendum on this matter that is, whether the Official Members of this Honourable House be made Members of Finance Committee and the President of the Legislature be made Chairman of Finance Committee, using the present voters list and that this Honourable House abide by the outcome and implement the results thereof; and
- (3) That all members of this Honourable House meet informally to settle the provisions of the special Referendum Law at the earliest possible time."

**MR. JOHN D. JEFFERSON, JR:**

Mr. President, I beg to second the Motion.

**MR. PRESIDENT:**

Private Member's Motion at present unnumbered because notice was not given has been duly moved and seconded. Would the Mover wish to speak to it?

**MR. TRUMAN M. BODDEN:**

Yes, Sir.

Mr. President, this Motion is one which I feel will give the other alternative which I mentioned earlier in my debate on Motion 3/90. That alternative is the very basic democratic right of going back to the country, to the people in what should be a simple referendum question and asking the country what do you feel should be done in this matter?

The position as you have just mentioned, is that we have reached a stage now, after extensive public debate where the Legislature has dealt with Motions 3 & 6 of 1990. It is now at a stage where prior to coming into operation of this part of the Standing Orders the Constitution of the Cayman Islands requires the Governor's approval.

That section I would like to just briefly read and then go on to explain and put the argument for this Motion. It says, 31(1)-

"(1) Subject to the provisions of this Constitution and of any Instructions under Her Majesty's Sign Manual and Signet, the Assembly may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, instituting and numbering of Bills and for the presentation thereof to the Governor for assent; but no such Standing Orders or amendment or revocation thereof shall have effect unless they have been approved by the Governor."

So we are at a stage where despite the passing in this House of the Motion, there is a period of time during which the Governor would have to make the decision on the approval of what has gone on in the amendment. That provision is a very important provision, and I would like to deal with it at a later stage. I think it is there as a safety procedure to ensure that matters which are very serious, have naturally to be looked at with the same amount of seriousness and consideration before the implementation by the consent of the Governor. Unlike all other motions (where Motions once passed can automatically come into effect), this Motion No. 6/90 does not immediately come into effect.

That is the procedural situation. The request in this is that between the time when that decision has to be made by the Governor, that if this Motion is passed, we are asking that the Governor not exercise his approval under the Constitution and to await the outcome of the referendum.

The timing of the bringing of the Motion is one which (while it is being introduced after the second vote,) is still in considerable time because the actual consent is still required as I mentioned under the Constitution.

Mr. President, what I am attempting in moving this motion is to give the people of this country their right to speak on this important matter. Once they have spoken, this honourable House (which is made up of representatives of the people) should carry out, abide by, and implement the outcome of the referendum.

It is a well-known democratic method clearly understood in the North American continents (the United States, Canada) and many countries even though it is not used very often within Commonwealth countries. The use of a referendum, same as the use of the ombudsman, is becoming popular in countries which hitherto had not dealt with these matters.

Basically, Sir, it is a process whereby the people were sovereign, so to speak, because they put us in this Legislature, and they have the power to change us, and where they can give instructions to the Members of this Honourable House and ask that those wishes be carried out. That usually is a position that is quite common in places such as the United States on not only a sort of Federal level, but very much on a Municipal and District level on important issues. Indeed, it is one of the further ways that we can clearly ensure exactly what the people of this country want to do on important matters.

I think that one of the best written summaries locally that I was able to see, was one that was introduced in an editorial in the *Caymanian Compass* on Friday, 19th May, 1989. This came after I moved a Motion to deal with referendum generally and that Motion as the House remembers was seconded by the First Elected Member for Cayman Brac. It was brought into the May session of the House last year and it was headed 'Democracy in Action'. It said that:

"Citizens' involvement in the democratic process is sometimes seen as limited to making a mark on the ballot paper every four years and leaving the rest to the elected representatives.

Citizens' responsibility, however, goes much further than that: democracy is a continuous process that involves all the people of a country all the time.

For the system to work well, the public needs to be aware of developments, of decisions being shaped, and policies in the formulating stages, and they need to be able and willing to speak up and take action when necessary.

Members of the public have a moral duty to keep themselves abreast of current affairs and of their representatives' treatment of issues, and MLAs should always keep themselves current on their constituents' views.

There should be a continuous exchange of information and feedback between electorate and representatives.

That process, however, is prone to inaccuracy when for one reason or another only certain sectors of the population are being heard.

Many countries therefore take steps every now and then to poll the entire populace on issues of public importance, particularly where a clear mandate was not given in any elections.

Such countries include our mighty neighbour the United States and the citadel of democracy, Switzerland.

It would sit well with Cayman's history of democracy if machinery to allow for referendums were introduced and eventually used. There are issues where comprehensive, direct input from the whole population would be desirable, and with the social, economic and other changes in these islands, we can no longer rely on informal means to introduce true results.

Even when government expressly invites public comment on issues, there is no way of knowing whether or not those speaking the loudest represent the largest sector of the population.

A referendum would produce incontrovertible evidence of public opinion and put any doubts in that respect to rest.

This would in no way detract from the powers and responsibilities of the elected representatives. Rather, it would enhance their standing when they can base decisions of far-reaching importance on direct and comprehensive feedback from the population."

Now, whatever can be said about the *Compass* not doing its homework at times, or its research..., I think this is a very fair and very clear and is an extremely realistic statement of the position. There are times when (as you have seen in this House) the House is finely divided and you are finding that each side of the House is saying the public is with us. When that issue is a major one, such as this, which directly affects the rights of the people, this is very important. What is happening now is directly affecting the rights of the electorate because it is a watering down (so to speak) of the voting rights of the elected Members.

Without trying to get back and raise any of the decisions here, I will obliquely refer to areas of the argument which support the reasoning relating to the referendum. So when it is very close to the hearts of the people it is even more important that we be certain. And to be certain on this earth in relation to issues with the electorate, the only way is to ask them.

**MR. PRESIDENT:** Should we take the break then will it be convenient?

**MR. TRUMAN M. BODDEN:** Yes, Sir.

**MR. PRESIDENT:** Proceedings are suspended for 15 minutes.

**AT 3:22 P.M. THE HOUSE SUSPENDED**

## HOUSE RESUMED AT 3:57 P.M.

**MR. PRESIDENT:**

Member for George Town continuing.

Proceedings of the House are resumed. The Third Elected

**MR. TRUMAN M. BODDEN:**

Thank you, Mr. President.

What I envisage with this Motion and the ultimate Bill or Law, is that it be a short and simple Law with a simple process for getting the public's input.

I have looked at some of the examples and while it appears that sometimes in places like the U.S. there are multiple questions and sometimes complex issues, I think that this could be dealt with perhaps with a short, single and simple question. It would basically only be asking for ticking a yes or a no box which is what happened in the referendum in the United Kingdom.

While I am open to discussion from all Members in the House on what that question should be, I believe that if it embodied words to the effect of: 'would you wish the Official Members of the Legislature to be made Members of Finance Committee and the President of the Legislature be made Chairman of Finance Committee', with a yes or a no. Then, that basically or something along those lines is what we would be looking at. So, we would not be getting into a complex series of different questions or options. In fact this example I used on the earlier Motion back a year or so ago, which I moved and the First Elected Member from Cayman Brac, seconded. What I used there was what was asked in the United Kingdom. I used this as an example, and that was this simple question: "Do you think that the United Kingdom should stay in the European Community (the Common Market)?" Yes/No. So this simple process could use the present voters list. It would be free from the long process that goes on with up-dating a voters list and would be one in which the public could, by a very simple and easy means, settle this important matter which has so divided this House and so badly split the country. The more simple that the question for the referendum could be, then I believe the more effective it would be. Provided always that we are having the question fully and fairly being asked.

Now the Motion itself has requested that the Legislature abide by the outcome and implement the results of it. This, I think, is one which has to be in the Motion. The Members of this Honourable House on a referendum are relieved of the burden of having to wonder exactly where the voters' views stand and what they would wish to see done. We know that there always must be doubt with major issues unless there is a specific and direct question put to the people of the Cayman Islands on those issues.

I believe that we should never become too big that we are not prepared to ask advice and to take it. I believe that no better way of doing that can be carried out but through a simple process of a single question referendum. There is no doubt that in the long and intensive debate which has ensued both within this House and at public meetings and otherwise and the many, many letters that we have seen in the press, that this is a matter of grave concern to the people of the Cayman Islands. Also, most importantly, the taking of a referendum will give a cooling off period to a House that is already, in my opinion, overheated and could well do with a period of cooling off. I look for that authority, but there is an authority I believe it is either Wade Phillips or its Robert Wray who said words to the effect that a referendum prevents hasty action and allows a cooling off or a settling of minds, or words to that effect.

I believe that this Motion is one which is going to give a period when people will be entitled to think and perhaps rethink, if necessary, this very important issue. They will be given a period of time and the time here has been fairly short for the size of the issue, even though it did comply strictly with the minimum time in our Standing Orders. It will allow, I think, a decision from the electorate which will be a considered and a rational decision in a somewhat cooler period than we have at present.

All major issues create pressure and create heat and it is important I think that the major issues be decided with cool heads, because I have always found that in the heat of the moment on major decisions sometimes one can make either fully wrong decisions or partially wrong. I have always taken the approach that I like to think about issues over a period. It gives me time to see clearer the situation and if I feel that way, being so near to a lot of these issues, I believe that the public too, is entitled to a period of time to come fully to grips and to look at matters.

So I think that it would be good for the country to be able to lift this burden off of its shoulders for a period and to ask the voters to give us the guidance which we should be humble enough to accept. It will also allow for the other work both within the House and which Government has to do, to move on.

Now, an important aspect to this is that this specific matter was not a general issue in an election. There is no way it could have been, because it was not possible at that time to foresee it. The issue is one which is novel to Cayman and at least it never, during the elections, ran through my mind that perhaps it could have been brought as an issue then.

I think all of us in our manifestos always have tried to put in most of the major issues and where we stand on them. Perhaps this is the sensible approach that a referendum can bring in. While it would only be used extremely sparingly, it does allow in situations where a Government or Legislature is mid-term, couple of years through its four-year life, to get a major issue out to the public rather than ultimately waiting and making it an issue some years down the line.

The feedback which one gets, whether it is through public meetings or through people personally speaking to Members, is always one where it is good but it can never be as fully accurate as to get that feedback from all the people. There are many people in this country who do not necessarily come forward and state their views. I guess one could refer to them more as a silent majority, but whose support and whose involvement is very important.

They are quite happy to express their views every four years at the polls or in a referendum which would be done secretly the same as voting is done at an election. But it is a much simpler process, and it is one which should be streamlined to be something that can be put to the people in such a way that it avoids any sort of complexities that one sees during the election period.

The English authority which I am referring to here is Wade and *Philips Constitutional Law*, 7th Edition. It is one of the older books, one of the old editions which I chose because it was nearer to the question of constitutions back just after the time that ours was and it is not an up-to-date issue, but the statement here I believe, remains good and it still serves well.

At page 54 it is headed under Consultation of Interests Affected.

It says:-

"The immense complexity of the business of Government makes it necessary that, while preserving its supremacy, Parliament should exercise it only after the major interests affected have been consulted.

The modern State regulates the whole life of the community. The initiation of legislation is the function of the executive, but prior consultation of major interests affected is an essential part of the legislative process."

55. It says:

Further, it goes on under Parliament and the Electorate on page

"Finally there must be mentioned the responsibility of Parliament to the electorate, the political sovereign."

I just stress, 'the electorate' throughout this and in the older books, in fact the classic works such as Dicey, the electorate is referred to as the political sovereign because in the final analysis the people are supreme on this earth at least. I will just go on to read that fully:

"Finally there must be mentioned the responsibility of Parliament to the electorate, the political sovereign.

Some constitutions provide that constitutional changes shall only take effect with the consent of the electorate obtained by a referendum, (a poll of the electorate). The referendum need not be confined to constitutional issues.

Other constitutions provide for the initiative, a device to enable the electorate to instruct Parliament to proceed with a measure."

So, even looking at the constitutional authorities in the United Kingdom (and we know there was only one main one there, which was on the common market), they have established two things clearly - where there are major issues it is always important to consult the major interests, the major part of the population directly that are affected, that is.

Secondly, that the referendum while it is used mainly in the British Commonwealth on constitutional issues, need not be confined to that and indeed, we know that in the United Kingdom, there was the referendum act that was passed in 1975, that dealt with the European Economic Council.

I guess what was interesting about that as well is that it had been an issue in the general election and there were changes afterwards; they went back on a referendum, in fact shortly after, within a year or so, after that election to get further advice on it from the electorate.

So there is very clear authority. In the United Kingdom the approach that has been taken to it has been to a special referendum Law, rather than in places like the United States and Switzerland, I think also probably in Canada, where there is a more general Referendum Law that is triggered by a procedure under it.

The motion that I brought and the First Elected Member for Cayman Brac seconded, and we lost, back on the 30th May 1989, was dealing with a general type of Law which I thought then and I think now, would be good to have in place because most of the machinery would have been worked out and what would merely have been necessary would have been to deal with the question under it. Members did refer to that, that they would have been more happy with seeing a special Referendum Law when issues arose. Now, that is the situation that we have here. where there is a matter of importance that can be dealt with on a single issue.

Very odd perhaps, but important (and I want to explain it), is the third operative part, paragraph number three in the motion which says that:

"(3) That all Members of this Honourable House met informally to settle the provisions of the special Referendum Law at the earliest possible time."

We have heard a lot being said about one side not

communicating with the other, with one side not doing this or doing that, and not letting the other side know. I specifically felt that a matter which is as important as this is, there should be a getting together of all Members in this Honourable House and sit down and attempt to settle the provisions relating to that law.

I think it is important that the question that has to go to the public is one that is as near to being unanimously accepted in the House as is possible. I think everyone's input in this should be brought out to the fullest and should be discussed at an informal stage. It is not meant to detract from any formal discussions that will have to be done here because if this motion is passed then a draft Law, a Bill, has to come back to the Legislature and it will be looked at again and debated in depth within the House.

I have found that despite what may be said from time to time on issues (at least with negotiations that I have seen over my 20 years as a lawyer), many times when you have a meeting of the two or three parties that may be involved, one sometimes finds that what may appear to be major issues are, in effect, only perceived by one side or the other and they can be sorted out and settled. The more that can be settled on this matter I think the better it is for this House because it takes a lot of the heat out of future arguments. It saves precious time of this House and it also makes for having a far better drafted and more acceptable Law when it comes to the House.

This section (I think), very much a way of trying to get the House back to the stage it had reached in the past; where it is possible to sit down and logically look at issues, look at matters, appreciate that in the end our joint views have to be for the best interest of the country as a whole. And to work towards coming to some type of agreement or unanimity on major parts of different issues or the different Laws that we have to deal with and I believe that it must make for better legislation in the long run.

The other area that I would like to deal with was put by the Compass when they said, 'this would in no way detract from the powers and the responsibilities of the elected representatives.' I think it is important that the elected Members here realize that what is being done is not something which is going to affect or detract or take away their standing within the community or their standing as a politician, or affect them detrimentally in any way.

In any event, every four years we ask the people, those of us who run for elections, whether they are Members in this House or politicians who are not in this House, but those of us who run, ask the people a much more searching question and that is, am I good enough to represent you? Sometimes we get disappointed, (I am no exception to that), other times we get the joy of acceptance, but in the end it does not detract from our standing, because we have subjected ourselves and ultimately accepted, sometimes not as easy as in other matters, but accepted that the views of our people are what have to ultimately override.

I repeat here, that I do not think that a special Referendum Law should be looked at as one in which we are not standing up and making our decisions or doing this or shirking our duties or whatever to our people. We are in there as representatives and to ask our people on a major issue what we should do, cannot in any way, be a detraction from our powers and responsibilities. I believe that most people in the Cayman Islands would say that if their elected Members came to them on an issue which was major and an issue in which there has been such a splitting within the House and outside, that they would say, look, the simplest way to settle it is to come back to us and let us put you on the right track.

Another area that was dealt with previously (and a lot may be said about it this time), is whether this affects stability in the Cayman Islands. To me, the answer to that should be very simple. I know that it never is, when we talk of stability. The answer is very simply put. No democratic process can hurt a democracy. What can hurt a democracy is either the failure to use and exert democratic rights but the use of democratic rights properly has to be something that strengthens democracy and that strengthens the Cayman Islands.

The process here of a referendum is one that is well understood throughout the world. While it may not be used to the extent in other Commonwealth countries as we have seen it used in places such as the United States, Switzerland and Canada, does not mean that referendum is not clearly understood in the Commonwealth. In fact, to take things that are similar to us, Switzerland itself is a democracy but it is also one of the leading financial centres of the world. In fact it is one of the original financial centres of the world and it is a country that has really been put forward as being one of the strong holds of democracy throughout many centuries despite its many divisions within the country (cantons), and I think some three different languages within it. They have used it, it has not affected the financial centre in any way.

The larger part of our off-shore business is done with the United States and if ever there is one country that understands what a referendum is all about and who would perhaps raise their brows if they understood that the public was deprived of their democratic right to referendum, it would be the Americans.

They live by it on nearly a six monthly basis. In fact some of the places which I know a bit about, within the Florida area, they have had referendums most of the time that I have been there on a city type of basis even, not just on a federal basis, even though it is more limited when it reaches that level.

It seems to me that the use of our referendum can never be attacked on the basis that it is going to harm stability in the Cayman Islands.

## ADJOURNMENT

HON. THOMAS C. JEFFERSON:

Mr. President, I move the adjournment of this House until 10



4th July, 1990

Hansard

765

o'clock tomorrow morning.

**MR. PRESIDENT:**  
against No.

I shall put the question. Those in favour please say Aye...Those

**AYES.**

The Ayes have it.  
Accordingly the House is adjourned until 10 o'clock tomorrow

morning.

**AT 4:32 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10 O'CLOCK THURSDAY, 5TH JULY, 1990.**