

**THURSDAY
19TH JULY, 1990
10:18 A.M.**

MR. PRESIDENT:
Cayman.

Prayers by the First Elected Member for Cayman Brac and Little

PRAYERS

CAPT. MABRY S. KIRKCONNELL:

Let us Pray.

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

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

MR. PRESIDENT:

Proceedings of the Assembly are resumed.

STATEMENT BY MEMBERS OF THE GOVERNMENT

MR. PRESIDENT:
and Works.

Statement by the Honourable Member for Communications

HON. LINFORD A. PIERSON:

Mr. President, during the debate in this honourable House yesterday on the Miscellaneous Duties and Fees Bill, 1990, the Third Elected Member for West Bay made certain incorrect allegations generally against the Elected Members of Executive Council, but in particular against myself which I feel require correction.

The Third Elected Member for West Bay stated that in his opinion the road works in West Bay, scheduled in 1990, were being deliberately held up by the Member for Communications, Works and Agriculture for political reasons.

Mr. President, nothing could be further from the truth as I will demonstrate from the short statement which follows; after I have provided this statement, I hope that the Member will withdraw the misleading and incorrect statement made by him at the first available opportunity and offer an appropriate apology to this honourable House and the listening public.

To set the record straight, I will provide the following chronological sequence of events relating to road works scheduled for 1990. The amount budgeted for road works in the various districts of Grand Cayman for 1990 are as follows. And I will give the budgeted amount and also the costing prepared by the Public Works Department of suggested road works that were identified during the district visits:

Budgeted for Bodden Town	\$650,000
The suggested road works identified by the representatives totalled	\$1,950,200
For East End a budget of	\$400,000
The costing of the suggested road works identified by the East End Members was (plus 7 additional jobs on the study or design).	\$1,002,400
George Town the budget was	\$200,000
Costing of suggested road works identified by the representatives	\$4,983,024
Northside budgeted amount	\$200,000
and if the Little Bluff Road was paved to 30 feet the cost	\$1,771,500

If it was 60 foot road to Little Bluff the cost would be \$2,563,500

West Bay budgeted amount was \$550,000
 The costing of suggested road works identified by the representatives for West Bay \$1,479,143
 (plus 13 additional jobs under design or study).

The Portfolio arranged with all the Elected Members of the Legislative Assembly for district visits to identify roads they wished to spend money on. The dates of the visits are outlined as follows:-

West Bay which was the first district to be visited, January 10th, 1990; George Town on the 17th of January, 1990; Bodden Town, East End and North Side on the 18th of January, 1990.

Following the visits, the Public Works Department compiled a report of all the works identified for each district. Sufficient copies were sent to the Portfolio for distribution to each Elected Member. The Members were asked to prioritise the list, since in every instance, as I have shown earlier, the cost of the works for each district exceeded the budgeted amount. Details are listed as follows:-

- 1) The Northside Report was sent to the Honourable Ezzard Miller on the 12th of March, 1990, requesting a reply by the 23rd of March. A reply was received on the 27th of March and the prioritised list was sent to Public Works on the 2nd of April. And the Member for Northside was the first to return his prioritised list.
- 2) The East End report was sent to Mr. John McLean on the 21st of March, requesting a reply by the 2nd of April. P.W.D. received the priorities on May 8th.
- 3) The George Town report was sent to Mr. Truman Bodden and the Honourable Norman Bodden on March 23rd, requesting a reply by April 2nd. A priority list was received by Public Works Department on July 12th, but there have been suggested amendments since then by the Third Elected Member for George Town.
- 4) The West Bay report was sent to Honourable Benson Ebanks, Mr. John Jefferson Jr., and Mr. McKeeva Bush. The prioritised list was received on April 18th and sent to the Public Works Department on April 27th.
- 5) The Bodden Town report was sent to Mr. Roy Bodden, the list was received and forwarded to the PWD on April 2nd, and I believe that Mr. Roy Bodden was the second to send in his priority list.

Meetings were arranged with the Elected Members from each district to review scheduling of the proposed road works at the Public Works Department as follows:

Northside, East End and Bodden Town, on Tuesday the 8th of May, 1990 and in West Bay on Thursday the 10th of May, 1990. George Town was initially scheduled for Wednesday the 9th of May, then rescheduled on three different occasions. The meetings never took place at these dates as the Third Elected Member was unavailable.

The list of roads completed or being presently worked on to date in each district according to information received from the Public Works Department are as follows:-

Bodden Town - Beach Bay Road, Shirley Towbis Road, Lemon Road, Plum Tree Road, Pasture Lane, Kelly Road, (marl repairs); Dawson Road, Otto Watler Curve, E. McLaughlin Curve, and Caroline McLaughlin Curve.

[Mr. President, as I stated these roads have either been completed or are in the process of being worked on.]

East End - the Lighthouse walkway; Half Moon Bay, realignment, and Colliers Road, repairs.

Northside - Bull Rush Walk, clearing; Frank Sound Estate subdivision; Little Bluff Road, Olson Chishom Road.

George Town - Our Haven Road, Melody Lane, Templeton Road, Windsor Park Road, Kennedy Drive off Washington Boulevard, and Redgate Road.

West Bay - Graham Ebanks Road, Pond Road, Ivan Farrington Road, Birch Tree Road, Kings Road, Northwest Point (driveways), Reverend Blackman Road (fences), Farm Road (marl repair), Governors Harbour (marl repairs), Garvin Road, Morgans Harbour approach,

Batabano Road (second application), new Birch Street Hill drain, Ed Solomons drain, Andrew Periera drain.

The list of work contracted out to the private sector are as follows:-

In East End the play field upgrade, in West Bay Northwest Point Road (second application), Mount Pleasant, Count Point (second application) and Coral Gables sub roads.

The total cost of works so far completed or are being worked on for each district is as follows:

West Bay - \$378,440, of which \$237,740 is being spent by the Public Works Department and \$140,700 contracted.

George Town - \$54,300

Bodden Town - \$422,900

East End - \$270,700, of which \$200,700 is being spent by the Public Works Department and \$70,000 contracted.

North Side - \$162,400.

I have taken the time of the House to give the details of the road works being done in the Island during this financial year, 1990. I trust, as I said earlier, that the Member who has accused the Elected Members of Government and myself, in particular of assigning the road works on a political basis will correct that statement at the first opportunity and I trust, that the foregoing sets the record on this matter straight. Thank you, Mr. President.

STANDING ORDER 30(2) (Short questions)

MR. PRESIDENT: In accordance with Standing Order 30, short questions for the purpose of clarification, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, a question to the Member. Is it not correct that the three occasions you referred to (that I did not attend meetings) that on one of them you, through the Public Works Department Member, cancelled a meeting. The other one was scheduled for me to meet inside of a Select Committee meeting which you did not come to, and the third one was an instance where the date fixed, I could not make it on. And, did you not check with Mr. McLaughlin on these matters because this was raised earlier?

HON. LINFORD A. PIERSON: Mr. President, this is the very first time I am hearing that account of the reasons why the Member was unable to attend. I have no such records. The information given to me by my Principal Secretary is as I have stated in this House.

MR. TRUMAN M. BODDEN: Mr. President, the question is, did this matter not arise several weeks ago in this Sitting of the House? I made the statement that I now put in a question, did the Member go back and re-check? The same as he made the mistake with roads in the Bodden Town district, there may have been a mistake here too, in his information.

HON. LINFORD A. PIERSON: Mr. President, the information I am giving here is information prepared yesterday by my Portfolio and by the Public Works Department. So, this is very up-to-date information. If there was any correction, it would have been included in that information.

MR. PRESIDENT: That is all right, I thought somebody else had caught my eye first.
The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Mr. President, I would like to ask the Member, were the roads done in West Bay on the list agreed on by the three representatives of the district?

HON. LINFORD A. PIERSON: Mr. President, the roads done in West Bay were done in accordance with the priority list prepared by the Members for West Bay.

MR. PRESIDENT: Let us move on then to item 3 on today's Order Paper. Private Members' Motions, No. 14/90.

The Honourable Member for Education, continuing the debate.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 14/90 CONTRACTUAL SEVERANCE BETWEEN THE GOVERNMENT OF THE CAYMAN ISLANDS AND INTERNATIONAL HEALTH CARE CORPORATION

HON. BENSON O. EBANKS:

Thank you.

Mr. President, when the House adjourned last Thursday, I was making the point on this motion that there is a difference between an entrepreneur and a specialist professional in any given field and that they require different personality traits. I had given the example of Mr. Donald Trump who had become one of America's richest men in a very short time and that when he lost some three or four of his chief executives in a mysterious plane crash some months ago, his fortunes had plummeted. In fact, plummeted to the point where it was widely speculated that he would become bankrupt and instead of that prediction coming true, his bankers who had faith in him; faith in his entrepreneurial skills (not necessarily his technical know-how) rallied around him and agreed to continue to support him on certain agreed conditions, one of which was that he agreed to have competent financial managers put in place.

An example of buying the expertise that one needs. I would like to continue to develop that theme and theory by using local examples. We could of course, take any number of local successful businessmen as example, but I will use two. We can start with Mr. Norberg Thompson, who was a ships officer with little or no knowledge of the bakery business; who saw the need for one in Cayman and went out and got a partner or two to raise the needed capital, borrowed money, hired bakers and the rest is history. Probably one of the most successful businesses in Cayman. So successful that it led a leading citizen at one time to enquire jokingly, whether Mr. Thompson had not proven Jesus wrong when he told the devil, 'man shall not live by bread alone'. And, of course, Mr. Norberg went on and branched out, so he must have heeded the question asked by his good friend, that senior citizen.

The same gentlemen went in to the egg production. Again he is not an agriculturalist, but he bought the expertise he needed and that business was also a success.

Can anyone argue that because Captain Theo knows nothing about the manufacture of propane gas or of the manufacture of the cylinders in to which it is put, that Home Gas Limited has not been a resounding success story? No, because perhaps it is the best business in Cayman. And so it is with Mr. Conti, and his Ambulatory Healthcare facilities in America. He is an astute businessman who perceived the need for such a service; pioneered it, using architects of repute, medical personnel of repute and knowledge, but who themselves did not have the entrepreneurial spirit to go on their own. Together they created a very successful business.

If every knowledgeable person went into business on his own, the world would be a dull place. The fact that International Healthcare is a new company is only incidental and coincidental in this whole argument. It was created to do this job and on the basis of the successful completion of the job, it is my understanding that it is Mr. Conti's intention to do other projects outside of America. Not anything new, Mr. President.

It is not strange that Mr. Conti would seek to headquarter his international operations in Grand Cayman. Some of the world's most prestigious companies have either set up subsidiaries or branches in Cayman to do their overseas business for very obvious reasons. So, why not Mr. Conti and his company, International Healthcare Services? It is the same Mr. Conti who performs successfully in America in the same business.

While I am not a hospital expert, I have over the years visited a few and I visited one of Mr. Conti's establishments in Austin Town, Ohio in 1987, when I was on my way to New York and London on Government's business. As I said, I am not an expert on medical facilities, but I have been through a few including Ochner Clinic in New Orleans, the Massachusetts General Hospital in Boston, Harley Street Specialists Office and the Harley Street Lab used by most of the Harley Street Specialists in London. I have to say that I was very impressed with Mr. Conti's facility in Austin Town.

It will be seen that our own Chief Medical Officer visited Mr. Conti's facilities in America and is impressed and I believe that he is on record somewhere as saying that he is satisfied that Government has received value for money paid to Mr. Conti so far. So, why the animosity and unfounded degradation of this gentleman and his company? Could it be that up to now he has not donated a school bus to any PTA (Parent Teachers' Association) in these Islands? I trust that the significance of that question is not overlooked as I intend to use it to make the First Elected Member for West Bay eat humble pie before I finish today.

Now back to IHC contracts to provide services to these Islands and how it came about. During 1986 and 1987 this Government took a decision based on its own knowledge, the advice of Pan American Health Organisation, a United Nations Organisation and the perceived wishes and needs of the people of these Islands that a new hospital was needed. I should emphasise that during those years we had at the hospital a Dr. Frank Ellingham who was not only a qualified doctor, but he was also a qualified Hospital Administrator. At the same time with Pan American Health Organisation's help, we began to write a long-term plan for healthcare delivery in these Islands. Many long hours of work went into this and it was before Mr. Conti came on the scene. So, the concept of a new hospital and the improvement of district clinics was a decision taken before

Mr. Conti got into negotiations with Government. To be specific, the decision was to upgrade district clinics into district health centres. Those decisions are part of the records of this honourable House. I have made statements and answered questions to that effect in here.

During 1987, Dr. Ellingham, the then Hospital Administrator, with my knowledge and consent contacted, with the help of Pan American Health Organisation, Washington's Office, and his own contacts in Canada, several medical consultancy firms with a view of selecting someone to work with Government in developing a healthcare plan and a compatible healthcare delivery system. This is the usual way Government or any one else selects consultants.

Permit me to read from an article in the *Caymanian Compass* on this issue, on the 9th of February, 1990 under the heading 'Grey Area to be Clarified'. And, this is what the Chief Engineer had to say:

"Either we would have to hire a consultant to write it up [the specifications] or say, since we know that there are no locals to do the job, we get three proposals and decide from those.

Chief Engineer at Public Works, Mr. Donovan Ebanks recalled the procedures used for the granting of the Master Ground Transportation Study contract initially valued at some US\$270,000. To comply with lending guidelines of the Caribbean Development Bank, and consistent with the Financial and Stores Regulations the need for consultants was advertised, yielding 60 consultants from which six were short listed and invited to submit technical proposals. When one of the six was selected, they were asked to make a financial proposal and a mutually acceptable fee was agreed."

I pointed out, I do not have the records to say how many were contacted, but I know it was in excess of one dozen firms. It goes on to say;

"Mr. Ebanks, [the Chief Engineer] said that he did not like the concept of tendering for consultants. As opposed to physical work what you are looking to do is to hire the best mind for a suitable fee. Physical work is really measurable, but when you are looking for consultants, what you are looking at is how much experience someone has in the field. "It is no different from hiring a lawyer if you have a complicated commercial case, you are not going to hire someone whose expertise is in getting people off murder charges, no matter how low his fee," he said.

I would like to read from a letter written by one of the larger architectural firms in Cayman to the Honourable Member for Health.

"The major problem that we face in Cayman is that few architects or consultants are registered as no registration exists in this Island. The calibre of people you would usually require for sophisticated Government reports of buildings would normally be registered. If not in Cayman, elsewhere. Therefore, these people are normally subject to codes of conduct and ethics of their respective institutes. I assume that you have a similar background as a Pharmacist and Hospital Administrator."

He goes on to say:

"Mr. Tom Keller, of IHC is an AIA and is therefore subject to the American Institute. The usual and correct procedure for giving out work is to make application, short list three groups of people, interview them, select, then negotiate and agree on the fee."

I would like to read extracts from a letter from the same gentlemen to the Public Works Department about a contract which they did. I read:

"As you know we were caught up in the fee-bidding process in both the Cayman Brac Airport and the Owen Roberts Airport Fire Station and we were successful on the latter. The overrun of cost for us does not bear contemplating, but was some three times our actual fee. This was of course our risk and I am not overly concerned about it. The area of greatest concern is the fact that by cutting fees to the lowest level the temptation for the professional is to reduce the level of service. We did not do this, but we certainly would have done things differently if we had been paid what we perceived to be the full service fee."

[And, this is important, Mr. President]:

"For instance, we used in-house engineers, whereas, on a contract of this size, we would usually obtain service from our external consultants."

Again, hiring the expertise you need. So it was that on the 20th of January, 1988, a meeting was arranged in the large conference room in the Government Administration Building to receive a presentation from and to quiz Mr. Jim Conti, and I would crave the indulgence of this House to read from the notes of record of that meeting.

The notes are headed up, 'New Hospital Project', and in case

anyone is tempted to rise and accuse me of repetition, I acknowledge that I quoted briefly from this document on Thursday last (12th July), but I intend to read it in its entirety today. You will recall that those present at that meeting were Dr. Grant, who was then the Chief Medical Officer; Mr. Leonard Dilbert, the Senior Assistant Officer in my Portfolio; Mr. J. Conti from Ambulatory Healthcare Cooperation; Mr. M. Connolly and Dr. Frank Ellingham from the Hospital Administration; Mr. Thomas Keller (that was the name I could not quite make out the other day) who is Mr. Conti's architect; Mr. Oswald Rankine the Principle Secretary in the Portfolio, and Dr. Gordon. At that time Government's Dental Officer, who at one time himself had been a consultant to PAHO and World Health Organisation.

The first record of the meeting says:

"(1) Mr. Ebanks opened the discussion advising that the completion of the Master Ground Transportation Study would allow that we proceed to the feasibility study for the new hospital. Population projections are also being prepared or are available. Decisions to be made from the study relate to size, site access availability, services, future planning for expansion and programmes, role of the private practitioner and the nature of the health delivery system."

It goes on to say that I said"

"I have not ruled out redevelopment on the existing site, despite potential aircraft problem and that I also expressed intent to expand the district clinics."

The second item is that:

Mr. Conti explained his role, experience and expertise. He has been through the planning of such a project, specific experience in Ambulatory Care Services. He indicated his intention to use existing resources and personnel expertise as well as bring in required experts on his staff. He reviewed the history of the development of Ambulatory Services in North America as an alternative to extensive in-patient care. And he referred to a resource person in Healthcare Planning, Dr. David Jackson of his staff [and in brackets] (Board)."

I might say, that I met this gentleman on my visit to Austin Town. He was the Secretary of Health for the State of Ohio. He has now moved to Washington in the Federal Government to a responsible position in the Health and Human Services Department there. The final comment by Mr. Conti at that time was his commitment to adhere to budgets:

(3) Dr. Grant, in response to an inquiry, Mr. Conti outlined the relationship of the physicians who worked in his out-patient facility. Essentially that was a fee for service, direct doctor/patient relationship, emergency physicians, pathologists, radiologists and anesthetists are on salary.

(4) Mr. Connolly inquired as to Mr. Conti's experience in offshore health projects and also in-patient facilities. Mr. Conti stated, he had a broad view, an interest in the International Health Services and believed the Cayman Islands project was in many ways common to, and similar to, the United States' projects. Procedures would be locally determined. He advised he had made many visits to the Cayman Islands.

(5) Mr. Ebanks questioned the St. Francis Health Centre for which Mr. Conti was involved in developing a satellite clinic programme. Mr. Conti described some economics that Mr. Keller and he had been able to achieve in that construction.

6. HEALTHCARE ECONOMICS

The need for marketing, appropriate prepaid funding schemes and management of indigents was discussed.

7. CRUISE SHIPS.

Dr. Grant defined the need for a realistic fee schedule in order to accommodate the increasing number of cruise ships that are using the Cayman Islands for their passengers who get sick.

8. MENTAL HEALTH

Mr. Conti expressed that this is no longer a bad word and it was agreed that Mental Health Care would be a wing of the new hospital.

9. DISASTER PLAN

Dr. Grant and Mr. Conti expressed concern that a new facility plan must include provisions for its role in the event of a disaster. Concern that such planning include understanding of local building regulations and incorporates input of professional staff.

It was agreed that minutes of the meeting would be exchanged between the two parties.

10. CORPORATE MANAGEMENT

Mr. Conti in response to Mr. Rankine, advised his company could assist in developing policy and procedure manuals and assist in operational management. Mr. Rankine expressed interest in getting away from Civil Service Management.

Dr. Grant said that in his opinion, private practitioners are not receiving their share of the work load, by virtue of low hospital fees and it was recognised that in order to charge fees, one would have to look at insurance and I expressed the view that insurance was quite acceptable to the Caymanian population because of their high awareness of costs overseas when such care becomes necessary.

I pointed out that a medical doctor had to authorise care overseas before the insurance companies would normally accept the charges.

In response to an enquiry by Mr. Ebanks, Mr. Conti confirmed that construction management (not the actual construction, construction management) is a strength of their company, that is tendering process, quality control, and cost constraints."

I was interested in this aspect of their ability because Louis Seton Partnership were employed as the construction managers when the hospital was renovated previously. And it ensured that we got quality goods delivered on time at prices that could not have been obtained by Government in the open market.

CONSTRUCTION COSTS

Mr. Keller suggested that in general terms a relationship for costing might approximate: Office - \$75, Ambulatory Care - \$85, and Hospital - \$100.

That is per square foot, we are talking here, Mr. President.

"Mr. Conti confirmed the costs related to current market, prudent purchasing and the labour market. Mr. Ebanks indicated that outside contractors would not be excluded, but competitive bids would be sought (that is for the construction). Mr. Keller advised costs were influenced by construction methods and careful selection of materials. As a consultant, Mr. Conti explained his company's involvement and charges would relate to their involvement, that is study fee, project management, timely and cost effective on going operating systems support.

Mr. Ebanks expressed concern for the need of terms of reference for tendering of feasibility study which would include site studies, traffic flow service, services, acreage to be required, population projections, programmes, current needs and projected needs, new programmes, the association with out-patient services, emergency services, and district clinic review.

As regards to the new facility number of beds, their allocation, number of stories to the building, costs, funding proposals, time frame, transfer of patients, the problem of transition, possibly to include Health Plan proposals regarding fee structure, health insurance, hospital board structure etcetera."

And, it is interesting that this took us to lunch time. We went to lunch and when we returned at 2:30, by that time the Hospital Administrator and the Chief Medical Officer had determined that Mr. Conti was basically what we were looking for and the meeting proceeded this way.

"Mr. Ebanks suggested that the Ambulatory Healthcare Cooperation:

- a) Do a study to produce two documents -
 - 1) Healthcare Plan which would be later reviewed by Government and developed into a national Health Plan."

As I read earlier, the truth of the matter is, we did not even have the expertise to write the terms of reference and that was acknowledged in the comments I read from the Public Works Department;

- (2) Was a proposal to include a delivery service based on the plan -
 - b) Was to advise the Government of a fee for the above."

The rest of it went on to discuss how that would be done. One bit of interesting material here, was that Mr. Kellor was advised by me that Public Works would have the details of hospital property and site layout. Unfortunately, when they got down to doing the work, after the now Honourable

Member for Health engaged them, in order to establish exactly what was on the site they had to go and physically measure every building there. Public Works did not have a Master Plan of the site.

I must ask the question if after hearing the record of that meeting, anything sinister can be read into it? And the answer has to be a resounding no! The decision used...

MR. GILBERT A. McLEAN:

Mr. President, just on a Point of Clarification.

document that he has been quoting from?

If the Member would consider laying on the Table a copy of the

HON. BENSON O. EBANKS:

When the First Elected Member for West Bay lays on the Table of this House the copy of the original motion, which he waved about in this House, I will lay a copy of this document I am reading from.

MR. W. McKEEVA BUSH:

Mr. President...

HON. BENSON O. EBANKS:

I am talking about the original draft of 3/90 (which he was requested to lay on the Table and said that he would) and up to now, I am informed he has not.

MR. W. McKEEVA BUSH:

Mr. President, that was a copy sent to me. What the Member is reading is Government business and under Standing Orders and *Erskine May* he should lay it on the table of the House.

HON. BENSON O. EBANKS:

Mr. President, that is the same barren argument he used before he was called on to lay his.

MR. PRESIDENT:

I am speaking from memory, but I think *Erskine May* refers to public documents. I am not sure that that is a public document. It is the Minutes of an internal meeting. I repeat what I said before, I do think that Members should give a copy of things they quote from (all Members), to the Clerk. It seems a rather sensible thing to do.

HON. BENSON O. EBANKS:

I have nothing to hide, this is the file copy from the Portfolio. I am saying I will lay that when the First Elected Member for West Bay lays the document that he waved about in here as being the original copy of Motion 3/90. I have the only other copy that was made of that motion, that is the Honourable Member for Tourism, has that in his briefcase. I will be getting on to some other copies that have been used in this House and not tabled.

MR. PRESIDENT:

Would you like to continue with your contribution?

HON. BENSON O. EBANKS:

Yes, Sir, I thought you were going to make a ruling.

MR. PRESIDENT:

No, I do not see anything to rule upon, frankly, but I can simply repeat again that I think it would be useful if all documents are tabled. I understand the point being made by both Members who spoke.

HON. BENSON O. EBANKS:

I will see that the Chair gets a copy, Sir. As I was saying, the decision to use Mr. Conti was done in the normal prudent way. The Third Elected Member for George Town talks about middlemen. He should be the last to talk because in real complicated legal issues he is only a middleman. That position being...

MR. W. McKEEVA BUSH:

Mr. President, how can he refer to the Third Member for George Town? The Third Member for George Town has not yet spoken in this debate.

HON. BENSON O. EBANKS:

He has, or at least he talked about middlemen, Mr. President, in this consultancy.

MR. W. McKEEVA BUSH:

He did not talk in this debate, Mr. President.

MR. PRESIDENT:

He has not spoken in this debate, but I think it is true that he has raised the matter on another motion or discussion.

HON. BENSON O. EBANKS:

I was saying, he is the last person that should be talking about middlemen because in real complicated legal issues that is his function. He is only a middleman and his position is guaranteed by the custom and ethics of his profession. In that case, as a middleman he does not work in that capacity for 10 per cent. It is usually 66 and two-thirds or 75 per cent of the cost of a silk, a Q.C... In other words, to put it a little simpler because of the unique custom of a barrister not taking cases directly from clients, the client must pay two fees when often one would be sufficient. So who is he, the Third Elected Member to talk about middlemen?

He cannot even be convinced of that argument himself. He must only be talking to hear himself talk and, that is an experience most of us in here and the listening public would

rather avoid.

The truth of the matter is, and this is my firm opinion, that the seven Members of the Backbench (the seven who are collectively bound), do not wish this Government to be able to get on with the job of providing the much needed health care facilities in these Islands because they are afraid we will do such a good job; that it will enhance the re-election possibilities of those of us who plan to run again in 1992. Pure and simple, that is the answer.

But lest I forget, the Third Elected Member for George Town is really not ignorant of this procedure. I have here a copy of a letter to him dated the 24th of June, 1983, from American Hospital Supply Equipping and Consulting. It is a subsidiary of American Hospital Supply Corporation, 2020 Ridge Avenue, Eviston, Illinois, United States of America, Zip Code 60201 and they have the telephone numbers. The letter is addressed to the Honourable Truman Bodden, Executive Council Member, Health, Education and Social Services, Government Administration Building, Grand Cayman Islands, British West Indies. I quote:

"Dear Mr. Bodden,

As a result of the recent conversation I had with Mr. Jack Newby, I would like to express our sincere interest in helping you develop your proposed hospital on Grand Cayman Island."

Now, this is in 1983; '...your proposed hospital on Grand Cayman Island.' Does that not presuppose a new hospital, Mr. President? Or they would have talked about improving or renovating.

"As part of American Hospital Supply Corporation, American Supply Hospital Supply Cooperation has the unique capacity and experience of many projects across the United States and around the world to assist you in all the areas of hospital development. In brief our approach is - Preliminary agreement --

- 1) Determine specific present and future health care needs for the Island and provide reliable forecasts of the number of medical procedures to be performed and medical conditions to be diagnosed in selected future years. This is perhaps the most crucial step in the process and it provides the key information needed to plan the facility size, special services and equipment, medical specialists mix and staff size.
- 2) Develop a long range plan."

[The plan he is now complaining that the Member for Health wants to do. He should be ashamed of himself]:

"A Financial Feasibility Study and a Master Facility Plan to meet those needs and assess any alternative real estate locations."

[This is a letter written to him in 1983, you know, Sir as the Member for Health]:

- "3) Develop staffing requirements, operating budgets and a sound financial plan that will convince financing institutions that there loans will be safe and repaid on schedule."

You see, at that time they had problems convincing people of the soundness of their loans, that they were safe, and that they would be repaid on schedule:

"Final Contract:

- 4) Design - [and listen to this one, Mr. President], the talk at this time was for them to do the construction and equip it. That will satisfy the established needs and that will be completed on time and within the budget allowed in the Financial Plan."

It has been made clear that in the case of the proposal being put forward by the now Member for Health, the actual construction job will be put out to local tender. Only the management aspect of it; the provision of the materials and the check that the building has been built according to plan will be done by the consultants.

- "5) Train your staff on the use of new equipment and operations of the new hospital facility.

If it is acceptable to you, American Hospital Supply Corporation can complete all the work required for your new hospital under a comprehensive turn-key agreement.

Mr. Bodden the next step should be for Rubin Rosallis and me to visit with you and/or Mr. Newby on the Island. We will need a full day to discuss in detail our health care facility delivery process, to see your existing facilities and to gather enough information for us to submit a proposal

to you.

Our proposal will provide for a preliminary agreement to do the planning work needed to establish the scope and costs of the project and to finalise your equity and mortgage financing. The cost for this front end planning will be only one to two per cent of the total project costs.

When this preliminary work is completed and approved by you and the financing is arranged we will then enter a final contract for completing the design, construction and equipping of the hospital, using local subcontractors and firms wherever it is practical. The final contract amount will be within the budgets determined during the front-end planning. If this procedure is generally acceptable with you then Rubin and I will give you a call to set a convenient date for us to come and visit."

Notice all of this was going to be done in one day. We spent one whole day before we made up our minds and that was not the first meeting, I have only read that minute of the meeting in order to show how the decision was arrived at; the consultants had spent time at the hospital before, in fact, they had provided help in record management and other areas to the hospital. So they knew what was going on.

Now, I have not seen the reply, so I do not know if it went any further or if it fell down when it came to raising the finances because as I said, things were not so good those days.

MR. PRESIDENT:

Would it be convenient to take the morning break for you?
Proceedings are suspended for 15 minutes.

PROCEEDINGS WERE SUSPENDED AT 11:22 A.M.

PROCEEDINGS RESUMED AT 11:59 A.M.

MR. PRESIDENT:

Proceedings of the House are resumed.
The Honourable Member for Education, continuing.

HON. BENSON O. EBANKS:

Mr. President, I was saying that the answer pure and simple in my opinion is, that the seven Backbenchers do not wish Government to get on with the much needed health service facilities in this country. Or, could it be that someone else is held in mind to do this consultancy and building? Could it be possible that if the Backbench Members had their way, we would see the consultants changed to Rose Gardens Realty and subsidiaries and then subcontract the work to Garrett Engineering Incorporated of Tavernair Florida of which Mr. Robert R. Garant is the president? And who is the man who gave the bus, through the First Elected Member for West Bay to the John A. Cumber School? And which man was also the importer of heavy equipment into this country which was used heavily on Government's projects? And who was heavily involved in Brittany Bay development with the brothers who are now in Uncle Sam's care because of their own guilty plea for drug dealings.

You know, last week when I was out of this House, the First Elected Member for West Bay took the opportunity to castigate me and to lie to this honourable House about me. As I have said many times to that Member and all other Member of this House, past and present, they can tell all the lies they wish about me; I can defend myself. As for the truth, my life is an open book, I have nothing to hide. Anything that I might have acquired in life has been done honestly, through diligence and hard work. He, the First Elected Member for West Bay said that I told him that I was going to put the new hospital on my land in West Bay. That is an untruth. I did not tell the Member that. I did tell the Member at one time that it was my view that the 70 or 80 odd acres of land which Government has possession of in the Salt Creek area would be a good site, because even the view of the sea, the North Sound, in my opinion would have therapeutic value.

Not my land! My land does not have sea frontage, but I told him that I doubt if the consultants would recommend that area because of its remoteness from the main populated areas; that there were other drawbacks such as, the land had no vehicle access and it would need a lot of fill. I told him the same thing about a site on the South Sound. I happen to believe the view of the sea and the pure clean fresh air is, of itself therapeutic. That is my humble layman's view. I know every time that I see the sea, I feel refreshed.

To go over some more ground, the minutes of the meeting I read this morning held with Mr. Conti, on the 20th of January, 1988, shows that one of the tasks of the consultant would be to determine the site based on demographics; road access and the like. The First Elected Member for West Bay also said, that I had said in this House that Government would put a golf course or two on my land in West Bay. I did not say that, Mr. President.

POINT OF ORDER
(Misleading)

MR. W. McKEEVA BUSH:

On a Point of Order, Mr. President.

HON. BENSON O. EBANKS:

He has no Point of Order here, Mr. President.

MR. W. McKEEVA BUSH: Mr. President, the Member is misleading the House. I did not say anything about him owning a piece of land and putting in a golf course in this House. I did not mention anything about a golf course in this House.

I will mention it when I wind up.

HON. BENSON O. EBANKS: The Member is obviously confused and lacking in memory, Sir. When he was dealing with the number of golf courses that he said Government operated in Bermuda, I said that we had two firms interested in putting a golf course in West Bay. Then when he was winding up on a motion or spoke after me, he took (and I was not in here, the liberty to say that I had said Government was going to build a golf course on my land.

POINT OF ORDER
(Misleading)

MR. W. McKEEVA BUSH: On a Point of Order, Mr. President.
The Member is misleading this House. The Member knows that I spoke before him and he proceeded to castigate me because he spoke after me. I did not speak after him.

MR. PRESIDENT: I shall have the transcript checked.

HON. BENSON O. EBANKS: You do that, Mr. President.

MR. PRESIDENT: Would you go on in the meanwhile.

HON. BENSON O. EBANKS: There is no doubt in my mind what was said. What I said, was that there were two groups of investors interested in putting a golf course in the West Bay district. He and other Members also alluded to the fact that I had purchased land in West Bay where the new road mandated by the Master Ground Transportation Plan would go. That is an absolute untruth. The Master Ground Transportation Plan road does not go near the property which I purchased in 1988. The fact is from a personal point of view, I am very happy those maps are being withdrawn because I would much prefer that the road does not go through my land, but not the land purchased in 1988. I am going to clear that up later, but I want to make it clear that I am talking about land which I purchased more than 30 years ago.

I do not need the Master Ground Transportation Plan road through my land. The land I have accumulated in West Bay, which I contend is the most suitable site in these Islands for a golf course, has been acquired over the last 30 years. Long before any one every thought of a Master Ground Transportation Plan. As, I said, I do not need the road proposed in that plan.

In one place, I have over 1,000 feet of road frontage as access and my contiguous parcels of land have access in at least three areas on other roads. So, the Master Ground Transportation Plan road is only a nuisance to me, Sir. It is not an asset. That road was drawn on the map without my knowledge. When I was called to a meeting first, the road was in place and when the Chief Engineer was making his presentation he said that he had contacted all the large landowners in the area. I pointed to the map and said, what happened about that individual, he was not contacted? He smiled and said, "I thought that because of your interest in politics you would not object".

As I said, over 30 years ago I observed that the area in West Bay where I have acquired my land holdings was in my opinion the best site in Cayman for a golf course. I do not own all of the land that would be needed for one, but I guarantee you this, I am well situated that if anybody tries to develop one, they will have to deal with me because I have got the choice pieces. But, that was foresight. The same foresight I have brought to Government. What the Member probably does not realise is that the area he was talking about in North Side, included my land too. It seems that I have a nose for selecting land that is suitable for the construction of a golf course. But the truth of the matter is, it would be difficult, if not impossible, for a road to be put from George Town to West Bay without touching some of my property some where. I make no apologies for that, I paid hard cash for every piece of it.

The First Elected Member for West Bay likes to brag that he has never bought one piece [of land] in his life; that is his business, his problem. What is worse, he seems to think at this time that it is a crime for me to own land, but I know when he did not think that way, Mr. President, was when out of stupidity he charged a piece of property to secure an advance at the bank for himself. It took me some ten years; the better part of ten years to get the piece of land cleared up. Go search the Land Register.

The First Member for West Bay, has also charged that I have only looked after my family's interests during my time in this House.

MR. W. McKEEVA BUSH: Mr. President, when did this happen in this House?

HON. BENSON O. EBANKS: That is a question that I would like him to answer, Mr. President. When did I ever promote my family's interests in this House or in any office of Government?

MR. W. McKEEVA BUSH: Mr. President, I did not make... the man is just using this chance to slander me as much as he can.

MR. PRESIDENT: Excuse me a minute.
The First Elected Member for West Bay is asking you to substantiate the statement that you made in regarding to his statement about the promotion of your family's interests. Can you identify more clearly when you think that was said?

HON. BENSON O. EBANKS: The words that I used were that "the Member has also charged". I did not say that he had done it in here. I said that he has charged that I have only looked after my family's interests during my time in this House. The statement was made at a public meeting at West Bay and carried in the *Caymanian Compass*.

MR. W. McKEEVA BUSH: I did not say that he took care, I said it seemed to be the situation in the country - friends and family. I did not say he was doing it.

MR. PRESIDENT: I do not really see the difference, but, I think it would be helpful if you could produce the evidence of that from the newspaper when you can.

HON. BENSON O. EBANKS: That would not be a difficult job, Mr. President. He said, that we were a "cartel". If that might help him remember Sir.

MR. W. McKEEVA BUSH: I did not say that his family was a "cartel". Anyway I will explain in my winding up, Sir.

HON. BENSON O. EBANKS: He is going to have a lot of explaining to do before I finish today, Mr. President. I hope he has got the goods.

MR. W. McKEEVA BUSH: You better know that I got them and, it is not the one-side story that you are telling.

MR. PRESIDENT: Now, come! Come! Proceed with the debate.

HON. BENSON O. EBANKS: I know my family; the good, bad, the pretty and the ugly - warts and all. I have never benefitted specifically and directly from anything I have ever done in my public life. I have always done what I thought was best for this country, but, like I said about the property and the roads, it would be difficult for me to do anything in public life in these Islands that would not affect some of my family.

That relationship if I go back to my great-great-grandfather on my fathers side, old Samuel Matthew Ebanks or to his father, Joseph Ebanks and to my great, great grandfather Henning who was married to a Rivers on my mother's side, and if I included the Parsons and Boddens by my father's mother would encompass most of West Bay; a good portion of George Town; a fair number in North Side and yes, even in Cayman Brac. As I said, I know my family.

I am afraid that I had nothing to do with all of that. All I can do is so live my life that my parents, my children and grandchildren and the memory of those blessed souls who have gone on to their eternal reward will never be ashamed of me. However, in spite of the extensive reach of my roots I am happy to report that my genealogist cannot find any family connection between the First and Third Elected Member for West Bay and myself.

The Motion - it was the Second Elected Member for Boddan Town who during this Sitting said that once Government has entered into a contract for services there is nothing that can properly be done about it and, that is the hard fact, Mr. President. As long as the contractor performs faithfully and well his contractual obligations, it is illegal and morally wrong for Government to terminate the contract. Therefore, the actions proposed by this motion are legally and morally wrong and Government cannot be a party to such illegal and immoral acts.

I said on Thursday evening last that if I had quoted the First Elected Member for West Bay incorrectly, when I said that he said he had referred to the Annual Audited Accounts for 1989, I would apologise. He objected and said that during his talk he was quoting from the Annual Report for 1989, but the Annual Report for 1989 does not contain the details to which he referred. He was in fact quoting...

POINT OF ORDER

MR. W. McKEEVA BUSH: On a Point of Order.
If the Member can produce the *Hansard* where I said I was quoting from the Annual Report, I would like for him to say. The Annual Report for 1987, I said not 1989.

MR. PRESIDENT: I think again, this is a question of my getting the transcript.

HON. BENSON O. EBANKS: I wonder, Mr. President,...I have the transcript. I said Thursday evening, I was going to get the transcript. I have it.

MR. W. McKEEVA BUSH: I have it too, Sir.

MR. PRESIDENT: I hope they are both the same.

HON. BENSON O. EBANKS: He said, "I wonder too, from what I have seen in the Annual Report for 1989, why it was necessary for the Financial Secretary to sign contracts? Or to sign that contract or contracts when it is clearly the Portfolios' responsibility to sign it". As I go on to read from his contribution last Thursday, I will prove that he was reading from the Draft Auditor General's Report for 1989 which he had in his possession and should not have had.

MR. W. McKEEVA BUSH: That is not so. I read from the... not the Cayman Islands Year Book, Sir. I read from the reading Mr. Ebanks quoted from, but I read... I saw the picture of the Honourable Financial Secretary in the other... the Government Report. That is where I saw it. Not the 1989 Auditor General's Report. We did not get that until after the motion was ready and this motion was on the way. I will confirm that in winding up, Sir.

MR. PRESIDENT: There does seem to be some confusion because I can recall that in the Annual Report for 1989, there is a photograph which would match the description. So that is one issue now clear. The First Elected Member for West Bay says he was and I think it is clear he was in that paragraph referring to the country's Annual Report for 1989.

Now as a separate issue, this is the question of alleged quotations from extracts from a draft report or some draft document.

HON. BENSON O. EBANKS: Yes, they were in possession of a draft of the Auditor General's 1989 Report on Government Accounts and I have a copy which I got from a Member. I am going on to show that they should not have had it.

MR. W. McKEEVA BUSH: I got the Report the same time the rest of the Public Account Committee Members got their copy. But I did not use that in any debate that I had and I will go on to show. I think the Member should stop maligning the Auditor General.

MR. PRESIDENT: Now wait a minute. I do not think that is the question. This is not going to be easy. Chairman, Public Accounts Committee, just one minute. One minute. If the allegation is that there were quotations from some draft document, then it has to be shown that the draft document should not properly be quoted from and that is what has to be done.

First Elected Member for Bodden Town.

MR. ROY BODDEN: As Chairman of the Public Accounts Committee, I circulated the draft report to Members and I specifically asked the Members, told them that the Report was a draft and it should not leave their possession. I asked for their confidence and the disclosure that the Honourable Member received a copy from a Member of the Public Accounts Committee, I view Sir, in the dimmest light and I am saying here and now that I will take the necessary steps to have that person disciplined for contravening my request.

Thank you, Sir.

HON. BENSON O. EBANKS: I intend to get into how the Auditor General's Report is supposed to be handled under the Public Finance and Audit Law, 1985. It is not supposed to go to the Members of the Public Accounts Committee. It is supposed to be handed to the Officer presiding in this House and then sent, and I will quote chapter and verse to prove it.

MR. PRESIDENT: I think if you will now continue on the second quotations in question.

HON. BENSON O. EBANKS: Pardon?

MR. PRESIDENT: Sorry, I apologise for my voice not being entirely strong. I think if you would proceed now on the second matter which is identifying if you wish to, actual pieces quoted from this draft document.

HON. BENSON O. EBANKS: Where I am going is to quote extracts from another document, that that Member should not have had. Then I am going to deal with what seems to be a leak, whether it is a mole or whatever, and I am asking that it be corrected. I am going to identify the document and I am going to prove from his own words that they are identical to what appears in the document that I am referring to.

MR. PRESIDENT: Please proceed. Yes?

HON. BENSON O. EBANKS: Since I was short circuited and got into this question of the handling of the Auditor General's Report, I wish to deal with that, Sir.

The handling of the Auditor General's Report is covered by section 41 [of the Public Finance and Audit Law. It starts at section 41 and goes into section 42, so I will read both sections, so that they follow well:

"41. The Accountant General shall, within the period of four months, or such longer period as the Governor may determine, after the close of each financial year, transmit to the Auditor General -

- (a) a statement of the assets and liabilities of the Government;
 - (b) an annual statement of the receipts and payments by the Government; and
 - (c) such other statements as the Governor may specify from time to time.
42. (1) On receipt of the statements referred to in section 41, the Auditor General -
- (a) shall examine and audit the statements; and
 - (b) shall, within the period of seven months after the close of the financial year, or such longer period as the Governor may determine, prepare and submit to the person presiding at a sitting of the Legislative Assembly a report in respect of his examination and audit of the statements and on any matter relating to the performance of his duties and the exercise of his powers under this Law, together with -
 - (i) a copy of the statement of assets and liabilities of the government, duly certified by him; and
 - (ii) a copy of the annual statement of the receipts and payments by the Government, duly certified by him.
- (2) Within the period of three months, or such longer periods as the Governor may determine, after the receipt of the report and certified statements from the Auditor general under subsection (1), a copy of the report; and certified statements, together with a copy of the report of the Public Accounts Committee of the Legislative Assembly shall -
- (a) be laid before the Legislative Assembly; and
 - (b) be submitted to the Secretary of State."

Now, Standing Order 74 of the Orders of this House govern how the Public Accounts Committee gets these statements and how they are handled. Section 74(1) establishes the Public Accounts Committee:

- "74 (1) There shall be a standing select committee, to be styled the Public Accounts Committee, to consider reports of the Auditor General -
- (a) on the accounts of the Government;
 - (b) on such other accounts required to be laid before the House as the Committee may think fit; and
 - (c) on any matter incidental to the performance of his duties or the exercise of his powers as the Committee may think fit.
- (2) The Public Accounts Committee shall be nominated by the House at the beginning of a new session following a general election and shall consist of five elected Members. The quorum shall be three Members, including the Chairman.
- (3) Upon its receipt by the Presiding Officer, a report mentioned in paragraph (1) [and Mr. President, you will remember I said, this is the report that must be handed to the Officer presiding at a sitting of the Legislative Assembly] shall be deemed to have been referred by the House to the Public Accounts Committee for consideration and shall forthwith be distributed on a *confidential basis* to all Members."

Not of the Public Accounts Committee, to all Members on a confidential basis. No special treatment in here, Mr. President. My contention is that those Members were in possession of those drafts statements irregularly.

My job is not to apologise to anybody for their irregular behaviour. Or anyone else connected with Government. My job is to try to see that this country runs as the Constitution and our Standing Orders dictate and the laws of the country.

While I am at it and I want to tell you how I propose to do this, Sir. I have transcripts of all that the Member said, and naturally the Member for Health sitting here and his Permanent Secretary sitting here, who was also castigated in his speech had knowledge of the document from which he had to be quoting because words were identical as used in that document. It is not coincidentally possible for the Auditor General and the First Elected Member for West Bay to use the same language. The identical language.

So, I am referring to a letter which was written by the Auditor General to the Permanent Secretary for Health, copied to the Financial Secretary and that was the document that the Member was reading or using language from to make his speech.

Now, I am not accusing anybody of anything other than that Member who had access to that document. I am not pointing a finger at anyone, but it appears to me that some where within Government there is a mole. It cannot be coincidental that the Member can get a copy of a restricted letter and a single copy of Motion 3/90 through the mail unless there is a mole somewhere in Government. I would suggest to the Members responsible for those departments that they try to seek out that mole.

I believe that is a fair request. As I said to prove my point, I am quoting from the unedited version of tape 146 recorded between 2:24 and 2:54 p.m. on Thursday last week and I am quoting from the First Elected Member for West Bay speech. In the second paragraph he says: "In view of this large amount of money, Sir, it must be of considerable importance..."

Exact words from the letter to which I referred. At another place he says: "...none of the contracts given to IHC have gone to a Public Tenders Committee."

Exact wording from the letter. And he gets a little bolder and begins to quote a little bit more. He says:

"I would have to ask the question, whether, Mr. President, any public officer wrote to remind the Member or his Principal Secretary who is the Controlling Officer, by the way of the need to comply with Financial and Stores Regulations and that contracts over \$100,000 needed to be reviewed by the Central Tenders Committee?"

Exact wording, I do not think... Mr. President, he goes on: "...proof that IHC has been vented from monetary or technical competence." Exact wording: "...all of his contracts with IHC, because surely these contracts, all of them can tell us something."

Mr. President, exact wording again: "...he is not a health care professional." Exact wording and same sequence: "...did the Member seek consideration from our Hospital Administrator, our Chief Medical Officer? If he did, would he provide this House with their reaction to him in letter form?"

Again knowledge of another confidential memorandum from the Chief Medical Officer and I am suggesting that whoever in Government is the mole, they should be identified and you know what happens to mole. He goes on:

"I have to wonder and since the Public Tenders Committee was ignored, did Executive Council approve the contracts knowing full well that they had not been put out competitively and therefore did not represent good value for money for our country?"

Exact words and in order of comments from that letter. Exact sequence of events, it goes on: "...services provided by IHC have not been obtained openly or competitively. We have not been able to determine that proper procedure."

Exact words. And he goes on: "...maximum value for the public's money." Identical, I have got proof of your words in my bag: "...detail or in its spirit and intent." Identical wording: "...who ignored Governments established..." And that is where that tape finished, Mr. President.

So, in those 30 minutes that was the extent of the Member's quotations from the document I am talking about and that was one of the instances when I talked about the Member singing from a tune that was not being sung by the other Members with a different choirleader and not knowing the tune he was supposed to be singing. I have so much from the *Hansard* here that I do not know where to begin or where to stop. But, I think I have made the point, Sir.

MR. PRESIDENT:
could sort it out.

I was going to say, perhaps we should take the break and you

Proceedings are suspended until 2:15 pm.

PROCEEDINGS WERE SUSPENDED AT 12:44 P.M.

PROCEEDINGS RESUMED AT 2:25 P.M.

MR. PRESIDENT:

Proceedings are resumed.
The Honourable Member for Education, continuing.

HON. BENSON O. EBANKS:

Mr. President, when we adjourned, I had indicated that maybe I was finished with the document (the letter that I was referring to), but it has been pointed out to me that maybe I should read a few more chapters of this contribution by the Member to show beyond doubt that his contribution was coming from the letter that I referred to dated the 14th of May, 1990.

Even the error in the letter is contained in the Member's presentation and for the benefit of the *Hansard* and for Members, I am first going to read chapter one of the letter under consideration, then I will read what the Member had to say to remove any doubt that I am in fact dealing with the same matter that the Member had to have sight of this letter. This is what the letter says:

"Chapter 8 of the Financial Secretary's, Financial and Stores Regulation provides a set of procedures governing the award of contracts for the procurement of goods, works and services and the operation of Tender Committees. The Regulations are intended to foster fair and open competition among all potential suppliers of goods, works and services. They state specifically that goods, works and services must be obtained openly and competitively so that Government procurement can be seen by the community at large to be fair and equitable. All goods, works and services exceeding \$10,000 required locally by the Government needs to be obtained by contract after Public Tender."

Notice that the letter says, "\$10,000", Mr. President.

"The Financial and Stores Regulations are established under the authority of the Public Finance and Audit Law, 1985.

The Public Finance and Audit Law refers to the power of the Financial Secretary to make administrative regulations. These regulations are given authority under the Public and Finance Law, section 13, which states that "every controlling officer shall obey all regulations made and directions or instructions given by the Financial Secretary under section 11, and if so required account to the Financial Secretary for the performance of his duties as controlling officer."

West Bay:

This is the transcript of what was said by the First Member for

"Chapter 8 of the Secretary's Financial Stores and Regulations provides a set of procedures governing the awards of contracts for the procurement of goods, works and services and operations of Tender Committees. The regulations are intended to foster, [Mr. President], fair and open competition among all potential suppliers of goods, works, and services. They state specifically that goods, works and services must be obtained openly and competitively so that Government procurement is seen by the community at large to be fair and equitable. All goods, works and services exceeding \$10,000."

You know, this is really illuminating. Notice that it says, both in the letter and in the transcript, "required locally". Now that surely was intended to be "acquired locally". But, to show that they were copied from the letter the mistake appears in the transcript as well "required".

POINT OF ORDER

MR. W. McKEEVA BUSH:

On a Point of Order.
Would the Member say where he is reading it from, I did not

catch that?

HON. BENSON O. EBANKS:
unedited version, say part way into tape.

I am reading [the transcript] from tape 145, 12:25 to 12:45 p.m.,

MR. W. McKEEVA BUSH:

So, you are reading my speech, you are claiming.

HON. BENSON O. EBANKS:

Yes, as supplied by the Hansard Department.

MR. W. McKEEVA BUSH:

And will you now read the Financial and Stores Regulations?

HON. BENSON O. EBANKS:
point that I am making.

That says the same thing - "\$10,000 required locally", that is the

MR. W. McKEEVA BUSH:
it from?

I am saying, will you read it, because that is where I was reading

HON. BENSON O. EBANKS:
making.

This is word for word out of this letter, that is the point that I was

MR. W. McKEEVA BUSH:
Stores Regulations that I am holding in my hand. That is where it is contained and that is where I was reading it from that day.

I do not know about the letter, but if you get the Financial and

HON. BENSON O. EBANKS:
provided that in the opening of both his speech and of the letter. That is not in the Financial and Stores Regulations, Sir.

MR. W. McKEEVA BUSH:

I agree those were my words. If the Member would read the Financial and Stores Regulations, he would see the same thing there.

HON. BENSON O. EBANKS:

Obviously the Auditor General would be quoting from the Financial and Stores Regulations. [interjection] Yes, you deal with it and leave me alone. I am not balled up.

I believe that I have made my point that this letter (which is the first of three drafts), was obviously in the possession of the First Elected Member for West Bay. I wonder what the Member meant when he said?:

"Also, Mr. President, while the Member might not be dealt with by regulations or by the Public Accounts Committee, he or she will be dealt with on the floor of this House."

Those are his words, Mr. President. I also have the transcript of tape 215 of what I said this morning which caused this commotion. What I said was this: "Yes, Mr. President, I have a copy which I got from a Member."

There are three copies here and the final one (which I got from the Member for Health), is headed 'Draft 1989, Auditor General's Report'. It deals with IHC contracts which affect his Portfolio and there is no doubt, every Member including others than myself know that they have had this draft, in fact, if there was any doubt the First Elected Member for West Bay himself said: "I got the report the same time the rest of the Public Accounts Committee Members got their report."

The First Elected Member for Bodden Town, the Chairman of the Public Accounts Committee said that he circulated draft reports to Members (and I hear him talking about disciplining Members, Sir), I do not see any where in the Standing Orders where he has any authority to discipline anybody. If anybody is to be disciplined, it is those people who contravened the Law and the Standing Orders, as read earlier - the people who made that document public before it was placed in the hands of the Presiding Officer.

The Motion, as I said, seeks through some obvious and devious ways to penalise someone who I believe entered into a contract with Government in good faith and my understanding is that up to this point Government has received value for money spent. I cannot be a party to anything that is seen to be immoral or legally wrong. This contract, the engagement of IHC has been used as far as I can see, as an opportunity to do what I have always said that certain Members of the Backbench would do, that is, use their bushel to measure our corn. This contract has been used for nothing other than to malign the Member for Health. There have been charges and counter-charges, and charges upon charges against the Member without any foundation whatsoever and, of course against the principal of the contracting firm.

My old grandfather told me that you must always be careful which direction you are running when somebody cries wolf. I am going to issue a challenge to the First Elected Member for West Bay. I believe that his time could be well spent explaining to the Members of this honourable House and the country how he became a shareholder and director of Dexco Limited, the developers of Britnay Bay Development Limited, and to explain the connection to that company and that development of the Caballero brothers and Mr. Garant (and I believe he will be kept busy), Sir.

Thank you very much.

MR. W. McKEEVA BUSH:

Before the Member sits down, the Member mentioned two names, some brothers and another name. Could he say who they were? Could he repeat it?

HON. BENSON O. EBANKS:

Willingly, Mr. President.

The Caballero brothers, who I understand are now in Uncle Sam's custody for admitted drugs dealing, and Mr. Garant, who I understand is under investigation for the same offense.

MR. PRESIDENT:

I am not quite clear if you have finished your speech. [interjection] I see. Sorry, I had not realised that.

Does any other Member wish to speak on this Motion? If no other Member wishes to speak, would the mover wish to reply. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH:

If there was ever a time that I wanted to follow that Member in a speech, it is this time; if there was ever a time that I accept a challenge it is this time.

I have supported that Member and worked with him from 1972 until last year and, I think it is time that this country understands a few things. This debate has been wide enough for me and since a direct challenge has been given today, the country needs to know the truth and not half-truth to suit the Member's phrases that he is the most honest person that ever walked these hallowed halls.

Since this meeting began, the Member for Education has criticised every one that he could. He has tried to malign characters of Members of this House and of people not in the House. He has attacked Captain Charles Kirkconnell, a previous Member of the House and a Member of Executive Council, and even went as far as to insinuate and to say that the civil servants do not spend money with him. He has tried to malign the Auditor General and I wanted to get into that first, but I am accepting his challenge that he just laid down.

He has maligned the Chamber of Commerce, the manager, even to say that they are purporting that we legalise drugs. He has maligned the Young Businessman Association and the medical profession.

He has tried to destroy the character of the Honourable Financial Secretary and the Honourable Administrative Secretary, his fellow colleagues in Executive Council, and the character of my colleague, the Third Elected Member for West Bay and in fact, he has said all manner of evil against the Backbench Members. insinuating all kinds of dirt.

He took a direct attack on the Third Member of George Town, who is a director with him on the board of the Cayman National Bank. He has personally blackguarded myself, even cursing me yesterday; a S.O.B. and cursing the Third Member for West Bay also. [interjection] You did not hear that because he did not say it on the microphone, but sitting across the way, we on this side heard him, in fact he said it directly. I sat except for a few interruptions when the Member was getting balled up, and took all this. This time I can reply.

I am happy that the Member for Education's state of mind has taken him this far because as Caymanians say, "there is two sides to every story". He has told his, now let me tell the honourable House and the country mine while taking up his challenge.

A few days ago - and I want to preface this with the knowledge that the country has, so that it goes in the records that I have supported that man, and ran with him in three General Elections and supported him from 1972. I was drawn into a rotten situation by that Member where he was accusing the Third Member for West Bay, the Honourable Financial Secretary and the Honourable Administrative Secretary of doing something wrong in selling a property to Government. Then he proceeded to drag me into it by implication saying that at that time, some words to the effect: 'good riddance to bad rubbish...' and so forth.

What he did not do at that time was tell the whole story surrounding that issue to this House or to the country, as he did with his accusations to myself just now. He should have said regarding that story about the piece of land (the duplex he referred to) or the three other Members of this House that when he told me about that duplex or that sale in the campaign of 1988, he told me he was certain about the deal. He knew about it first because he knew about the \$100,000 loan from Cayman National Bank.

I still would not agree to use the story and to convince me he brought a document from the Lands Department, a copy of a document from the files at Cayman National Bank; he told me that he got it from CNB to convince me that it was a sound situation. He showed it to me and I saw the Cayman National Bank's stamp on it, but I still refused to use either document in the campaign of 1988 because I said that I had been in enough problems in court and I did not need any document to help me win the 1988 General Election, and that he should not worry because we was going to win, at least he and I were going to win. Besides that, the Third Elected Member for West Bay is some relation and I was not going to get into it. That was the extent of that situation.

He brought the document yes, but he brought another document which he did not mention in this House. The one he took as he said he did, from the files of the Cayman National Bank to show me the \$100,000 loan for that duplex. That is the extent that Member you see over there, will go to destroy any one he thinks is a threat to his political career. He would go that far to break the secrecy laws of this country. That was not the first time he used information from Cayman National Bank to try to convince me in a matter.

[interruption]

HON. BENSON O. EBANKS:

The Member is just a pure liar. I did not show him any document from CNB. I knew of no document from CNB until I got a copy from the Lands Officer delivered to me from a member of my staff a few days ago. The first document that I got does not have anything in it from Cayman National Bank, Sir. [background talking] That is probably what you believe.

POINT OF ORDER

MR. G. HAIG BODDEN:

On a Point of Order.

Calling a Member a liar is banned in all Parliaments and I insist that the Member apologise to this House. He has gone too far!

MR. PRESIDENT:

You may put a Point of Order, but you cannot insist on that.

MR. G. HAIG BODDEN:

I beg you to take care of it.

MR. PRESIDENT:

Fine, I hear you. I think the point is that this House, certainly in the last six months, has gotten unparliamentary so often that it is impossible for the Chair to control it without the Members feeling they are interfered with. The remedy is in the hands of Members.

MR. W. McKEEVA BUSH:

He can say whatever he wishes, what I am telling here is the other side of the story that he would not tell, that the country needs to know.

I will go on, Sir. That was not the first time he used information from Cayman National Bank to try to convince me in a matter. He gave me information from that same bank about the Football Association when we were trying to get financial assistance from the Finance Committee. When I say we, the First Elected Member for Bodden Town and myself were trying to get the Finance Committee to assist the Football Association. He said that I should not support the move that Roy was making because the Football Association had a \$30,000 overdraft at the Cayman National Bank and that they were a bunch of crooks. But, Roy and I helped the Football Association and did not listen to the character assassination that the Member for

Education did on the Football Association.

Now, he also told the First Elected Member for Bodden Town about that situation; the overdraft situation at Cayman National Bank. I asked the Member for Bodden Town to verify it.

MR. ROY BODDEN: [interjection] That is correct.

MR. PRESIDENT: I will let that go, but this is one person at a time in a debate. It is not a court calling witnesses, please.

MR. W. McKEEVA BUSH: No, Sir, no, Sir.

HON. BENSON O. EBANKS: You let them continue, I can make a statement on anything that is said.

MR. W. McKEEVA BUSH: Mr. President, that is just his trouble. He thinks that he...

MR. PRESIDENT: Now, listen. I am going to give you latitude because the whole of this particular Motion has had a lot of latitude, but I want you to be as reasonable as you know how. I am sure you will.

MR. W. McKEEVA BUSH: I will.

MR. PRESIDENT: You will. I am just going to say one more thing. This is not to do with this particular debate, but I must say that I have in mind as from the end of this debate enforcing Standing Orders absolutely, rigidly and this is going to mean a great deal of interruptions. I hope Members will understand. Please go on.

MR. W. McKEEVA BUSH: I welcome that because the Member that we have to deal with now has been the cause of a lot of foolishness that this House should not have had to put up with since we began in June. And, that is why we have gone a six weeks full course.

Now, as I said I would really welcome that in strict observance of Standing Orders. I might say, to be honest to the House, that when I was an early Member of this House I would not have appreciated it because I was young in the House, but now I know my Standing Orders and I can debate as good as the next one.

Now let me deal with this, and let me get the name right because he challenged me concerning two names, I believe it is Caballero brothers if I remember correctly, and Garant. Well, I know of the name Garant, but I do not know of the other name, the Caballero brothers. That is the first time I have heard about then. Let me say and I want to inform the country of that situation, I was told about that person, Mr. Garant, by the Member for Education, who said he knew the company because of that person dealing or having accounts with Cayman National Bank. He said that I would be getting a call about a donation for the district. I did get a call from a certain reputable law firm and was introduced to that person who said he would like to do something for a district in the Islands. He understood I was keen on getting things done for my district.

He asked me what programmes I had in mind and I told him about the plan I had for a community park and he said that was too much money and he had in mind something less costly. I then told him about the John Cumber Primary School needing a bus. He said this was more in line with what he was thinking. The matter was left at that.

I talked to the Member for Education about the conversation and asked him again if he knew the man and he said, "yes", he knew him because he dealt with Cayman National Bank. Now the Member for Education's name was not mentioned at the law firm. I asked the Member for Education why did he not accept the donation? And, he said, it would look better for me to accept it because he was in Executive Council and there was a precedent of not accepting donations.

He said I should not be worried about anything and the firm said, 'it was all right to take the bus as a donation for the school'. I should take the bus, 'take their advice and take the bus for the school'. After some discussion I said, 'I would take the bus', but I want to make sure that I was not putting myself in any situation that I did not know about. The Member for Education said he could assure me that everybody was above board, the law firm and the company.

Shortly after that I was invited by the law firm to be a director of the company. Again, as I talked over a lot of problems with the Member (a lot of situations with the Member for Education over our 18 years), I went back to him again and talked about the offer. I told him about the offer of fees for being a director. I asked him 'whether the fee of \$500 had sounded right'. He said, sometimes fees were high and sometimes fees were low, depending on the company.

For the knowledge of this House, that was the first time that I had been offered any directorship and I did not know about fees. The Member for Education knew of the people as he said, and he was in that business all his life (as he claims), in the finance business and so on. So, I took it that he knew what he was talking about. Anyway, he assured me that everything would be all right. At that point we then made a deal. He and I, and that he, the Member for Education would get half the fees paid to me as a director and that I would hold the five per cent shares for him and whenever he got dividend he would share with me as that development was a long-term investment. I believe that they were involved in house building.



Bank.

Now, that is as far as that one goes, that is the truth. I have told my country the truth. The truth: I went to the police, I went to the Attorney General, and I have my resignation in my hand writing right here in my file that I can show the House or show you, Mr. President.

Now, in the course of 1988, the Member held that situation over my head, threatening me with the matter, saying that his name was not committed to anything on paper. So in 1989, when I just could not take any more of that man and with the advent of the other issues that I just could not support, I went against him in 1989 and left his devilish camp with him still threatening me that he would one day, destroy me.

Now, I have told my country the truth, let him do his worst. I have done nothing wrong as I said, I went to the Attorney General and I went to the police. I say to him: Speak the truth/speak it ever/cost it what it will/he who hides the wrong, you did!/Does the wrong thing still. I supported the Member since 1972 and we have worked closely together and I relied on him for advice on practically everything because when I joined him I was a young Member and was not wise to the ways of the intricate dealings in Government nor of the financial sector. I did not expect for him to set me up because as you can see, that is what it was to be able to try to destroy me, if I ever went against him.

Now I know what all the people in West Bay had told me about that man, about what a devious, dangerous politician he is. I am happy that part of my life is in the open because I have always lived an honest, open life, working (myself and my wife), to get what we needed for our family. I invite this House and the Governor, if he wants to, to examine my financial position with Barclays Bank, the First Cayman Bank and trace it right back to the day when I joined this House and see whether I had, at anytime, done any kind of business that I cannot account for.

I am glad that it is in the open because it was not until I got mixed up with him, the Member for Education, the colleague I had since 1972, was not until I got mixed up with him that I ever felt uneasy about my position in life and was led into that situation by that man you see over there, the man that I helped get into this House, the Member for Education. But I hope the country takes note. Before I deal with the motion, I want to get in to this situation he talked about, his property. I should say to him, was my situation, which he led me into, was that any worse than him bringing in cement for Raul Gonzalez?

You might not understand because you are quite new around here, but the Cayman Islands' people know what I am talking about. He knew about it because...

MR. PRESIDENT:

Perhaps you could translate for me.

MR. W. McKEEVA BUSH:

Raul Gonzalez cement from Columbia...

MR. PRESIDENT:

I understand.

MR. W. McKEEVA BUSH:

And maybe I should tell the House that that Member over there told me that he would get rid of Truman Bodden because Truman Bodden and that Executive Council were the ones who stopped cement from coming in from Columbia.

[Laughter]

MR. W. McKEEVA BUSH:

He ought to remember that there was a cheque passed around during the Election, which was sent to me in an effort, I guess, to show me what type of man he was - for some \$21,000 paid by him to Raul Gonzalez. I gave him the cheque, and I believe at one point he went to a certain person and asked that person and threatened that person, that if they used it he was going to take them to court and let them be handled that way.

My situation was not like that, and let me tell this House that my situation that I now had boat going, bringing in western auto goods and sending them to Cuba by the Queen Annes Revenge and another boat before the Queen Annes Revenge contravening the United State's ban on trade with Cuba. That is another one of his tales that he has told me over the 18 years and one of the same moods that he is in now because I really think that the man has taken leave of his senses.

Let me tell you about another time with land. He mentioned about his buying land in 1988. Yes, and let me talk further about this land. He told me in 1988, when we were discussing our campaign Manifesto, we put in about supporting the Master Ground Transportation Plan and he told me he was going to make certain the road came down to West Bay, because I said 'now that we are putting this in our manifesto I hope our second term, West Bay will get more than our first term because they had not kept certain things that we had campaigned on'. For instance the Jetty in West Bay. I said now you are putting this in the manifesto, now I got to campaign on it, I hope you are going to make sure that we get a road down here. He told me, he was going to make certain that the road came down to West Bay because he had gotten more land from Cardis Rivers and the road was going through that way.

He told the House he bought land in 1988, but he did not tell you about the land he bought in 1986 from Cardis Rivers. Well, this is the document where he got a half share and his brother got the other half share. If you check the road you will see where it is going through and who has been pushing for it.

He did not tell the House either because I do not think this country has got laws about insider trading, but he would not tell the House that a man called Freytag (cannot make out what the name is), I believe was doing a development on West Bay Road and he was trying to get a dredging

license. Benson, the Member for Education told me that the only way Freytag was going to get that dredging license was if he, Freytag put a canal down to his "Benson's" land.

As I said, the House never heard nothing like that. The House never heard about the time when we got into hot water on Safe Haven, and when the petition started going around close to the Election, I went to him, and he and I had a fuss over it and he told me that he had an investment in Safe Haven and Safe Haven was going to go through regardless of Conseulo Ebanks or John Jefferson Jr., who I believe were involved with the petition in West Bay.

The interest I heard was that he had four lots to get in Safe Haven. Maybe, if you want to do any explaining, explain that to the House.

MR. PRESIDENT:
minutes.

I think we will take the break. Proceedings are suspended for 15

PROCEEDINGS WERE SUSPENDED AT 3:17 P.M.

PROCEEDINGS RESUMED AT 4:04 P.M.

MR. PRESIDENT:

Proceedings are resumed.
The First Elected Member for West Bay, continuing.

MR. W. McKEEVA BUSH:

Mr. President, the other matter that I want to refer to from that slanderous speech made by the Member for Education, I will give him time. I see he is coming in I want him to be in the House when I reply to him.

The Member for Education referred to a matter which took place between his wife, my wife and myself. His wife, joint owner of a piece of land he owns. The House knows, as the country knows, that his wife is the aunt of my good wife. My mother-in-law's sister. Now, I know he has said he is no relation to me or to the Third Member for West Bay. We are glad of that, Sir.

I have a lot of relationship to the Ebanks. My family came from out of Birch Street Hill area and mainly from the Northwest Point area, but his wife also came from the Northwest Point area and she is the niece of my great-grandfather, Captain Robert Ebanks. Now, I am not going to get into families because all of us have good and bad in our families. But it is most a regrettable situation when a Minister of Education would come to the honourable House of representatives and choose to bring that family matter into this House.

He replied to a situation that I had accused him of land in a 'cartel' in a public meeting. I say again, that I did not say that his family was a 'cartel'. I said that the way the country was going with the land being bought up for the Master Ground Transportation it seemed that there was a 'cartel' going on in this country. So, his family was not mentioned. I do not get on public platforms and criticise somebody's family. I will deal with him on any public forum, but I do not attempt to bring the family into it unless I am attacked.

Now, yes, they stood security for us for a piece of their land (for me and my wife that is). It was no more that could or should have been done by an aunt (meaning his wife), for a niece (meaning my wife) because except for four house lots which my wife's grandfather; his wife's father left to my wife and three other family members, that Member for Education got everything else and everyone knows that Captain Allie Ebanks was no pauper. I knew he would come behind in some statement and say he paid for it. Well, he will say that, I do not know. But he got everything else and he should have given land for a guarantee for loans to every family member because he got every bit of their grandfather's land.

Yes, he did that, that piece of property was given as guarantee. But I can tell you this and I will tell the country and the House this, he has already slandered my mother's name yesterday and if he does it again I want you to know, you can rule me out of order, or whatever, but I am going to make that Member know where he stands and I am not going to criticise his parents or no one else in his family. I am going to deal with him. Let my mother's name be kept out of this House unless I choose to bring it in.

It is ridiculous to hear that Member call me an S.O.B. and then call the Third Member for West Bay a dirty no good "F'er". That was what was said, when he was speaking, Mr. President. I hate to have to say it, but this is what has happened. That Member sits there in his seat, says all kind of things, sometimes he says it in the microphone and other times he does not. Then he goes around the district with a petition to try to make me look bad.

My behaviour cannot be any worse than his. No body has heard me cursing in this House.

[interjection]

MR. PRESIDENT:

Would you please be quiet in the gallery.

MR. W. McKEEVA BUSH:

He believes that he can slander every Member of the House and anyone who opposes him in the public by prefacing it by saying that nobody can accuse him of dishonesty. If I have a skeleton in my closet, if that Member for Education opens his closet will find a graveyard. He believes that the world does not know it, the Cayman Islands know. You can believe that.

I would like to ask him: Was he a shareholder in Project Management Limited? The company that did the major renovations at the George Town Hospital in the mid 1970's,

And, is it a fact that there was a \$90,000 overrun? And whether the Government of which he was the proclaimed leader, paid the overrun? I would like to give way to hear him explain that.

HON. BENSON O. EBANKS: Mr. President, I emphatically deny that I was a shareholder of Project Management Limited. To the best of my knowledge the settlement on the overrun of that project was less than \$20,000.

I would hope that the records of the Treasury can bear that out and certainly, I will attempt to dig up the records from the Registrar of Companies to prove that I was never a shareholder of Project Management Limited. For his benefit, the Unity Team Government tried to fly that kite in the 1970's and, it fell down.

MR. W. McKEEVA BUSH: Mr. President...

MR. PRESIDENT: Now, now, you did invite him to.

MR. W. McKEEVA BUSH: But I did not invite him [to speak] about the Unity Team Government.

MR. PRESIDENT: Please continue.

MR. W. McKEEVA BUSH: Yes, Mr. President. I know, as he was just saying, that that was thrown in the air, when I confronted him about it in 1976, he said, that he knew the people very well, but that is as far as he went. He really did not say that he was a shareholder and I did not know whether it was \$90,000 or \$20,000, but the Government paid it. He had some very close connections of course. Now, let me get to this golf course that he referred from some public meeting.

MR. PRESIDENT: Could I ask you to treat golf courses with great sympathy for me?

MR. W. McKEEVA BUSH: Mr. President, I am a great advocate that this country needs a couple. I would say to him that when I mentioned golf courses, I did not remember his land in North Side. There was another area that I saw in passing, a large piece of land and that would be a nice place when I was proposing golf courses for the country. He is right, I have no land that I can build any on. I might have one or two pieces, but I do not intend to be a land baron in this country and I certainly will not get it from people who find themselves in difficulty and are taken advantage of.

Let me get back to that golf course situation. The Member did tell me that back in the early days, the first administration that he was going to put a golf course on his land. It was not only a golf course that he told me he would put on his property and we know he bought up property since that. He told me that he was going to put the hospital there and that I had to stand firm with him because there were people who were not going to agree to put in that hospital down there.

The hospital at that time was \$10 million, that is what he told me it would be in that range. Now, they say it is \$20 million. I wonder whose land it is going on now?

POINT OF ORDER

HON. D. EZZARD MILLER: On a Point of Order. The report that was Tabled in this honourable House in February by myself identified the parcel of property for the hospital and it is already Government owned property.

MR. W. McKEEVA BUSH: Well, I do not think that was a Point of Order, but thanks for the information I would say to the Member for Health. I am reassured.

Instead of the Member for Education tending to education in West Bay and seeing that our classrooms were built which we had money for in the Budget from 1989, and which he had to know about from 1988. I know that he knew about it because I was also in the Government then. He was running around talking about golf courses and taking around petitions to embarrass me.

This country has got to know, and the House has got to know that his attempt today here was deliberate. They were planning that, he would destroy me; that I would not be able to get a seat whenever the Election is called.

Now, as I said, as far as the personal attacks, I believe I am finished with them. I have told my country the truth and I am glad that it is all in the open. He certainly led me into it, was part of it, got part of the director's fees, the few that I received and I held in my name, the five per cent for him as a long-term investment, using his words. That Member should, whenever he attacks people like he did with the other Members of this House (he only told part of the story), he should tell the truth, the whole truth and nothing but the truth: But soon a wonder came to light that showed the rogues they lied, the man recover'd from the bite, the dog it was that died.

Getting back to this hospital situation or IHC. The Member for Education, you see he was holding true to what he said about destroying me because he is not the Member in

charge, but they sent him to do all the dirty work, to lay all the slander on people that was possible. The Member for Health said two or three words and sat down. Making the brag afterwards that Benson was going to kill me. That shows you how they operate. But, the truth was told here today.

They said that Backbenchers do not wish, well you can say anything you want, Mr. Member for Education, I know that he will try to make a statement, but I would have the same right.

Let the country know, Benson is out there grumbling that Cayman National Bank - he is the Chairman and that he brought those files out. I do not know how he got them, he told me they were from Cayman National Bank, they had Cayman National Bank stamped on them. That is a breach of our Confidentiality Laws and he is the Chairman of a bank and he has the nerve to tell us on this side that we are irresponsible? And that we are bound together by 'collective irresponsibility'. What is that?

What is that? Is that irresponsibility? Or is it criminality? If there is such a thing. One thing that I do know is that I saw it, that he had it, that he showed it to me, and that I would not use it. Then he comes here and talks rot about the Backbenchers measuring them by our own yard stick. He has always tried to destroy any of his opponents by slander in anyway that he could. I am not too young to forget, and I am not saying that he did it, I am not too young to forget that the Gemmson, a fishing vessel belonging to the longest serving politician in this country had sank in West Bay, the late T. W. Farrington, CBE, and that helped put Mr. William Farrington on his backside because that was the way it was attempted. That was said, was going to happen. Now, they use a different scheme in a different year.

You are new to this country, but there is a lot of things that have been done and have been hidden so that some people can go around thumping their chests. As to his remarks or inference about my land, I got one piece big enough with my house lot, big enough to put another house on. I hope one of these days that I will get another piece of land for my children. But you can believe that I got my house a long time before I came into this one (the Assembly). More than he can say. He in talking about people getting stuff from Government, three of his children were educated by Government, now he want to slander people on this side.

The Elected Member should be ashamed of himself. They were getting scholarships which other poor qualified people could not get. He was the Chairman of a bank and director of many companies. That was the way the Education system was running, that is why he got booted out in 1976. I daresay the Caymanian people are going to do the same again and he is not going to find a McKeeva Bush to drag him in... I am not giving away.

POINT OF ORDER

HON. BENSON O. EBANKS:

On a Point of Order.

Anyway, Mr. President, I will take care of it in the statement, Sir.

That is just one more lie that I have got him in.

MR. W. MCKEEVA BUSH:

He can say it is a lie, the country knows the truth, that is the best thing. Now, as far as this good health service that he says that we do not want the country to have, according to him because that would enhance their election chances. What a joke.

First of all, we on this side and I include the Member for Cayman Brac (even if he was not included by the Member for Education), have urged the Member for Health to go ahead and get what he needs to improve or insure good health services in this country. What we disagree with is the manner: the way the Member for Health has done things. We disagree with the people he used and we disagree with the squandering of public money and I will get back, Mr. president, to this thing about value for money.

As far as their election chances are concerned, no hospital or express way is going to help that Member get elected. The only thing which can put him and the Member for Health back in this House in a General Election is for them to bring in a new set of people because Caymanians are going to reject him.

We, on this side, support good health services. We want the best for our people, but we know he can say what he likes. The Member for Education can say what he likes, but we know the squandering of public money that took place when he was a Member for Education back in the early days, when the country could least afford it, times when only a few people in this country had anything and the rest of us had nothing. They did not care, they just put up the taxes and did what they wanted. Poor people, some children here could not go to school for hunger [want of food], for want of clothes. How much was being done by that Member?

We need proper facilities, but you do not get good hospital care by a big building. You need more than that. And, I have always said it, there needs to be renovations done up there and even more rooms. I have given an alternative. They do not want that. Why? Why?

We have said that you can move the Mosquito Research Unit because it should be moved from the hospital compound and that rooms could be built there and other necessities if that is possible. We believe that we can get it without putting this country in the hands of Merrill Lynch. That is what is going to happen with his grandiose projects. I know they say that we, well they have made all sorts of claims regarding the loans - but, the fact is that this country can only do so much at one time. This is what this Backbench Members have been saying. We know the position that we got in back in 1982 to 1976.

MR. PRESIDENT:

Are you likely to finish in a few minutes?

19th July, 1990

Hansard

993

MR. W. McKEEVA BUSH:

No, Sir.

MR. PRESIDENT:

First Official Member.

ADJOURNMENT

HON. THOMAS C. JEFFERSON:
until 10 o'clock Monday morning.

Mr. President, I move the adjournment of this honourable House

MR. PRESIDENT:
morning.

The question is that the House do now adjourn until Monday

against No.

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

AYES.

The Ayes have it.
The House is accordingly adjourned until Monday morning.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., FRIDAY, 20TH JULY, 1990.

**FRIDAY
20TH JULY, 1990
10:25 A.M.**

MR. PRESIDENT:
Services.

Prayers by the Honourable Member for Health and Social

PRAYERS

HON. D. EZZARD MILLER:

Let us Pray.

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

Bless our Sovereign Lady Queen Elizabeth, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess of Wales and all the Royal family. Give Grace to all who exercise authority in our Commonwealth that peace and happiness, truth and justice, religion and piety may be established amongst us. 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

MR. PRESIDENT:

Proceedings of the House are resumed.

Item 2 on the Order Paper is Government Business. The debate on Government Motion No. 4/90, which is being moved. Does any Member wish to speak?

The Third Elected Member for George Town.

GOVERNMENT MOTIONS

GOVERNMENT MOTION NO. 4/90

RESOLUTION TO ALTER THE DEVELOPMENT PLAN 1977

MR. TRUMAN M. BODDEN:

Mr. President, I support this Motion that Government has brought and I have some comments in relation to what the Member said.

We, the eight Backbenchers have always believed that there are some serious traffic delays, especially at peak hours and that the repair and upgrading of roads as well as new roads are necessary. That is a basis upon which we have operated in relation to the Master Ground Transportation Plan. The areas that have been raised by the Member, some of these we have been able to look at, other areas we have not really had sufficient information to look at. However, the position has been clearly set out in a fairly precise way in press releases that we made and I think it was only the seven of us who made these back some time ago. We have always operated on the basis that if we do not agree with something, we say why, and we do so normally. If it is a major matter such as this, we do so in writing.

I would like now to just restate areas of our reasoning in relation to the Master Ground Transportation Plan. Firstly, we accepted that there are serious traffic delays, especially at peak hours and that the repair and upgrading of the road, as well as new roads are necessary.

Secondly, before approving any Master Ground Transportation Plan for roads, we felt that as protectors of the public's funds, we requested the Member for Communications and Works to let us have the following information:

- 1) The total cost of the construction of the proposed roads.
- 2) The cost of Government acquiring the road reserves laid out by the Master Ground Transportation Plan.
- 3) How much taxes will be imposed upon the public? In what areas they will be imposed and

when they will imposed.

- 4) Where will these very substantial funds, which we estimate to be in the range of \$100 million be borrowed; and
- 5) How will Government repay this amount?

I am very pleased to see that in the Plan which the Member has set out and before he brings these projects back, he will deal substantially with what we have given as reasons for not approving the Plan.

Another point we made was that this network of roads consists of two separate roads in many areas; 1) a highway to which access can only be gained every three or four miles, and 2) a feeder road which must run parallel to the roads. In effect, two roads will be built in most areas stretching from West Bay to North Side and East End.

I am happy to see that this point is being addressed by the Member because the best example perhaps is where a road is being built between the main road and the North Sound and no access to that main road is being made except every four miles or thereabouts. Then feeder roads have to be put in to link people's land back to the main road. The principle of not having too many entrances and exits I accept because it does allow traffic to speed up, but it does mean that you have to have a separate second road to get people over the three or four miles on to the highway.

Fourthly, we submitted that these roads would be very costly to build as many of them through swamp and others are very expensive for Government to purchase, as they pass through expensive dry and swamp land. This was really one of the things that worried us because as we can show, the cost of doing a road over dry land is expensive enough, but when it goes over swamp land and a lot of swamp areas have to be filled, it is a much more expensive project.

We also submitted that we felt that the Member for Communications and Works had failed to adequately repair and maintain the present roads. We felt that he should now move on with this in the meantime so that the public's suffering can be lessened. With regard to an area that was dealt with by the Member, we are concerned that land owners are now being restricted from any future building in road corridors and the compensation provided under the Law is very limited. I would like to draw the Member's attention to that, that the compensation provided under the Law is limited. He did deal with this in his opening and he did point out that section 25(5) of the Law relates to undue hardship. That is correct, but the undue hardship he must accept is very limited.

In fact, reading from that section where it refers to: Exco is satisfied that having regard to the small size of portion of land held by that person or other physical features of that land. The reservation of the road corridor affecting that land will cause that person undue hardship". I am just reading from the Law there. Compensation in terms of hardship is restricted to the small size of the land or physical features of the land and in effect that section could only be applied to very limited amounts of property because the times that it would arise would have to be limited. Hardship could come from many areas, including the fact that if the road is running through it, especially if there is no feeder road to it, the value of the land has to be considerably diminished if you go to sell it, then it would considerably less.

The Member did point out that compensation can be triggered by making an application to the Central Planning Authority for planning approval. My question then comes back to what we asked earlier; "How much would the compensation be"? Once the Law is brought into effect and legal rights to compensation have vested, Government is legally bound to pay this money once it falls within the Law.

Therefore, money should appropriated for it, and the amount of the compensation should be known. In my view you will find that land-owners, especially if they had any idea of the extent of the damage would want to make the claims. I think Government will be paying substantial sums of it. We cannot exclude the fact that people it will affect could get substantial sums of compensation for the damage to their land.

We also feel (and I continue to feel), that the Member for Communications and Works has failed to adequately consult with the public and that this should have been more extensive. He has mentioned certain people and companies (legal entities), I would say he did consult with, but I think that wider consultation should have been done. I note that what he is doing in the future, this will be a prominent part of it.

Some of the arguments given were that the cost to build the roads will increase in the future. To that we felt that while the roads will cost more, Government's revenue will relatively increase unless this Government stagnates or destroys a part of the income or economy of the Cayman Islands. So, things are relative; the cost of roads will go up, but presumably the revenue of Government will go up similarly and will off-set it.

We also felt then, and it is obviously the feeling of the Member now, that the road reserves under the Master Ground Transportation Plan could only be left in place for a limited period of time because it was unfair and undemocratic for the public's property to be restricted from building upon, tied up, and made practically useless because the Government had prematurely declared road corridors without knowing the costs. Further, if the public's money is appropriated to purchase property in the road corridors (which are the maps we are referring to here), then in areas if later on the corridors cannot be afforded, Government could have wasted a substantial amount of money for a narrow strip of property which other than for use as a road would be useless.

If the corridors were left in place and we had to buy a

substantial amount of land in a remote area, running somewhere that Government really was not intending to build on for another 15 or 20 years, that money might be wasted because the land could not really be used for anything other than for roads.

We also felt that it was obvious to the public that the Cayman Islands cannot afford the massive networks of proposed roads under the plan. I am happy to see the Member has agreed at least with us on that point and he has agreed to scale-down, for example, the 120 feet corridors to 60 feet. When we are only building a road with 24 feet of asphalt, which is all that would be needed to take two lanes of traffic. It seems to me that 120 feet for using 24 feet is manifestly excessive.

We submitted then, as the Member dealt with in his opening, that we were of the opinion that the only responsible approach to this matter is to suspend the road corridors until Government can do its home work and produce the necessary costing and the matters from one to five as I mentioned earlier.

At that time we had proposed, as an affordable alternative, that the West Bay road be widened to four lanes which the Government experts who produced the MGTP, said could be done for \$4.9 million. Now the Member (and we did get copies of this from him), did a costing on the Seven Mile Beach Road, and as he mentioned earlier, it was somewhere in the range of \$8 million to \$10 million for some of the five different ways that the road could be widened to four lanes, excluding purchasing major properties.

We would be looking at a sum which is far in excess of what his experts put in the Master Ground Transportation Plan documents a few years ago. That is why the amount that the Member mentioned of \$23 million for the roads coming from Holiday Inn through the swamp, up to George Town is obviously extremely low.

The reasoning for that is that where this is quoted from in the Master Ground Transportation Plan, they had not taken into consideration the cost of land under the provisions of the amendment to the Roads Law. We know that if it is going to cost about \$10 million just to build a road over a road which now exists in West Bay without paying for the slight amount of land, that is the 50 foot right-of-way there now that we are only extending to 64 feet or if you go on some of the valuations given of widening it to 78 feet, and if we deal with just using the 64 feet to purchase 14 foot of road, and to build a road over the present West Bay road, if that is going to cost \$10 million excluding the buying of the major parts of property then there is no way that you can build a completely new road through the swamp and buy all of the land, not just 14 foot out of the 64 feet for \$23 million.

I would say that on that the Member needs to revise his figures when he is doing the exercise of scaling down the MGTP and come back to this House with practical and up-to-date figures. I would think that if the cost of dealing with the present West Bay road is \$10 million, which I have no doubt it is as we have the figures on it without dealing with the acquisition of the major parts of it, then I would guess you are looking at four or five times the cost to deal with building a completely new road through the swamp to George Town. Probably I would say somewhere between \$50 million to \$70 million and there is only so much that the country can afford. Really, if we are going to put out large sums of money, I believe we have to look at how best it can be spent and I will be dealing with the alternatives very shortly.

The general view at the time we dealt with this some months ago, was that a certain amount of homework had to be done, a certain amount of details had to be given and I am happy to see that the Member is now addressing them. The Member mentioned that in relation to West Bay road, which I will now go on to deal with, there were 22,000 cars passing over the road at Merrens Centre in 1989; up from 20,680 in 1987. The figures I have no doubt are correct, but what he should go on to explain (and these were the figures given to us), was that that is only true at the Merrens Center. As you go further north towards West Bay, the number of cars gets less and naturally because some people deal with businesses which are not that far down.

At the Holiday Inn there was something like 15,500 cars in 1989 and in West Bay there were 7,000 cars. These are the figures his experts gave to us at a meeting. So we are looking at the heaviest part of the traffic on the West Bay Road being much nearer towards George Town.

I would now like to deal with what I see as some of the alternatives that are affordable because if all of the money is spent on dealing with just one strip of road, there is going to be neglect in other areas. Let us take first the West Bay Road. I have had the opportunity, with the permission of the Member for Communications and Works, of discussing with the Chief Engineer some alternatives to doing what we originally requested which was four lanes on the West Bay Road, which once again is very expensive. He also mentioned the fact that widening the West Bay Road would have limited effect, as the Member mentioned in his opening.

One of the exercises he gave me was if the West Bay Road had another road coming off somewhere or in the vicinity between the Shopping Centre and the Cinema, it could connect to one of the dyke roads. It would not fully follow that road because it diverges somewhat and brings traffic out where North Sound Road has a road connecting School Road on Eastern Avenue with the North Sound Road. In other words, it would connect 1,000 or 2,000 feet before A. L. Thompson's Hardware Store on Sound Road. That was approximately 1.75 miles and the swamp in that area is very, very shallow. In fact, some areas had practically none compared to deeper swamp to the north of it. That would lift (what I think is) the larger part of traffic off it and take those that were going to the Airport or into the North Sound/Industrial area straight across and avoid blocking the road between there and George Town.

The costing which the Member gave on that was \$6.5 million. It is one and three quarter miles of road and the cost of it was \$6.5 million. It would be a two lane road and this would in my view relieve traffic for quite a while to come. However, other alternatives that I discussed with him, I have not so far received the figures. What I have been able to do is, gone to a private professional who has very kindly spent time with me and I have been able to come up with figures on what I see as some of the alternatives. The figures I

am giving now are based on an asphalt/cement road with two feet of fill. This would be what the cost from the private sector was, and I would assume the Public Works Department would be in about the same area of \$3.30 a square foot, or \$90 a foot for a 30 foot wide road; a mile would cost approximately \$0.5 million without the cost of the land. And that is what the balance of this will be based on.

In relation to the West Bay Road, I also got an alternative and that was to put in a third lane which could either be, depending on what results showed, that we could have two lanes coming into George Town from West Bay and one going out. Perhaps this would be the better approach because the back-up of traffic is normally in the mornings coming into town when everyone is trying to get to work or trying to get children to school.

To deal with the shoulders that have not been paved, and I would point out here we would not have to buy any land, which is very important, then it would be \$2 million and that, once again, is an affordable amount. It may well be that we look at this in phases. As to putting in the third lane, let us look and then see whether that eases traffic. If not, then we may have to look at \$6 million to take a bypass off the West Bay Road and run it into the Sound Road.

The other area that I have private figures on is how to relieve some of the congestion of traffic coming from the outer districts of Bodden Town, East End, North Side, Savannah and thereabouts into town. Two things are relevant here; one, is the fact that many people take students to school. What we looked at is that we follow the road coming in, called the Bobby Thompson Road (opposite the old Agricultural ground, near the Airport), and take it along roads that are already built (and that road is built a long distance in), and come out, connect with the roads that connect the schools, sports fields, so that people could turn off there and drop children at the Middle School and to the back of the High School and the Private Schools without having to go on to Walkers Road. That would ease the congestion, leaving Walkers Road naturally for people coming from the George Town and West Bay area, if they so wished. Most importantly it would take people from the schools to there. I will comment on the question of the schools and the traffic at a later stage. While that road meanders a bit, it is not a direct road. It was estimated that approximately \$3 million could deal with the upgrading of the roads that needed upgrading and the building of new roads there. So we would be dealing with an overall cost, depending on whether the \$6.5 million was brought in, maybe \$5 million or \$6 million to begin to relieve traffic coming both from Bodden Town and West Bay.

Lastly on this point because a Member has really thrown at the Backbenchers - "what could the alternatives be" and this is what I am replying to. If we phase the upgrading of the roads (and I will admit that this would not be as good as having a second highway), travelling the full distance from West Bay to George Town or from Holiday Inn to George Town, I think we have to live within our means and if we can spend anything up to \$10 million, that is affordable in the near future and then phase the balance on a long term basis.

From the Eastern districts there could be a connection along another road that now runs parallel near the Crewe Road beginning at the traffic signs, just beyond the Lions Club and coming down the back of the subdivisions there. In fact, there are a lot of houses in that area that could be served. Another phase could be connecting the South Sound road directly into the schools.

While on that subject I believe that what impacts heavily and has to be looked at as an alternative is the fact that apparently there will have to be built what will probably be a middle school and a new high school in some of the other districts. That will take a lot of the traffic off the roads coming to those in George Town.

It is evident that in times like now when the schools are out, there is very little traffic compared to the time when schools are in and people are on the road. It seems that building of new schools in the outer districts, wherever that may finally be, is going to ease the impact of the traffic, at least which comes from those districts where children are dropped off at school.

I believe that there are good alternatives at a cost that is not excessive. The other areas that impact on traffic as alternatives (which we did ask the Member when we were in Finance Committee or one of his people within the Public Works Department to do), was to look at what is the impact of other things on traffic. We have looked purely at dealing with the physical side of building new roads, but other things could be looked at, and I do not know what the impact would be. I do not want any other Member from the Government saying that I am offering these as total alternatives to the plan or anything else. I am merely throwing them out as areas that should be looked at, at some stage. One was the schools in the other districts, the second is a move towards some pooling of passengers who are going in the same direction. A bit of this is now done. One parent would probably take two or three children to school, which avoids at least having traffic in the area by those other two parents. Another is the possibility of staggering the hours which schools and work may overlap. Public transport is another area to look at so as to see the impact of it. These are some of the areas which would help, but naturally would not make the need for more roads to be disregarded, but these are things that could help. I believe that covers most of what I had to deal with.

In summary, the statement I was dealing with was what all of us had said, but I think that I would be very happy if the five points (and I note that the Member has set these out, unfortunately, I did not get the five points fully written down), I missed number four. He said that he would deal with scaling down the MGTP from four lanes to two and that he would address the problems of access in areas on to the road. He would also deal with determining the total cost and expenditure of those roads, which once again we fully agree with.

The fifth one was that he would determine the funding arrangements and the measures that would have to come in for that, presumably whether that would be loans and or increases on duties and taxes or whatever. I really believe when that is done we would be in a much better position to deal with this. When we look at the overall projects (and roads have to be looked at with priority), to

other matters such as Education which obviously has to have priority as do medical services and the like. The money that Government has, has to be spent wisely when dealing with this. We cannot just take and spend all of the money in one area and leave none for the others. Balanced against this, I accept that the growth of the economy here is 12 to 18 per cent per annum as we have heard, that must be taken into account and proper future planning of what can reasonably be afforded. I stress that what can be reasonably afforded because we have to live within prudent means and what I believe the country will be able to afford.

I would ask the Member, naturally while I do not have access to a lot of details drawn up on these alternatives, I do believe that the ball-park figures that I have given on these three alternatives are something that should be looked at and considered carefully. Once he has completed his exercise with the scaled-down version of the MGTP, I would be very happy to sit down (I guess it may well be public by then, or private, or wherever, or both), and have a good look at it.

My words of caution are: Yes, we believe we have a problem with traffic. We know we need roads. We have to look at alternatives that could lessen the impact, as I mentioned earlier such as pooling arrangement, staggering of hours, altering of hours - when I say staggering them so that there is no overlapping with some businesses or schools. Then decide how much the country can afford and live within the means of what we can reasonably afford for the future.

Thank you.

MR. PRESIDENT:

Does any Member wish to speak?

The First Elected Member for West Bay.

MR. W. McKEEVA BUSH:

Mr. President, in the debate on this Resolution on Wednesday by the Member for Communications and Works he referred to the *Hansard* where he quoted me as saying that in February or May, I had supported the putting in of the corridors. It is a known fact that the Government of 1984 to 1988, I supported the study of the Master Ground Transportation Plan because I believed that we needed to see what the position was. My support was given in good faith and I supported it up until that point last year, as the Member referred to. Having given my faith in the Government, I expected to hear and know of Government's Financing plan because that had been the practice of the Member before him during the study course of the Master Ground Transportation Plan, to keep us well informed on each step.

It is ridiculous to come to this House 17 and a half months later for Members to hear that he, the Member for Communications and Works had a plan, but did not show or inform us on the Backbench about it even though he was questioned in the House on the matter. The House will recall on Wednesday, that he gave an outline of some five-point plan. I did not manage to get down the notes on the points of that plan, but he - and I asked him - still never told me that he would do so in the winding up what those points are.

It is significant to know that he was questioned in the House. It is significant now to read from the *Hansard* the questions concerning the Master Ground Transportation Plan of the financing which had become the focal point of that Plan, and I want to read question No. 87, on the 7th of September, 1989:

"THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS & NATURAL RESOURCES

No. 87: Would the Honourable Member give an update on the Master Ground Transportation Plan and, in particular, state how it is proposed to fund the implementation of the plan?

Answer: Work is proceeding on several fronts in relation to the Master Ground Transportation Plan (MTGP) under the direction of the MGTP Steering Committee.

The prescribed composite maps (PCM), which incorporation into the Development Plan, 1977, was approved at the May meeting of the honourable House, will shortly be effected, preserving the proposed corridors. Work is underway to incorporate the concepts put forward by the Technical Advisory Committee (TAC) in respect of roads for central George Town into this map series also. Subject to the necessary considerations by the Central Planning Authority (CPA) and the Governor-in-Council, it is hoped to move a resolution at the November meeting to similarly incorporate these into the Development Plan.

In addition, the following efforts are underway in respect of the proposed Phase I project (Holiday Inn to Crewe Road with a connector to central George Town):

1. A Project Manager has been engaged to manage and coordinate the various activities in preparing and implementing such a project.
2. An agreement was signed on 1st September, 1989, with David Lashley & Partners of Barbados (one of the firms responsible for the MGTP study) to carry out the necessary detailed designs and prepare the construction drawings, specifications and contract documents to enable the project to be put to competitive tender. This work should be completed by April 1990.

3. A team of land valuers is being engaged to carry out valuations necessary for acquisitions in accordance with the Roads (Amendment) Law, 1988. Actual acquisitions are expected to commence in early 1990.

Finally, considerable work has been done in respect of the funding of the MGTP projects as well as the traditional Capital Roads' Programme. It is anticipated that the Steering Committee will wish to seek input of Members of this honourable House as well as the public, as was the practice during the study, prior to making any formal submission to the Government."

The key point here is found in those last few lines. If this was so, if the Member was wishing to seek input of Members of this honourable House and the public, as he said, why did he not come to us with his financing plan that he spoke of a few days ago? We must remember that he said that in May, I helped to preserve the road corridors, and as I said, I did that in good faith hoping to get from Government thereon what would be the cost of these plans.

Now the road corridors were removed in November of the same year. This is where he is saying that I am being inconsistent. I will come to the inconsistency, but I want to carry on because the Member did not show in his answer, the meat or the important aspect of the road plan, the Master Ground Transportation Plan and that is the financing of the plan.

Supplementaries - to go on Mr. President:

[Mr. Bush continuing] "Thank you, Mr. President.

Mr. President, it was a long and detailed answer, but I do not think it covers the latter part of the question which asked in particular for him to state how is it proposed to fund implementation of the plan?

The Honourable Member answering:

"Mr. President, to clarify the point made by the Member the last paragraph states (and I will read it again) [and he quoted it]: "Finally, considerable work has been done in respect of the funding of the Master Ground Transportation projects, as well as the traditional Capital Roads Programme. It is anticipated that the Steering Committee will wish to seek input of Members of the honourable House as well as the public, as was the practice during the study, prior to making any formal submission to the Government". [This is in respect to the funding.]

So, he only repeated what he said. The Third Elected Member for George Town, then asked a supplementary question:

Can the Member say, what is the total projected cost of this Master Ground Transportation Plan?

The Member answering: "The answer is \$22 million, Mr. President".

The First Elected Member for Bodden Town, then asked a supplementary question.

Mr. Roy Bodden: "Thank you, Mr. President.

Concerning the Honourable Member's reply to the second part of the substantive question; "Is the Member then saying that up to this point in time, no definite method of fund raising has been arrived at?"

The Honourable Member answering the question, but I want the House to note that:

"Mr. President, I think the answer is quite explicit. It states here, in answer to that supplementary that considerable work has been done with respect to the funding of the Master Ground Transportation Plan projects."

The House will note that there is no mention of any financing plan, and he did say Wednesday that he had the plan from February. This is in September, we are asking this:

Mr. W. McKeeva Bush:

Mr. President, a supplementary. The question asked specifically how it is proposed to fund? I think he is setting out what will happen, but he is not setting out exactly how they plan to fund this \$22 million.

The Honourable Member answering the supplementary.

Mr. President the work on funding the Master Ground Transportation Plan is being carried out in consultation with the Financial Secretary's office in the same way the amendment to the Roads Law was developed in consultation with the Attorney General's Office.

Mr. W. McKeeva Bush:

Mr. President, a supplementary. How is Government going to get the money? Is it going to raise taxes on vehicles? How is it going to raise the funds? This is what we are trying to establish.

Very, very clear, we wanted to know where the money was coming from to fund that plan. I point out again he is not saying (but yet he came here on Wednesday saying) that he had a plan from February.

Mr. President, this is the Member answering that supplementary:

"Mr. President, I would hope the honourable Members of this House would find that getting a road plan in the Cayman Islands is as important to them as it is to the Members of Executive Council and that they will come forward with suggestions as to how we should raise revenue. But to specifically answer the point raised, the Committee has been set up and the Members are aware of this (the Master Ground Transportation Plans Steering Committee), that will be making recommendations to Government.

It is also hoped that the private sector will get involved in this. As a matter of fact, the Financial Secretary and I propose to form a committee that will be appointing members of the private sector to advise Government in this matter."

You see what is happening? The Member had it planned to discuss with the private sector or some members of the private sector that he was going to get funding or how it should be funded, but the Members on the Backbench asking the question in the House, could not get an answer. Yet he had a plan.

Mr. President, the Third Elected Member for George Town, Mr. Truman Bodden:

"Mr. President, the Member gave the reply of \$22 million, is he saying the total? In other words, all of the Master Ground Transportation Plan will cost \$22 million? Secondly, does that include the cost of the acquisitions of land?"

The Honourable Member replying:

Mr. President, the \$22 million deals specifically with Phase I of the project, as was stated in the answer. It does not deal with the Phase II part of the Master ground Transportation Plan.

Mr. President, I think there was a second part of the question about the acquisition of land.

The Honourable Member, Mr. Pierson:

Sorry, Mr. President. Yes, the answer to the second part of the question is: Yes, it includes the acquisition of land.

Then Mr. Bodden, the Third Elected Member from George Town asking a Supplementary.

Mr. Truman Bodden: Last question on this point. The other phases from Phase II onwards, can the Member say what those costs are? Because the question just dealt with the Master Ground Transportation Plan generally as I see it.

At that point the Standing Orders were suspended so that we could carry on into that question. You can see that the question was taking a mighty long time. Then once the suspension was taken the Member replied:

"In answer, Mr. President, to the supplementary: This information was given to Members of the Legislative Assembly during the presentation here of the Master Ground Transportation Plan. All Members of the Legislative Assembly were brought into meetings and given information on the progress of this. But just to answer this question again, the \$22 million was based on 1987 figures and could well be more than that at this point in time."

Then the First Elected Member from West Bay on a further supplementary:

"Mr. President, I note that the House still has not been told how it is proposed to fund the implementation of the plan. Is the Member going to give us the answer?"

The Honourable Member, Mr. Pierson, the Member for Communications and Works replied:

Mr. President, I do not know what language I am speaking here today. I thought it was English. Various options will be examined. We are setting up a committee to examine various options. We have not made a definite decision yet and I would hope the Member asking the question would come forward with some suggestions."

Well, we know that again he has pointed out that they are looking at it. We know since then he said that he had a plan in February, a financing plan, but still the House was not told how the Government was going to fund the plan. And here he was asking that I come up with suggestions to funding. Well, I have come up with suggestions which they have thrown out.

I can take the break at that point, Sir.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

PROCEEDINGS WERE SUSPENDED AT 11:33 A.M.

PROCEEDINGS RESUMED AT 12:04 P.M.

MR. PRESIDENT: Proceedings are resumed.
The First Elected Member for West Bay, continuing.

MR. W. McKEEVA BUSH: Mr. President, before we took the break I was going to get into further supplementaries from the *Hansard* of 7th of September, last year. And I quote now the First Elected Member for West Bay in a further supplementary:

"Mr. President, I note that the House still has not been told how it is proposed to fund the implementation of the plan. Is the Member going to give us the answer?"

I had read that part already and I had read the Members answer to that question. I come down now to the supplementary question put forward by the Third Member for George Town:

"Mr. President, I would like to repeat my last question because something in the English language seems to have become difficult here too. The Member said the \$22 million was for Phase I, my question is, "Do you have more phases and how much will those phases cost?"

HON. LINFORD A. PIERSON: Again Mr. President, this is for your ruling, but all Members were given copies of the Master Ground Transportation Plan. The information being sought by the Member is in that document, but yes there are other phases, otherwise we would not have referred to this as Phase I. This in itself implies there are other phases.

MR. ROY BODDEN: Thank you, Mr. President.
Could the Member say if in the method of fund-raising considered an increase in taxes on gasoline and motor vehicles is one of the methods being considered?

HON. LINFORD A. PIERSON: Mr. President, I am glad that the Member has finally got to the crux of this question. The answer to that is "No". We are still examining ways and means of raising revenue."

Well, we know that at that time in September, the Member said that he had a plan; now he says he had a plan in February of 1989. In September of 1989, he says that he did not know anything about the cost and he did not know anything about the taxes. Here, he has said that they were going to put an increase on gasoline. We know now that is a fact, they have increased gasoline and what an increase it was. Now we have another supplementary from the Third Elected Member for George Town:

"Mr. President, with respect I ask two things: Are there more phases, and how much will the extra phases cost? I am asking the Member if he can answer it. Please, answer me on it. I have asked that several times."

MR. PRESIDENT: The Member has referred to a document in the possession of Members, therefore it is permissible for him to make the reply on that basis, if indeed that is the case.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN: Mr. President, that is not a public document

as I understand it.

MR. PRESIDENT: But it is a document in your possession [addressing the Hon. Member for Communications, Works and Agriculture]. May I ask a question, is it a document that is in any way restricted?

The Honourable Member for Communications and Works answering the President:

HON. LINFORD A. PIERSON: Mr. President, it was made available to all Members of the Legislative Assembly.

MR. PRESIDENT: We are getting into rather complicated issues. Am I to understand from the Honourable Member's reply, that he does not wish to make public this information at this point? Am I to understand that at this moment you do not wish this information to be made public?

HON. LINFORD A. PIERSON: No, Sir. The document was in fact tabled in the House."

he did not answer the Members question. But what that document does not contain is costs, and therefore

The Member's question was answered to the point, that "yes, the document was a public document and we had possession of it". But the part about cost the Member would not tell this honourable House what the cost of the Master Ground Transportation Plan was going to be or how it was going to be funded. That was the key in the whole matter.

I think the *Hansard* (and the Member himself now admitting that he had a plan since February of 1989), bears out that there was no inconsistency in my approach or position on the needs to plan for roads. There is none. I supported it, when they got to where I thought we should now be looking at some plan, some ways and means of financing these road plans. They would not come up with it.

What can I do? We have a responsibility to the country. They just cannot come up with projects and expect us to say "yes" to them without knowing what it is going to cost. How much we are going to hit our people? That would be the height of irresponsibility and I know we have been charged with that, but it looks to me that it is on the other side.

The inconsistency is in the manner which this matter has been handled in comparison to how Captain Charles, the Member before this one handled it. That Member, as I said, got the support of the Members at that time and kept us up to-date so that we knew where we were going.

I would remind the House that we gave him support. It was not because we just up and gave him support without questioning. We had many a battle, but they kept us informed. It was no special relationship that we just up and voted for it. We needed to be kept informed and the Member had attempted to do that in certain stages. The key thing here is that they had a plan of financing from February last year, as he had said, and did not let the Members of this House know, even when he was questioned for about a half an hour or more on the matter. If there is any inconsistency, the Member and the Government have to show the country how the plan got this far with good support and has now failed.

As I said, we on the Backbench support a good road programme; one that this country can afford. The Elected Third Member from George Town put across some very good suggestions and I support those suggestions as much as we have information on it. We know that I will deal with the suggestion of the West Bay Road.

I have been in Bermuda, which is a smaller country than ours. They have, I think 44,000 vehicles and 25,000 cars. They have fewer miles of road than we have, but so as not to over-burden the Treasury and put themselves in a bad position, as far as finances are concerned, they have utilised what land and roads they have in a different manner.

They have a similar situation like us here with outer districts converging to George Town; two or three areas converge on Hamilton, but what they do is what the Backbench Members have suggested that we do with the West Bay Road. You have two lanes coming up and one lane going down - three lanes. I believe that this can work and it will last. It is going to cost the country less and the quicker we do it, the better off we are.

This thing about a big highway between here and West Bay, as I said, that caught my attention at one time, but there are alternatives and that is important; alternatives that are going to cost less and be effective.

Right now school is out, the traffic is not flowing that badly. It is doing well in the mornings, you do not have that long line and if we looked at other suggestions of staggering hours, the country will not be faced with \$30 million to \$40 million in loans. That money can be spent on education and training if we needed to. I am certain we do.

We have put forward our suggestions. You know what is very glaring about the whole matter? Up until this Master Ground Transportation Plan was tabled and the road corridors taken away, there was a bypass road (a dyke road we call it), behind the Galleria Plaza. This was a road that was well used and people were using it and it served a purpose. What is glaring, is that as soon as we got into this controversy, the road was blocked at one point and a canal or something just dug through it so that vehicles could not pass. That road was well used, as I said. The taxis could use it at times to get up to the airport and the taxis complained about it.

You know that is very glaring and as I have told the Member for

Communications and Works, we want to support him, but we are not going to put this country in anymore debt than we need to. I think it would be well for all of them to step back on some of these projects, so that the country can get the desired and needed service. That is what a lot of fuss has been about - grandiose schemes.

We will work with the Member as much as is possible. What I would ask him is if he would give me a copy of the suggestions they made for taxi [drivers] to help fund the roads. I asked him for a copy of what he was reading from the other day (the five point thing) and he said "No". I am asking him to give me a copy of that financing plan. He is not too much of a bad fellow sometimes, not too unreasonable. He could save the country a lot of trouble if he walked over here. Anyway, the alter call has still been open as far as he is concerned. [laughters]

That is my position. There is no inconsistency in my approach. I want proper roads, but I am not going to sink this country in debt and let our children's children, grandchildren bear the burden.

Thank you, Sir.

MR. PRESIDENT:

Does any other Member wish to speak?

The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL:

Thank you Mr. President.

The motion before this House is an important motion and it is unfortunate that it has been necessary to come to this House.

I would like to read from what I said in this House, on the 22nd of November 1989, when the motion for the Composite Maps for the George Town area was before this House. I share the same view and concern today, and I quote from my speech of that day:

"Government Motion number 7/89, the Development and Planning (Revised) amendment to the Development Plan of 1977, is a far reaching amendment. I think we have had a very high level of debate here today. I compliment all Members on the way they have conducted themselves in this debate.

I, too, have great concerns. I have had a lot of contact from members of the community. I have asked Government to consider deferring this for additional input from the public. I am still hoping they would give that consideration.

The concern I share with other Members here today is that we have situations existing here today that did not exist when we started the Master Ground Transportation Plan. From our Budget Address we see that we have a declining birthrate and an aging population. Tourism may have reached its peak. We have our neighbours to the north which are investing very heavily in tourism. They are now making overtures to the United States of America and in the event that the republic of Cuba was to open its doors to tourism, I think we would face a dramatic downturn in the amount of visitors from North America coming to our shores.

I am not trying to cry doom or gloom here today, but I am trying to face realities. I feel that we must have our priorities in the right place. Having some background in the health field, I feel that health is our number one priority here, along with education. Transportation would come in third or fourth.

I would ask that we realise that we are a very small place, and when we employ professionals from metropolitan areas, and when they provide traffic structures, they provide for people coming from other cities into that territory. We know exactly the number of vehicles that are on the Island of Grand Cayman. There is no chance for that to increase. We have a definite number that we are working with. Where they will be at any one particular time is an unknown factor, but the total quantity we are dealing with is certainly there.

The Honourable Member for Health made reference to the number of cars which were imported, and the \$1.6 million that was earned in import duty. When we think of the import duty of \$1.6 million, that is not going to go very far towards the Master Ground Transportation Plan, not even in securing the rights-of-way.

This country has many needs. We have a problem with our youth. I think we should take a look at what Bermuda is doing, having had the opportunity to speak with a Minister from Bermuda here a few days ago. He mentioned the emphasis Bermuda is putting on their youth. I think it would be well for us to consider that. We need to get our priorities straight and I say today if we can establish these corridors without major expenditures to this Government, I then could support this Motion. But I do feel the people whose property will be taken should have input into this matter.

The other 14 Members and I who will be voting on this are not going to be saddled with the expense which we create here today alone. We are saddling not only the generations of today, but future generations to come with expenses. So I ask the Honourable Member moving this to give serious consideration in his reply to taking this to the public once again, let us be sure that we are moving in the direction that the people of the Cayman Islands want us to go."

That concludes what I said then and I would like to say today I understand the need for improved conditions on our roads, but no country plans major construction of roads when an over-employment situation exist within the country, only what is absolutely necessary. These major projects are usually held back for times when you need them for employment purposes. This we must consider.

I would like to propose to the Honourable Member today that every effort should be made, as I have said before, to consider alternatives to construction. The Third Elected Member for George Town has mentioned schools.

I have been of the opinion for some time that the opening of our public schools should be an hour later, but would mean that they would let out in the afternoons an hour later. Also it would provide for the young children of East End and West Bay to be able to leave their home at a more favorable hour and it would allow them to return an hour later to their homes and where their parents who are working would join them. At an hour later there would be less unsupervised children and I think that would lead to less juvenile problems.

This along with the possibility of those companies, which deal in the financial market, who repeatedly speak of the necessity of Cayman to move to day-light saving time when the United States and other countries move forward. They could go on a permanent basis in order that they would be closer to the European and Japanese markets. That would split the traffic in three and eliminate much of the congestion that is now on the road. Any of us who look at the traffic now that schools are on summer holidays, will see that a lot of the major congestion on the roads is caused by either school buses or parents taking their children to and from schools.

Another thing I have spoken about in this House on many occasions is a fact that police regulations should be imposed to prohibit vehicles larger than a pick-up truck using these crowded areas during peak hour traffic time. It is done throughout the world in Metropolitan areas and it would definitely eliminate a lot of the delay when you follow behind a back-hoe or a large cement truck or something else. They would have to establish their hours outside of peak traffic time and it would certainly improve traffic conditions.

I will be voting for this motion, but as I have said, it is unfortunate that the Master Ground Transportation Plan could not have gone forward. I do not feel that the country can afford the amount of expenditure that it would have entailed as it was an unknown quantity, and it still is an unknown quantity as far as I am concerned.

I say today and I ask the Honourable Member, let us explore every possibility we can to improve our traffic problem; to relieve the congestion with the least possible expense. Thank you, Mr. President.

MR. PRESIDENT:

Does any other Member wish to speak? It appears not. In that case would the mover wish to reply?

HON. LINFORD A. PIERSON:

Thank you, Mr. President.

Firstly, I wish to thank the three Honourable Members that spoke in support of this motion, even though as I stated in my presentation, I regret having to bring this motion. It was a matter beyond my control because the Finance Committee in November, 1989, refused to provide funds for the road system.

I think it is important to note, before I mention some of the points raised, that during November 1989, funds were provided for the road work intended. So there was no question at that point that Government was still seeking funding for that particular work that was proposed to have been done. It is also of interest to note that even before Members gave themselves sufficient chance to re-examine or revise their position on the MGTP, that they scuttled the Plan before we could sit again and discuss other alternatives and that in fact, the proposal was more for securing proper road corridors, rather than building roads.

As I said in my presentation, that all Members of the Finance Committee knew that an acceptance of the prescribed Composite Maps did not carry with it an immediate obligation to construct roads. The main issue was providing the Central Planning Authority with the authority to prevent buildings being established or located in areas that are prime areas for the road corridors.

This is not possible now, so what we have happening is the situation on the West Bay Road where a hotel or other expensive development could be built right in the center of a road corridor thus making it that much more expensive for Government to secure this area at a later date.

The Third Elected Member for George Town did mention that the Portfolio was failing to maintain the current road system. This is not correct as the Member knows work is going on. The pace of the work may not be satisfactory either to the Members or even to the Portfolio, but nonetheless, the Portfolio has issued instructions and it is hopeful that the policies will be carried out regarding the maintenance of the road system.

On the question of compensation the Third Elected Member did make a distinction between the compensation provided for under section 25(5) of the Roads Law (Revised) and also on undue hardship. I think that the Law is quite clear on this point and I believe that the Member is aware that proper provision was made in the Law for compensation.

I was pleased to note that the Third Elected Member for George Town did see that dueling (recommended by him and his crew initially), is not feasible mainly because of the inconvenience it would cause and the very high cost of property. It was coincidental to note from the Third Elected Member for George Town, his remarks that the points to which he referred to as ball-park figures were exactly those contained in a memorandum from the Public Works Department which was sent to the Portfolio. I will not

say any more on that point.

I note the recommendations made by the Member regarding three lanes, and as I said in my presentation, we will, in fact, be examining all areas, we will be looking at all suggestions because we have the same interests in mind, which is to provide adequate facilities to relieve the congestion on the West Bay road.

Regarding his second alternative; the pooling of people going in the same direction. I believe that this is a matter that will have to be taken to the public. It is not something that can be mandatorily put in place. It will have to be done on a voluntary basis. I do not think that you can force people to pool or to enter any such scheme. So this will have to be something that is voluntarily done. I believe that it is being done at present, perhaps on a small scale and I hope that it will develop over a period of time. I also believe that his third alternative, the staggering of time for people going to work is already being done. I will be going over the points which I raised. He mentioned that he had missed out on the fourth point and I will be covering that.

Regarding the remarks made by the First Elected Member for West Bay. I will not be looking in any more *Hansards* to try to find out what he had to say, or what the other one had to say because this going to and fro and it could get out of hand and result in the waste of time in the House. After spending six weeks here, I believe that we all need to confine ourselves to the more essential areas. This is why I was very pleased yesterday to hear you [Mr. President] say that you will in fact, be dealing strictly with the Standing Orders as regards to relevance.

This also would apply to the question raised by the First Elected Member for West Bay regarding the issue of financing. I believe the Member is well aware of discussions that we had not only in my office, but here in this House when engineers from the Public Works Department, my staff and I gave an overview of the Master Ground Transportation Plan.

I will not say anymore on this point, except to say that the Member is aware that the Financial Plan at the point in February was a Draft Financial Plan. It was not a finalised plan and as such, we were unable to make it a public document at that point.

MR. W. McKEEVA BUSH:

I am wondering whether he could give us the Plan? Give the House the Plan.

HON. LINFORD A. PIERSON:

Mr. President, regarding the dyke road which the Member referred to as being blocked. I was not even aware that the road was blocked. I am not sure the reason why he mentioned this, but I cannot accept any blame for that. I do not assume...

POINT OF ORDER

MR. W. McKEEVA BUSH:

On a Point of Order, Mr. President.

happened. I was not blaming him.

I was not blaming the Member. I just told of a situation that

HON. LINFORD A. PIERSON:

All right. Thank you very much.

I would only point out that it is a private road. It is an MRCU road and as such, should not be used by the public. I also want to thank the First Elected Member for Cayman Brac and Little Cayman, for the remarks he made and I will assure him that every effort will be made for public consultation during the revised process of the MGTP.

It was interesting however, to note the remarks made by the First Elected Member for West Bay regarding Bermuda. When in fact, the situation in Bermuda is totally different from it is here. We all know that in Bermuda, even the size of cars is very badly restricted and also from my understanding, there is only one car per family. I am sure that the Member is not suggesting this because I believe that that will perhaps create a bigger uproar than Motion 3/90.

MR. W. McKEEVA BUSH:

Mr. President on a Point of Order if the Member would allow me to.

MR. PRESIDENT:

You cannot be at a Point of Order and ask the Member to sit down. It is one or the other. You are asking him to give way, or he must decide whether he gives way?

MR. W. McKEEVA BUSH:

He has done that, Mr. President.

I have not been suggesting anything about limiting the size of cars, but I would like to see their financial plan to see what that contains.

HON. LINFORD A. PIERSON:

Thank you, Mr. President.

On the other point raised by the Member, I think that it is true that we have in Bermuda fewer cars per household, but as I mentioned I am sure that without a public transportation system here as they have well established in Bermuda, such a suggestion would take and need very careful consideration.

On a question also on traffic congestion raised by another Member, that it is only around the Merren's Supermarket area or that is where we had taken our test. I am sure the Member who made that point realised that in order to get to George Town without a second back road, it is

necessary to past H.O. Merren and Company. So it would be very difficult to not take into consideration the amount of traffic passing that area.

Most of the points that were raised were already mentioned in my presentation. However, I would just like for the record, to repeat what the Government's intention is regarding further development of the revised plan for the MGTP. I said in my presentation that despite the demise of the MGTP, I have instructed the Public Works Department to prepare a revised plan to provide for narrower corridors etcetera, and I trust that this will soon be available for further consultation with all Members of the Legislative Assembly and the general public. Despite the demise, despite the set back, I feel that as a Government we owe it to our people to try to relieve the severe congestion. I am prepared for whatever this takes, we will work with the Members of the Legislative Assembly and the public to try and relieve that situation. We will not be taking a hard line on this. We want to be able to work with all Members of the Assembly and with the public because whatever we do in this respect is in the interest of the public.

The objective of the revised plan will be to salvage as much as possible the network of proposed roads on the set of the 30 prescribed Composite Maps that is now being revoked. It will, therefore, be my aim to avoid any political position of partisan stance and we will be working toward building a new consensus, as I said in the presentation. It will be essential in order to do this for us to re-establish a system of broad consultation similar to that used during the study stage and be open to revising both the scope and phasing of the project.

The Third Elected Member for George Town had asked me to mention again the five points we intend to follow.

MR. PRESIDENT: Perhaps it might be convenient to continue after lunch as you may well be taking several minutes. How long do you think you will be taking?

HON. LINFORD A. PIERSON: Well, I did not have very much longer Sir, I am almost finished.

MR. PRESIDENT: Please continue then.

HON. LINFORD A. PIERSON: Mr. President, the action will comprise the following major activities with consultation and review stages included, to insure the effectiveness of and support for the final product.

The first point is to scale down the four lane corridors to two lanes. The second will be to address problems of access to several properties. This was in fact, brought to our attention as a problem with some land owners and some families along that area. The third point was to determine the total project cost and estimate the level of expenditure. The fourth point which I think the Member said he missed out on was, to determine annualised cost and administrative arrangements of preserving the corridors. The fifth point to determine the funding arrangements and revenue measures required.

In closing, I would just like to say that there is no doubt at all that there is a major problem because any one who crawls along the West Bay Road in the morning or evening traffic will have no doubt that something needs to be done to solve this and other roads problems in Grand Cayman.

Thank you, Mr. President.

MR. PRESIDENT: I shall put the question. Those in favour please say Aye...Those against No.

AYES AND NOES.

The Ayes have it.

AGREED. GOVERNMENT MOTION NO. 4/90 UNANIMOUSLY PASSED.

MR. PRESIDENT: Proceedings are suspended until quarter past two.

PROCEEDINGS WERE SUSPENDED AT 12:47 P.M

PROCEEDINGS RESUMED AT 2:22 P.M.

MR. PRESIDENT: Proceedings of the House are resumed. Government Motion No. 5/90.

The Honourable First Official Member.

GOVERNMENT MOTION NO. 5/90

**(AS AMENDED IN ACCORDANCE WITH S. O. 24 (7))
APPOINTMENT OF MEMBERS TO STANDING COMMITTEES**

HON. THOMAS C. JEFFERSON: Mr. President, I beg to move Government Motion No. 5/90, entitled Appointment of Member to Standing Committees And it reads:

WHEREAS the Legislative Assembly Standing Order 77, sub order 3 provides that if a Member of a Standing Select Committee ceases to be a Member of the House, the House may appoint another Member to fill the vacancy.

BE IT THEREFORE that this honourable House appoint the Second Elected Member of Bodden to be a Member of the following Standing Committees. The Standing Business Committee and the Standing House Committee.

AND BE IT THEREFORE RESOLVED that this honourable House appoint the Third Elected Member for George Town to be a Member of the following Standing Committee, the Standing Public Accounts Committee.

MR. PRESIDENT:
Member wish to speak to it?

Government Motion No. 5/90, has been duly moved. Would the

MR. GILBERT A. McLEAN:

Mr. President, I will be as brief as I can. The reason for the motion is that the former Second Elected Member for Bodden Town, Mr. Franklin Smith resigned in the last meeting of the House and, as a result these Committees are short of one Member.

He was a Member of each of these Committees and it is proposed to bring those Committees back up to strength by appointing the Second Elected Member for Bodden Town to the Business Committee and to the House Committee; and the Third Elected Member for George Town to the Standing Public Accounts Committee.

Thank you, Mr. President.

MR. PRESIDENT:
on this Government Motion No. 5/90.

If no other Member wishes to speak, question will be put then

against No.

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

AYES.

The Ayes have it.

AGREED. GOVERNMENT MOTION NO. 5/90 UNANIMOUSLY PASSED.

MR. PRESIDENT:
8/90.

The next item on the Order Paper is Government Motion No.

Agriculture.

The Honourable Member for Communications, Works and

GOVERNMENT MOTION NO. 8/90

THE DEVELOPMENT AND PLANNING (AMENDMENT) (NO. 2) REGULATION, 1990

HON. LINFORD A. PIERSON:
this motion which I will now read:

Mr. President, in accordance with Standing Orders, I beg to move Government Motion No. 8/90, which seeks to amend the Development Planning Regulations in the form of

WHEREAS by Section 35(3) of the Development and Planning Law (Revised) it is provided that no regulations shall be made pursuant to the provisions of the Law unless a draft thereof has been laid before the Legislative Assembly and a Resolution approving the draft has been passed by the Assembly.

AND WHEREAS pursuant to the said section 35(3), a draft of the Development and Planning (Amendment) (No. 2) Regulations, 1990 has been laid before this honourable House.

BE IT THEREFORE RESOLVED that this honourable House do approve the said development in Planning (Amendment) (No. 2) Regulations, 1990.

MR. PRESIDENT:

Government Motion No. 8/90 has been duly moved.
Would the Mover wish to speak to it?

HON. LINFORD A. PIERSON:
Motion on the Bill that was brought, the Omnibus Bill which contains an amendment to the Development and Planning Regulations.

Just very briefly, Mr. President as this Motion is a consequential

and Planning Law (Revised), no regulations shall be made unless it is first laid on the table of the House and that is the reason why this motion is now being brought.

MR. PRESIDENT:
no other Member wishes to speak.

Does any Member wish to speak to this motion? It seems that

In that case I will put the question on Government Motion No. 8/90. Those in favour please say Aye...Those against No.

AYES AND NOES.

The Ayes have it.

MADAM CLERK:

DIVISION NO. 8/90

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

MR. PRESIDENT:
motion is therefore passed.

The result of the Division is eight Ayes and five Noes. The

AGREED. GOVERNMENT MOTION NO. 8/90 - THE DEVELOPMENT AND PLANNING (AMENDMENT) (NO. 2) REGULATION, 1990 PASSED.

MR. PRESIDENT: The Motion has accordingly passed. It appears that the First Elected Member for West Bay has gone to fetch some papers to continue with his reply on Motion 14/90. It is suggested to the Chair that we should proceed to the next Motion in order to give him time. I have to ask the House. I cannot decide this myself. What is your feeling?

HON. D. EZZARD MILLER: Mr. President, I am not sure that that request can be accommodated under Standing Orders. If the person is not here I think you have to put the vote or somebody move the Closure Motion.

MR. PRESIDENT:
saved by the bell. You are just in time.

I think that is the normal procedure, but I think we have been

MR. W. McKEEVA BUSH: Mr. President, as you know I informed you about some papers that had been missing and I sent someone during the course, and I thought I would get them over the period of the lunch hour. We still missed one another, but I had arranged with the First Official Member to take the next motion on the Order paper. If that was...

HON. THOMAS C. JEFFERSON:
that request.

Mr. President, the First Elected Member for West Bay, did make

MR. PRESIDENT: Well this is in effect a request to suspend the Standing Orders on the Order Paper. That is what it amounts to, but it can be done if the House is agreeable, it can be done. I would like the expression of the House.

MR. TRUMAN M. BODDEN: Mr. President since this morning has been so calm, peaceful and orderly, and I have a very peaceful, orderly and constructive motion following, I am wondering whether the House would not agree to moving on with the Motion on Juveniles and let us end the week-end with some peace.

MR. PRESIDENT: I admire your confidence in forecasting peace on any item of business. Could I hear from others in the House on this? Otherwise I shall have to put it to vote.

MR. G. HAIG BODDEN: Mr. President, I would like to say that it is quite a reasonable request since there are a number of other important items on the agenda and I believe there is some precedent for this, particularly with questions where we will postpone the item until later in the day. If all the other business is exhausted, certainly we will get on with this. We would not stop the business of the House.

MR. PRESIDENT:
there is a slight difference.

I think the provision is in Standing Orders regarding questions;

HON. W. NORMAN BODDEN: Mr. President, I do not have any problem with moving on to the next item. This seems to me, to be fair and reasonable and from where I sit I have no objection to it.

MR. PRESIDENT: That is a very reasonable approach.
Can I suggest that you might try to go and find these papers now, unless you are taking part in the next motion. I am not sure, are you?

MR. W. McKEEVA BUSH: I want to speak on it, but I have sent a message.... Hopefully I will get the papers before.... It is just that we missed one another.

MR. PRESIDENT: It seems to be the wish of the House that we should go on then with ... sorry I am looking at the wrong Order Paper. Private Members Motion No. 9/90.
The Third Elected Member for George Town.

PRIVATE MEMBER'S MOTIONS NO. 9/90

SELECT COMMITTEE - RIGHTS OF CHILDREN, YOUNG PERSONS AND WOMEN

MR. TRUMAN M. BODDEN: Thank you, Mr. President.
This is Private Members Motion No. 9/90, a Select Committee on the Rights of Children, Young Persons and Women. The Motion reads:

WHEREAS Government has promised from some time to review the Juvenile Legislation and has not brought forward new Legislative proposals;

AND WHEREAS the Caribbean Parliamentary Symposium on the Rights of the Child, attended by the Seconder of this Motion and two other Members of this honourable House, passed the resolution on the 3rd of October, 1989, which noted that inter alia --

"Children are more vulnerable than any other group of human beings and therefore need comprehensive legal and social protection, as set fourth by the convention of the rights of the child, and the commitment of Government leadership at all levels, including the very highest;"

AND WHEREAS this symposium further recommended iter alia --

"The creation, within each country, of a parliamentary committee to review national legislation and propose measures aimed at ensuring a better and more wide spread protection of children, women and the family.;" and

"That the Governments of the region adopt a convention on the rights of the child at the 1989 United Nations General Assembly, and encourage its prompt ratification in order to work for a better future of the children of the world.;"

NOW THEREFORE BE IT RESOLVED THAT this honourable House appoint a Select Committee of the Elected Members and the Honourable Second Official Member to study and make recommendations for the introduction of comprehensive legislation and develop programmes, particularly through the media, to prevent children, young persons and women from being victims of physical and emotional violence, neglect, sexual abuse, drug and alcohol addiction.

MR. ROY BODDEN: Mr. President, I beg to second the motion.

MR. PRESIDENT: Private Members Motion No. 9/90 has been duly moved and seconded.
Would the mover wish to speak to it?

MR. TRUMAN M. BODDEN: Mr. President, this Motion is one of the most important motions that I have ever moved or probably will ever move because it deals directly with the future of the Cayman Islands and it is so important that we ensure that children especially, who are the most vulnerable of the human race are protected.

The motion itself in the second recital, as this motion was originally to be brought by the Seconder, who had three motions standing in his name is not correct in that it was the First Elected Member for Bodden Town who went to the Caribbean Parliamentary Symposium, but other than that the balance of it remains unchanged.

The hard fact of the matter is that children, and to a lesser extent young persons and women, are susceptible to different categories of problems and these range from physical and emotional violence and stress and then move into areas such as drug and alcohol abuse from adults.

Neglect is another problem that affects children most harshly, but in these parts, at least the Northern Hemisphere, I should say, it is not as big a problem as in countries which

are considerably poorer. I think that neglect or the failure of a man or a woman to support their children is totally inexcusable (when it can be done) and it is probably the lowest stage that a man can go to when he does not support his young children. While it comes under a separate Law, it should be looked at as well as the Member, who is in charge of Social Services has in place in relation to enforcing the maintenance and support of children.

It stretches to an area such as sexual abuse which is rare, but very extreme crimes I believe, and one to which the full extent of the Law should be applied. The problems that exist are further aggravated and increased by the fact that drugs and alcohol among adults, many times are the cause of problems with children, young persons and women. There is such a wide and complex range of matters that go into ensuring or protecting children that I think it is right and proper that a comprehensive study of all of these rights should be carried out and the policies, legislation and whatever provisions of money or otherwise need to be appropriated should be put in place.

The Law on this matter is obviously in need of review and that was clearly borne out by a report from the **Misuse of Drugs Advisory Council in 1990** on page 36, when they said that:

"The current Legislation regarding juveniles is so deplorably inadequate that neither the child nor his/her parents are held accountable for their actions and there are no real consequences available to the Juvenile Bench with any punitive deterrent value of rehabilitative hope for the future. The Council recommends that the revisions of the Juveniles Law be completed and presented to the Legislative Assembly at the earliest possible opportunity for approval and implementation."

And that I am sure, will be taken into account by the Member for Health and Social Services when he deals with this matter. The solutions do not come easily because children are complex. I believe that the solution to the problems of juveniles, young people and women in this country, in relation to this type of matter has to be one that involves the Government, the community at large, the Churches, the schools, the service clubs, the youth clubs, and all the organisations. I think they have to be pulled together and we need to see a joint effort on this matter. Hopefully, the Select Committee will listen to representations when these could be either written or oral, whatever, from the different organisations that are interested in these areas and also to ask them for their support.

Increase in the programmes, sports, Church/Youth programmes, youth programmes within the service clubs and the counselling in areas such as psychiatry are areas that will be beneficial to the children. Recently the National Council of Social Services has stated that it will be doing a Children's Centre, and I know that the Member has also stated that he would be implementing another area of the report relating to the establishment of halfway houses.

In the course of researching this, (actually an area that my wife has assisted me with), I gathered some information of what they use in other countries, mainly the United States. It was very interesting to read the different published facts as well as information which is put out for example by the Child Abuse Prevention Counsel on how things should work.

One of the things that struck me was, that the theme on one of these was 'It should not hurt to be a child'. Other ones that we looked at dealt, for example with alternatives to hurting or beating or whatever, your child. These I found to be very good guidelines that perhaps in due course we could look at and get out more information on this such as had been done with drugs and alcohol by the Department and the Portfolio for Social Services.

Some were headed, for example: 12 Alternatives To Hurting Your Child, and that listed these different alternatives that one could take and even if it assists to ensure that only a few children are saved or young persons, or women from any type of abuse; physical, mental or otherwise, then I think that it will be worth it.

The problem is one that has been given wide coverage, I think in every country. It is a problem that obviously needs to be addressed earlier than later. I believe that it is a challenge to all Members of this House to work together toward trying to study, produce and make recommendations for legislations and programmes. As the motion says, 'to prevent children, young persons and women from being victims of physical and emotional violence, neglect, sexual abuse, drug and alcohol addiction'.

Thank you.

MR. PRESIDENT:

The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER:

Mr. President, to deal with this motion, one has to compliment the Mover and the Seconder for their obvious good intentions and genuine concern in moving it. However, this motion, although it is well intended, is too late because the Government has already acted on these matters as I will demonstrate during my contribution to the debate. To deal with the first 'WHEREAS', that is Government's promise to update the Juvenile Law, which it has not yet done. In response to that, this House and the public at large is well aware that this updated legislation has been long in coming.

I seem to remember that the Mover, the Third Elected Member for George Town also promised it during his eight years as the Member responsible for Health, Social Services and Education. I can confirm that the final drafting instructions for the Revised Juvenile Law has been issued to the Drafting Department of the Honourable Attorney General's Chambers; that Department has already produced a first draft, which is being examined by all the other responsible parties and the respect of which several policy changes have been suggested, thus the Legal Department is working diligently to complete the drafting of this complex

legislation in time for publication and presentation to this honourable House during the September, 1990, meeting of this Legislative Assembly.

I can also assure Members that one of the International Conventions which is being considered and in respect all compliance possible will be made, is the United Nations Conventions of the Rights of the Child. Input was sought from the relevant departments on the effects of this convention on the drafting instructions for the Juvenile Law and any consequential amendments which may have been necessary have been made.

This Government also supports the second WHEREAS which recites the Resolution passed on the 3rd October, 1989, of the Commonwealth Parliamentary Association conference which reads as follows:

"Children are more vulnerable than any other group of human beings and therefore need comprehensive, legal and social protection, as set forth by the Convention of the Rights of the Child and the commitment of Government leadership at all levels, including the very highest."

However, the Government has already done what is being asked by the third WHEREAS; through the expert and learned Chambers of the Honourable Attorney General, our Laws have been reviewed and were not found to be in any disgraceful state relating to those conventions.

By the middle of January, 1990, all this had been completed and Executive Council advised that the Governor should indicate to the United Kingdom that the Cayman Islands wished to be joined in there, that is the United Kingdom ratification of the United Nations Convention of the Rights of the Child, provided that suitable reservations can be made in respect of the Government's concern over the immigration issues, and if necessary, the other issues identified by the Attorney General. The most important concern of the Attorney General did in fact refer to immigration issues and in particular our Caymanian Protection Law, which is now under review by a Select Committee. I would just like to quote from the Attorney General's concern as expressed:

"In respect of the points I would make the following comments; Articles 1 to 6, Rights of the Unborn, our Law is more conservative than the United Kingdom's provision and is likely to remain so even after the current Select Committee has reported. And I do not think therefore, that this is of such great concern to us."

The Select Committee being referred to there is the Select Committee on the Caymanian Protection Law.

Article 38: Boy Soldiers - as we do not have any security forces, I do not think this is a problem for us. See Immigration and Nationality issues, this is an area of particular concern to the Cayman Islands. We will of course need to protect operation of our Immigration Legislation, although this might well be done under the umbrella of the United Kingdom's reservation to this end, in respect of their Legislation.

In particular I see difficulties with article 7. Article 7(1) recognises the right of a child to acquire a Nationality. Article 7(2) obliges States' parties to ensure the implementation of such a right, particularly where the child would otherwise be Stateless. We would want to take particular care to ensure that this did not oblige us to grant Caymanian Status to children born here of foreign parents.

Article 16, this includes the right to privacy. It requires that the child has the right to the protection of the Law against interference with that privacy. We do not have any statutory provisions protecting the right of privacy for anyone.

Article 18(3) - this requires us to take all appropriate measures to ensure that the children of working parents have the right to benefit from child care services and facilities for which they are eligible. If this were to be taken to oblige us to provide such facilities, I can see a problem. However, on strict reading of the Article, I think that it is limited to ensuring access to any facilities we may care to create.

Article 22 - this concerns refugees. However, it is not limited to those considered refugees in accordance with applicable International Law, but extends to children seeking refugee status. There may be difficulties here with children arriving in boats, for instance from Haiti.

Article 26 - obliges us to recognise every child's right, to benefit from Social Security including Social Insurance. Again if this obliged us to institute such provisions it would be objectionable. However, I think that it is limited to access such rights already established by Law.

Article 27. This obliges us to all appropriate manners to secure and recover maintenance for children from parents, both within the State and from abroad. The jurisdiction of our Summary Court to award maintenance against illegitimate children is somewhat limited. In the context of a matrimonial break down, the Grand Court does have wide powers to order maintenance. The enforcement of International Maintenance Orders is recognised in principle by the application of the United Kingdom Maintenance Orders, Reciprocal Enforcement Act, 1972 to us. At least the index of Cayman Laws shows it as applying to us. Although it does not cite a Statutory instrument.

Whether it applies or not, I am unaware of the designation of any countries under that Statute. Recently I had an inquiry from California relating to the enforcement of Californian Orders. Article 28 concerns Education. It obliges States to make primary education compulsory and available free

to all. I think that we charge the children of resident (non Caymanians) for attendance at school. This might be foul of this provision.

With those few reservations and concerns being brought to the attention of the United Kingdom Government, this Government has in fact, asked that the Convention to which this motion refers be extended to the Cayman Islands.

Therefore, with this motion being after the fact, the Government sees no need to appoint a Select Committee of the Elected Members and the Honourable Second Official Member to study and make recommendations for the introduction of comprehensive legislation to cover this matter.

The second half of the Resolve, is also already being acted upon by Government and there is several programmes (some to which the mover alluded) available through the Government services. The Government services have the support of the civic organisations. Such programmes are available through the Social Services Department, the Cayman Counselling Centre. All of these programmes are under constant review for ways to improve them and to make them more accessible.

In addition, there is being established an inter-Portfolio Committee between Education, the Cayman Counselling Centre, Social Services and the Health Care Department. Terms of Reference will include the monitoring of these existing programmes, their effectiveness, developing new programmes to be the additional needs as they are identified, insure communications between the departments involved to ensure a holistic approach to the individual.

The Government cannot support this motion because we feel that all that is possible with the resources that we have is being done. Without the introduction of further taxation to provide more resources, we cannot commit the country further.

Thank you very much, Sir.

PRESIDENT:

The First Elected Member for Bodden Town.

MR. ROY BODDEN:

Thank you very much, Mr. President.

I welcome the graciousness displayed by the Honourable Member for Health and Social Services replying on behalf of the Government and I must commend him on a change of attitude and approach, and let him know that although he disappointed me by the Government not accepting [the motion], I relish the mood with which it was done and can only hope (to borrow the term from my good colleague here, the Second Elected for Bodden Town) this perspicacious new beginning continues.

I, in seconding this motion, would stress that my position is not so much on the Government implementing what I call punitive sanctions, but rather that the Government sees the importance of taking a soft approach (I would term it), and stress education and knowledge.

About two year ago I read a cover story in *Time* magazine entitled, 'What To Do About Babies Having Babies'. It would seem to me on a smaller scale that is a problem that we are increasingly confronted with in the Cayman Islands (with the age of motherhood becoming lower and lower) each year.

I would hope that these are the kind of problems the Government would seek to address. I can appreciate the efforts as outlined by the Member and I can substantiate much of what he has said. We have to understand that children are perhaps the most important resource in this country, because it is only through them that we will be able to perpetuate even what is now happening in our Parliament.

I would like to crave the indulgence of the Chair, to read a short statement by Mr. James Grant, the Executive Director of UNICEF and this is from the UNICEF Annual Report of 1989, and he says:

"Today's children are tomorrow's world, and there can be no greater investment than in the mental and physical growth of those who will farm, feed, learn, build and govern. Too many millions of today's children are growing up in circumstances which deny their potential for productive enterprises and by ignoring this human tragedy, nations are sowing the seeds of even greater failure tomorrow."

I would like to suggest that we have to understand that from the moment of conception through the first six months of life, the environment of the child is the mother, and so we have to insure that we take care of the mother; that the mother is educated, that she provides the nourishment the child needs, and then all of the rest will be taken care of and, then from six months onwards the environment of the child is the community. So we have to help the community develop essential services, ensure that we have access to safe drinking water, immunisation, basic health care and the child will then be on its way to becoming a productive and healthy citizen.

We are lucky in Cayman that we are able to meet most of these basic needs, but that does not give us reasons to be complacent or that is not a good enough excuse for us to give ourselves a pat on the shoulder and say, we have these resources and we can relax our vigilance.

I would like to expand a little and say that while it is true that we are very good in our capacities to take care of our children in terms of Health, Education and Social Services, our society is becoming increasingly torn and strained by the kinds of stress and problems we experience in being able to keep up and meet our day-to-day commitments.

I would hope that the Honourable Member for Health and Social Services, with the cooperation of the Second Official Member, see it fit, if it is not already too late, to consider this

request. I believe in the development of Caymanian society, the time has now come for us to look seriously at the establishment of a special Court to deal with family matters - a Family Court. I do not think that it is far fetched in suggesting that we look seriously at setting up this Court which will deal with things like, divorces, custody, juvenile matters and adoption. I am suggesting that such a Court would allow for many sensitive matters to be dealt with in confidence. I am not saying that they are not being dealt with in confidence now, but this, I think at the stage in development can only be helpful.

Much of the juvenile matters from my knowledge is criminal delinquency, young people getting in trouble for the first time. I have to remark again, that there are adequate facilities for dealing with these young people. If they have to be counselled or even if they have to do some time in an environment until they can get themselves back on track. So we need also to think about this. Some kind of home where juveniles who are on the wrong track can be placed until they can be retrospective or introspective long enough to get themselves back on the right track. As far as education goes, our education system is good. I am not saying that there cannot be improvement. We are much better than many other countries.

I have to remark though that it has always confounded me, and I know that it is a sensitive issue and I realise that it is an issue which will probably be dealt with on the Select Committee for Immigration and the Caymanian Protection Law, but it has always confounded me how a child born in this country is not a citizen of the country.

I am as nationalistic and as Caymanian as anyone else, but I think that we need to give serious attention to that. That is one of the things that I hope that this motion could sort of motivate the Government to seriously consider. While at the same time recognising that the possibility exists, that if we become too liberal we run the risk of inviting people to have their babies, just so those babies can have rights and privileges of Caymanian citizens and indeed grow up to be adults and further compound our problems.

I think it pricks my conscience a little, when I realise that they are many children who are born here, but they are not or can never be citizens of this country through no fault of their own. I think we should give a serious look at that because I believe we, as Legislators, have a moral obligation to do that.

In conclusion, I would like to be gracious and commend the Government, but to remark that I am disappointed that they did not see fit to pay more attention to some of the requests that we made.

However, I understand and I would only say that it is our duty as Backbenchers to continue to monitor the progress and to see that what the Honourable Member says is being done, will be done. Might I go a step further in saying, if at anytime help is needed, I am sure the Members of the Backbench would not flinch from offering their support in whatever way and through whatever means they can.

Thank you, Sir.

MR. PRESIDENT:
to get started?

Two minutes of the normal break, would any other Member wish

The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN:

Mr. President, I view this motion as one of the most important ones to come before the House during this meeting. We know that Government today, as well as Governments in the past, have taken steps to help with the problems of youth. If the Member says that the Juvenile Law is under revision, I can believe that, but certainly the Government must realise that there is always room for improvement and that much good can come from a Select Committee, which would have the opportunity to talk with people, not only interested in the welfare of children, but also people that are knowledgeable in child care.

On several occasions in the past, the Courts and Officers of the Court have spoken, not only in the Courts, but at public functions about their alarm at the increase in juvenile crime and of the neglect that children suffer, sometimes not only because of parents, but because there are circumstances over which the parents have no control. One writer said: "It is better to be driven out from the presence of men, than to be disliked by children."

I believe adults and the Members of this Assembly and the people in Government can command the respect of the younger generation if we are willing to stretch out our hands. We should not believe that a few people know the answers.

I could give many examples of what is happening here, but one that comes to mind is a case that occurred only a couple of months ago, when a young boy came to our store. When I saw the condition he was in, I said to him: "Have you eaten today?" He said: 'No'. So I gave him some money and he went out and bought some food and drinks. He came back and he greedily ate what had been given to him.

The next day he came back and I realised that something was wrong. He would not tell me who his parents were and he would not tell me which school he went to. This is a boy of about nine or 10 years old, I believe. I called the people in Government, who I thought would looked into the matter and said: "I would like somebody to come and pick up this child and find out what is the problem". I heard from no more and the boy finally left. On the following day, the people whom I had called, telephoned me to ask if the boy was still at the shop? I said, "Yes", and I hung up.

Although Government is doing what it can, I believe we are not giving the personal attention; we are not moving fast enough to catch the individual child, because by his appearance, this was a good boy. But, this is a boy who will go bad because he lacks something. It might have been a problem with his teachers; it might have been his parents, I will never know. And I could give maybe a dozen examples.

Whatever we have been doing in the past, we have not been doing enough of it, because the situation is getting worse. The First Member for Bodden Town mentioned the article in *Times* magazine about the problem with young mothers. I recall an article that I read sometime ago in the *Readers Digest*, which dealt with the problem of children having children. This problem has been around, there has always been teenage mothers, but the social cost of this has not really been recognised. The social dimensions of the problem have not been recognised until quite recently, because when a young girl in her teens, has a baby at 14 or 15 years old, this imposes hardship on the family for the balance of their life time.

In nine cases out of 10 that child never completes High School; never earns an income of more than half of what she would have earned had she completed her schooling. These are serious problems and perhaps when the Juvenile Law comes [to the House], I will use up my four hours in speaking on some of these problems. It is only because we have been here for six weeks, why I do not choose to do so today.

It is a problem that has been around and it is my belief that the Government alone will never cure the problems that are recited in this motion. The motion speaks about not only precocious sexuality or sexual abuse; it goes on to deal with drugs, alcohol, violence, emotional violence and neglect. I do not believe this is something that Executive Council or the Legal Department can prepare and bring comprehensive program to this House.

While I can agree with the First Member for Bodden Town that the tone of the Member was quite amicable, I can only say that his thoughts were far removed from his tone. I certainly recommend this motion and would be happy to serve as a Member of the Select Committee, if it is not a Select Committee of the Whole House. I believe some good can come. I would hope that during the coffee break, the Members of Council will get together and change their decisions not to accept this Motion.

MR. PRESIDENT:

Proceedings are suspended for the coffee break, 15 minutes.

THE HOUSE SUSPENDED AT 3:24 P.M.

HOUSE RESUMED AT 3:52 P.M.

MR. PRESIDENT:

Does any other Member wish to speak?

Proceedings are resumed on Private Members Motion No. 9/90.

The First Elected Member for West Bay.

MR. W. McKEEVA BUSH:
House.

Mr. President, I rise in support of the Resolution before the

The Member replying for Government has said that juvenile legislation is coming and will be brought to the House in due course. I trust that this 'due course' means in the very near future, because I have heard about this juvenile legislation for many years. It is been talked about more frequently since 1985, and nothing has come.

It is significant to note that the United Nations Declaration of Children's Rights, state that "children have rights to love and understanding and in an atmosphere of affection, and security in the care, and under the responsibility of their parents; and protection against all forms of neglect, cruelty and exploitation".

There have been on the surface, some strides as to the abused child, but adequate protection for children from abusive acts still remains somewhat of an unfulfilled promise. Children who are abused encounter difficulty in trusting others as they get older, having been hurt by the very person they relied upon for support and nurturance.

I might have said this before, but I do repeat again, I had never believed that child abuse is the problem in and of itself. From what I have to deal with as a representative and from what I have seen throughout the country, child abuse is but a symptom of a much deeper malady. In my view (and others as well), it seems that parents who do not understand their children's growth and development and their needs cannot communicate with them and may resort to physical violence as a substitute for communication.

Too often we hear the phrase "If you do not hear, you will feel." used to a child. Which all too often is a threat of physical violence and never solves a problem. As the matter the parent is complaining about is repeated at a later date by the child.

We have heard about counselling centres and so fourth. I come back to that theme of reaching our problems from a district level where we can hit the core of our social problems; if we had workers in a district we can reach people easier.

For instance, I have tabled the plan that I did some research on and put together for the Community Centre in West Bay. The Member has said that this is a political gambit, but it is a very important thing - that center - because we seek through the center to be able to do just that, reach parents, communicate with them, offer to them some type of counselling. I do not know what he is doing about counselling so much up here, but I wish to God, that they would put aside their political cloak and put on their cloak of responsibility and try to assist us with that Community Centre for West Bay.

Our Criminal Courts and Statutes, in my view do not provide adequate services and/or treatment of a child, victim or the family. Acts of violence against children are seen as criminal acts against the state and that is where the state would intervene. Hence the abused child is without the benefit of legal representation and indeed even his testimony may be considered suspect. Now lawyers and Courts jurisdiction usually take that statement and banter it backward and forward and it gives for good debate.

If we accept that children are our most valuable asset, then we must be prepared to change the very fundamentals of our Criminal and Civil Codes to ensure our children's protection. For instance, I believe that we need to look at the age of criminal responsibility. We need to look at it in the sense that it be raised to a uniform and realistic age in this country. We know that there is presently an anomalous situation with the age groups of 17 to 18 years old. We have had problems in the country with it before. We really need to get down and look at that type of situation.

Ever since I have been in this House, I have called for a Family Court; establishment of a Family Court with the responsibility for the administration of the Juvenile Court, because of the position the child holds in the family unit and the need for every child to have a family suggests that the Family Court should be the appropriate body for such administration. We know that such things as divorce could be held there (or that is where it should be held) in such an atmosphere rather than in a criminal situation.

We take cases of incest for example (and as much as has been said in debates in this House, there is not that many cases), we know that situation exist and it is increasing in this country. We, as representatives have to deal with it at times. Child molestation. Here again we know that that is a deep seated problem in our community. Some would have it swept under the carpets, but it is a problem that needs to be attacked; it needs a frontal assault. I would hope that the authorities will look seriously at introducing a Family Court where we could deal with such matters and in fact search to identify where those problems exist.

I support the motion. We have heard that the Law is coming, but I believe that it would be good to establish a Select Committee to make recommendations even if the Law is coming. What that would serve is any political bantering here on the floor of the House.

We could get together, if the law is coming, look at the draft law, the Select Committee and make recommendations for legislation to prevent children, young persons and women from being victims of physical and emotional violence, neglect, sexual abuse, even drug and alcohol addiction, even though we say we have the centre (and I know I have taken people there), and they are doing their best under the circumstances.

I think what is before the House today is good. It would be a constructive effort on the part of this House to sit down and look at those situations, because we do know that there is much abuse on women for instance, in our society. Again, I have been called out many times in the night to look (and if you want to put a local saying to it) and "separate a husband and his wife". That is an unsavory situation for a representative to get involved with especially when you are dealing with a cantankerous husband. But we are faced with it. I have faced with it and it is good for us to sit down and think about those problems and deal with it in a constructive manner.

We know that many times we get calls as representatives and when we get the call, we say, "Well, have you called the police?" And they say...and the police will tell you that they are reluctant to deal with these matters unless there is bloodshed. But the representative is called out to be the mediator in these squables (sometimes fist fights).

I feel that this motion deserves the full support of this House. It seeks to establish a Select Committee to make recommendations for the introduction of legislation, which we now hear is coming. But, I think the motion is still a good move, even if it is a little late. Nevertheless, our time will be well spent sitting down in meaningful discussions on the areas in question.

With those few remarks, I trust that we will get some support for this Resolution and the Government will change their minds on it because there are areas that I have not heard that the Government is covering. We can easily sit down and talk about them in a constructive manner.

Thank you very much.

MR. PRESIDENT:
Cayman.

The Second Elected Member for Cayman Brac and Little

MR. GILBERT A. McLEAN:

I rise to support Motion 9/90, calling for a Select Committee on the Rights of Children, Young Persons and Women. In doing so, I believe there is an old Caymanian saying that "it is never too late to do good."

In this particular instance, I think it is good that a motion like this has been brought to this House. For it affords the opportunity of looking at a very important area of life in this society without any limitation as has been expressed (at least to some extent) by the Member responsible for this subject. I have no cause to doubt what he has said, that there is in progress a move by Government to study the Juveniles Law and to come up with the legislation which is considered necessary to address the various areas that would fall under this Law. However, when my colleagues who brought this motion discussed it among ourselves, it was my understanding that it was not purely to limit itself to discussion of juvenile or even to simply achieve the extension of the United Nations Convention that has been extended to the Cayman Islands, but that it would create a forum where matters relating to [juveniles] could be discussed in a much wider way than had been addressed.

For a very long time, I have heard discussions that the Juveniles Law is being looked at and what it should entail, what it does not entail and lots of hopes as to what it would contain. I can only hope, that it does have areas which are sufficient to meet. For example, some of the areas that I have heard people who are connected with the Social Services Department expressed concerns about. I am wondering how well it will cover the areas of neglect of children. Whether that will provide for punishment of the adults, the parents, the guardians or whomever? I wonder if it takes into account the fact that in the Cayman Islands nowadays, one can find young children on the streets 12 and 1 o'clock in the night.

How well does it address the subject of incest, sexual abuse of children? Is this covered in this Law? Or does this fall under the Penal Code, if not, where is it addressed?

Certainly as a representative, I do not know this and of course we have not yet seen the Draft Law or know what it will include. It is my opinion that in a Select Committee we would have had an opportunity of discussing this in the widest sense; getting a better cross sectional input from people who are interested.

I am not here trying to belittle the fact that the Member said the various departments of Government, which are responsible for juveniles and related matters have been contacted and gave their input. I think there are more people in the society who could improve the content by expressing their opinions before such a committee.

It was good to hear that the Cayman Islands have asked the United Kingdom Government to extend the situation of having the International Law apply to us. It was my distinct impression that what the Mover and the Seconder of this Law hoped for more than anything else, is to get a Local Law that could cover this as comprehensively as is possible. Certainly that is my opinion and I would have hoped that Government would have taken this wider view.

It was interesting to note that in that International Law there is no section which covers legislation for privacy. At least locally, there is no specific legislation that covers privacy which apparently was asked for under the International Convention. It is matters like these that would arise and we could perhaps address, express views on, and do something about.

One area that has been addressed by other speakers is the area relating to violence against women. There is not too much of this in our Caymanian society (in my opinion). I think it goes way back many generations, where the man was considered the omnipotent being in charge of the house and the woman was absolutely subordinate and he ruled with an iron fist, literally and otherwise.

In this day and age, that type of behavior should not be tolerated in the Cayman Islands, but it is very prevalent. Cases in Court and in various communities there are many stories of violence against women. I have read somewhere in instances in the United States for example, some states no longer make it acceptable that because a husband and his wife are having trouble in their home and that wife is being beaten or battered, she calls the police... (and since it is a husband and wife affair the police simply backs off) ...I think it was the state of Massachusetts (I would not swear to that), that have recently changed their Laws and whether or not it is the husband (and I daresay it would also obtained the other way, if it was a case where the wife was beating the husband, which is possible), where they can actually go in and arrest the offending party and that party can face the Court and be jailed for it.

I think we ought to look very seriously at this situation in these Islands. I know persons whom I think are good people; I consider them friends of mine in a lot of instances, but they have this attitude about them and they do not hesitate to tell you, "Well you know I slapped my wife because of such and such or I gave her a good right hand or something of the sort". I think it is something in this society, call it machismo, sexism or whatever, but I think it needs to be addressed seriously by some form of legislation. I would have thought that a Select Committee wherein these matters could be discussed would have been an ideal opportunity for doing something about it.

This whole motion as I have said, goes much further than has been replied to by the Member responsible on behalf of Government. I do hope that Government might have a serious change of heart in seeing the wider implications of what such a Select Committee could do. Rather than strictly confining it to question of the Juveniles Law now being prepared or an extension of the International Convention by the United Kingdom to the Cayman Islands and take in the much wider aspects.

With those few word I lend my support to this Motion.

MR. PRESIDENT:

Does any other Member wish to speak?
In that case would the Mover wish to reply?

MR. TRUMAN M. BODDEN:

Mr. President, I had just put up my file hoping that was the end of a nice day. I would like to thank the Members who supported this motion, but there are areas that need to be dealt with. I do not think that it is good enough for Government to attempt to brush this important matter aside on the basis that there is a draft Juveniles Law in process. It will come up as the Member said, at the next Session. That to me touches on a part of this motion, but the Member has failed to deal with other very important areas of the motion.

In fact, Government has failed to even recognise that there are important parts of this motion. The seriousness of this has to be dealt with early and properly because the urgency is not only borne out in the area relating to the misuse of drugs by the Advisory Council. They have a specific chapter in this report that deals in depth with the place of juveniles and drugs in society.

The problem goes very deep and I will show from a brief reading that they admitted that they did not have sufficient facts and information to deal with the problem of juveniles and drugs. I believe that that is the case in relation to the other areas that I have dealt with in this motion.

I do not believe that there is any difference between that reporting relating to drugs and the position relating to other areas, such as physical and emotional violence, neglect, sexual abuse, inadequate parenting and the other areas that cause children in society not to be fully protected under the Law.

This motion, while it deals with the question of comprehensive legislation relating to juveniles, it also deals with an overall picture dealing with legislation that relates to women, young persons and further (which Government has not seems likely to touch on) deals with the development of programmes in relation to these three important categories of people, children, young persons and women.

The position taken is that we have a Draft Law for juveniles that is coming up and that seems to be the solution that Government is putting forward. What worries me because I see

the isolation and neglect and the gaps in the Government's programmes, I believe that similarly we will be finding the gaps in the legislation at a later stage.

MR. PRESIDENT: It is just coming up to half past four, how are you placed? Do you....

MR. TRUMAN M. BODDEN: Mr. President, I would not be extremely long, but I would like to deal in some depth with areas the Member mentioned on Monday, please.

MR. PRESIDENT: I think we should adjourn then.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this House until 10 o'clock Monday morning.

MR. PRESIDENT: The question is that the House do now adjourn until Monday morning at 10 o'clock.
I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., MONDAY, 23RD JULY, 1990.

**MONDAY
23RD JULY, 1990
10:10 A.M.**

MR. PRESIDENT:
Development.

Prayer by the First Official Member for Finance and

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 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.

ANNOUNCEMENTS BY THE PRESIDING OFFICER

MR. PRESIDENT:

Proceedings of the Assembly are resumed.

I should like to welcome back the Elected Member for East End. Private Member's Motion No. 9/90 debate continuing. The

Third Elected Member for George Town, replying to the debate.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS:

PRIVATE MEMBER'S MOTION NO. 9/90

SELECT COMMITTEE - RIGHTS OF CHILDREN, YOUNG PERSONS AND WOMEN

MR. TRUMAN M. BODDEN:

Mr. President, we heard Government's approach to the many problems in this area relating to juveniles, young persons and women and that approach is substantially what I refer to as a band-aid approach.

The Member has mentioned that he has a Draft Law in relation to juveniles and that along with the few programmes he mentioned, seem to be what the Government regards as a solution to this complex problem. If there is to be a Draft Law or a law that is going to fully cover the position of juveniles, then I believe that it can best be dealt with through a Select Committee which would look at it in depth; it could hear representation from the public on it as was done, for example, with the Abortions Law and some of the other Laws and give the public a right to make representation directly to the committee and have that committee amended as necessary.

Secondly, it would take a lot of the politics out of it, rather than directly introducing it onto the floor of the House with nothing more. What seems to be to Government a simple matter is a very complex matter, because what has been clear from the policies recommended by the Advisory Council on the Misuse of Drugs is that in their course of looking at this, they were horrified by the problems relating specifically to drugs and juveniles in general. They also recommended that three types of juvenile centres be established and we know that the Member has recently been dealing specifically with one. I would like to read very briefly what they suggested that there needs to be. This is from page 37 of the 1990 Report:

"It is the Council's view that there should be three types of facilities available. First, as mentioned above, there must be a residential juvenile correction centre for convicted offenders. Secondly, there should be facilities, be they caring homes, foster homes or some combination of the above to care for juveniles who are not

convicted offenders, but rather unfortunate children who through no fault of their own, need to be placed in alternate homes and given professional counselling where necessary. The Council feels strongly that these children should not be mixed with convicted offenders. The third type of facility should be an adequate 'place of safety' other than the West Bay lock-up."

The Member needs to focus his attention on this because it is not good enough to just provide Caring Homes. We have to look at the other two areas and deal with the correction centre as well as the places of safety. The law has to be geared towards treating juveniles as if they are not the regular convicted person.

We (I believe) could better deal with what the Committee stated on the legislation. They referred to it being so deplorably inadequate and I think that a select committee which could go into the details of this and hear representations from the public would be a better way of dealing with juvenile matters. But it goes beyond the law and I believe this motion, which specifically dealt with developing programmes, should be looked at much wider than just a Draft Juvenile Law.

His statement, as the Member for Health and Social Services, did not really touch another very important area and this is the problem of violence which is not only against children, but against wives, spouses. What has to be looked at, at this stage and looked at as a matter of urgency, is equivalent of the United Kingdom's Domestic Violence and Matrimonial Proceedings Act of 1976.

This very briefly lays down the framework by which there can be injunctions and there can be further arrests for breach of the injunction. They also have areas relating to restrictions and occupation of the matrimonial home. At present our law, to get an injunction, the parties have to file some type of matrimonial proceedings, be they for divorce or for judicial separation. That is not good enough because many times wives are being battered and they do not necessarily want to begin these proceedings at this early stage.

Secondly, it takes a lot of time, whereas if the law is updated and we have what is commonly referred to as the 'Battered Wives Law' (which is a Domestic Violence and Matrimonial Proceedings Law) then the court has jurisdiction very quickly and effectively for dealing with people who are just simply brutal to the spouse. This, I think, directly impacts on children because obviously if the wife is being beaten and the children are seeing this, it has to have a bad psychological effect. This sets out an extremely wide jurisdiction of the High Court in the United Kingdom (which would be the Grand Court here), where it not only deals with molestation of wives or women or spouses, but it also allows injunctions in relation to molestation of children or juveniles.

It further deals with the matrimonial home and the restraining orders can be put on; the injunction can be put on; and if there is a breach then the husband or whomever is doing this can be arrested if this persists. The injunction can be enforced in that way. It is something that I think the Member for Health and Social Services has to look at and he has to look at it urgently. It is a short simple law that will cover a multiplicity of problems.

Another area that I would like to just touch on while on this subject is the police's reluctance to get into husband and wife or children matters. I do think the time has come when they must, where there are commissions of criminal offenses (such as assault) on children or where offenses are committed, then I think they must take this seriously and enforce it. It is not good enough to say it is a matrimonial matter if somebody is constantly being beaten up. The marriage ceremony does not permit that to be done without the sanction of the court to stop it. I do believe that should be looked at in some depth as well because it must have a bad psychological effect on the children and on the spouse who believes that they have to live with constant beatings and have no recourse through the criminal side of the court. I am not saying that they do it in all instances, but I know from the time when I was the prosecutor back in the late 1960's early 1970's the approach was, leave it and it will sort itself out. I believe they must take a harder look at this.

The other matter that I think the Member has to look at seriously is, if there is ever an attempt to put 11 and 12 year olds in a school or in any type of institution with 16 and 17 year olds, in this day and age, that has to be a very corrupting and bad effect on the younger children. Thus, the reason for the Middle School. I go no further into that. I do believe that this problem has to be looked at overall and I believe that the best way of dealing with it is to have a select committee to look at the programmes and overall legislation, and then to produce what is necessary or assist the Member in areas where he may need assistance.

I believe if this motion is passed and we have a select committee that could look at the whole concept, the whole perspective of the relationship between young persons, children and women, we will immediately wipe out a lot of the problems that relate to drugs and other areas, because we know it is a fact that before people go onto using drugs there are other problems in their lives that normally drive them to that.

I would ask the Member in my final statement to think very carefully about this. I think to dismiss it with what I call a band-aid approach because of the fact that he has a [draft] Juvenile Law, let the Legislative Assembly Members who are able to assist look at it in a select committee and deal with comprehensive legislation, not just on children, but in relation to spouses and also to look at areas or programmes to deal with these matters. It goes to the extent as the motion has stated which I would just like to read in conclusion:

"THAT this Honourable House appoint a Select Committee of the Elected Members and the Honourable Second Official Member to study and make recommendations for the introduction of comprehensive legislation and develop programmes, particularly through the media, to prevent children, young persons and women from being victims of physical and emotional violence, neglect, sexual abuse, drug and alcohol addiction."

Thank you.

MR. PRESIDENT:
9/90.

The question will now be put on Private Member's Motion No.

against No.

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

AYES.

MR. PRESIDENT:

the Ayes have it.

PRIVATE MEMBER'S MOTION NO. 9/90 PASSED BY A MAJORITY.

MR. PRESIDENT:

The House will now proceed to Private Member's Motion No. 14/90, the resumption of the debate. The First Elected Member for West Bay, the mover of the motion continuing his reply to the debate.

PRIVATE MEMBER'S MOTION NO. 14/90

**CONTRACTUAL SEVERANCE BETWEEN THE GOVERNMENT
OF THE CAYMAN ISLANDS AND INTERNATIONAL HEALTHCARE CORPORATION**

MR. W. McKEEVA BUSH:

Mr. President, last Thursday I was dealing with the motion and debating slanderous statements, half-truth, innuendos and accusations made by the Member for Education. The Member did all this to be able to say that nobody can point a finger at him. There has been quite a bit exposed about him and his devilish ways and there are other matters that need to be addressed; to show that Member for the person he really is and to let the country know that he is no saint and to set the record straight.

His denial about where he got copies of the document from CNB...where he got them from, I do not know. But I have told the truth. He had it. He said it was from Cayman National Bank and it had Cayman National Bank stamped on it.

Mr. President, and Honourable Members, that was not the only bank that Member gave out information from. He bragged to me often when he was in Barclays (in the old days), when he would set up Mr. Ducan Merren and Mr. Bullar Thompson by giving Dr. Roy McTaggart all their business information which Barclay's Bank had especially, in purchasing.

MR. PRESIDENT:

I must interrupt you. You understand that these are very serious allegations made under cover of Privilege. I remind you of that.

MR. W. McKEEVA BUSH:

Mr. President, I am replying to that Member.

MR. PRESIDENT:

I am not entering into the debate with you, I am making an observation.

MR. W. McKEEVA BUSH:

I thank you for your observation, Sir.

I am telling the House what was told to me. And that was done so that Dr. Roy could get ahead of them. So that was not the only time information was given out on Cayman National Bank.

Mr. President, I am young, I do not know about these things, except that he told them to me. You will agree that all that was said in this House: the innuendos, the accusations, were done under privilege. All the nasty smear tactics were used in this House and they were used to try to destroy Members. And that is what was said, it would do. It would destroy the Third Elected Member for West Bay, it would destroy the Financial Secretary and it would bring the curtain down on McKeeva Bush, because the Member for Education saw them as a threat. He saw the two Elected Members for West Bay as a threat (politically) to him. This is what he had been saying. He would not say in here. He said it on the public platforms that he would destroy us.

Mr. President, it is time that the country understands where this man is coming from, that he is no saint. He has come to this House to brag about how much property he owns, making fun at me that I do not own any. I believe most of the older people in West Bay can remember the manner in which the Co-op Hall was built. It was built by the hard work of ordinary West Bay people; seafaring people (mostly turtlers) who received nothing out from it. What was once the Co-op Hall, today is his Home Centre Store. But West Bayers also remember that they got nothing out of their money including members of my family.

[interjection from across the floor] I will tell you, I will tell the country and I will tell the House what that Member said and how far he would go to destroy people. You heard him lauding a bank about its good position here the other day. When the young man who is in charge of that bank was in charge of another bank. That Member for Education said he was going to destroy him when he took over the bank he is at now, and, the same one which the Member for Education was lauding, he said he would one day do to him, what he did Interbank. Mr. President, simply because he felt that man would somehow be a threat to him, either in politics or in banking.

It is not only McKeeva that he has sought to destroy or John

Jefferson Jr., that he has sought to destroy. Always with the pretence that he is a saint! You know how he started his debate in this House, lambasting every Backbencher, throwing accusations and saying that nobody can point a finger at Benson Ebanks. It is time the country knows. He started it and I have my chance to reply.

This Member never accepted a trophy from any football club under the pretense that I was a football player, because I never did play football. The Member for Education did it. Something as simple as that, knowing full well he did not play football [interjection]. Not at that time when the trophy was given out.

The Member always refer to the Backbenchers as being irresponsible. The height of irresponsibility was in 1975 and 1976, when that Member for Education was then the Member responsible for Social Services with responsibility for youth; a child was shot dead on the West Bay Town Hall grounds by the gun of the watchman. People complained to the then Member for Education before the incident about the watchman on the school grounds from 3 o'clock in the afternoon with a loaded shotgun. But the Member took no action, even after the child got shot and died, he would not take any action. Concerned citizens and the Governor instructed the Commissioner to enforce the Law. The Law was the watchman had no right to have the gun in the first place around the school, when the premises were in use at that time in the afternoon. However, the watchman got his gun back. The House must understand that the Member for Education told me that he helped the watchman get his gun back, because the watchman was being threatened and that the watchman was a good support (and everybody in West Bay knows it) and it was also getting too close to the General Elections in 1976. All this, was after a child had been shot and killed. Mr. President, if that is not irresponsibility then what is it?

Now, the Member for Education said that this motion on International Healthcare Corporation was brought to malign the Member for Health and Mr. Conti. This is not so, I have not brought any motion to malign the Member for Health. If the Member for Health felt this way, why did he not speak up? Why did he leave the Member for Education to throw all these innuendos and make all these accusations? When the Member for Education or the Member for Health spoke (and was the Member who should have gone into detail in International Healthcare Corporation), instead, he allowed the Member for Education to stand in this House and say all manner of evil, hoping, as they had planned, to destroy McKeeva Bush. But the truth shall set you free and the truth has been told.

The Member is saying that the truth is not on me. That is little better Parliamentary wording than he used the other day when he called me a liar. But, I have been with him for 18 years and I know that man and I know how much he can lie.

MR. PRESIDENT:

The House will realise that I am deliberately permitting this language, because this debate needs to be evenly handled. But I give you notice that as from the end of this debate on this particular motion, I am going to apply Standing Orders and the rulings of the House of Commons rigidly.

MR. W. McKEEVA BUSH:

Mr. President, I thank you very much, Sir. As I said last week when you gave notice, I agree with it wholeheartedly. I wish we had never gotten this far into this whole matter that brought the House to the level it is today.

MR. PRESIDENT:

I feel that I should comment on that too, if you will forgive me interrupting you again.

When I first came to this country and sat in this Chair, it was made very clear to me by Members privately, (several Members of the House), that they were used to latitude in debate; that they expected full range of expression including a great deal of repetition, that was understood. I accepted that, but unfortunately over the last three years that latitude has been consistently more and more abused. So the House has arrived at the point it did arrive at, last week.

I believe the community has taken good note of this and I observe that even the *Caymanian Compass* (and I say even, because I have heard views expressed in this House on its political views) has taken the point. I have interrupted you long enough.

Would you please continue.

MR. W. McKEEVA BUSH:

Mr. President, I take note and I think the House takes note of everything you have said. I think you have given a good account of yourself as Presiding Officer, as far as these things are concern, I still say I wish that this House had never gotten that far. But I have nothing to hide, I am telling the truth to the country, the country needs to know it.

Now to get back to this charge of maligning the Member for Health. The same Member for Health was out there maligning this Member. He was out there grinning and pushing the Member for Education on to try to smear me. Now the Member for Health should explain his connection with out-of-date pharmaceuticals imported into these Islands through Miller's Pharmacy to be reshipped back to the United States and which was, or is, the subject of an investigation by the United States' authorities.

POINT OF ORDER

HON. D. EZZARD MILLER: Mr. President, on a point of Order. I hope the Member can substantiate that statement because I intend to move a motion of privilege tomorrow morning. I will bring the documentations as to what went on and I hope he can substantiate his claim of out-dated pharmaceuticals being imported by Miller's Pharmacy.

MR. W. McKEEVA BUSH: Mr. President, the Member can bring a motion on any kind of privilege. I said I hope he could explain it. So I hope that is what he is going to do. But since they want to bring motions to explain things, he should explain whether his brand new car - \$56,000 or as he said it was - was driven from Ohio to Miami.

POINT OF ORDER

HON. D. EZZARD MILLER: On a Point of Order, I can also explain that and I will. I hope he can explain the innuendo that he is implying.

MR. W. McKEEVA BUSH: I am asking him a question since they said I had brought the motion to malign them. I was maligned first and he is a part of it. I am not making any innuendos to him. I very well know that I sat with that Member in 1988, after the General Elections when he told me that he needed to be in Executive Council because he was broke.

[Members' laughter]

HON. D. EZZARD MILLER: Mr. President, no friends of mine had to sign any bank loan to keep me out of jail. I signed it for him and I can prove it.

MR. W. McKEEVA BUSH: Mr. President, whether he is on it, he could be. If he did, I thank him for it. He did not have to keep me out of jail, because the bank can also substantiate that my property was well in excess or in the amount that I needed from them. But, I am still wondering how I had to put up with the bunch of them signing. Whether that was a set up thing also so that they could come back and tell me so. They can check it, they can bring any document to this House. One thing they cannot get around is the truth. And they can throw licks..., they have to take it. I have been taking mine from them long enough. Since he wants to explain that also, he should explain how in the run of two years after got into Executive Council (broke as he told me he was in 1988), whether he could now own a condo from a certain development? Let him bring his motion and explain that to the House. I can only tell you what he told me.

Mr. President the Member for Education said that I was maligning the Principal Secretary for Health. This was a direct charge made in his debate. The Member for Education memory is very short because I very well remember the position for Principal Secretary came up after the 1984 General Elections. I remember, he did not only malign her, but he maligned her father who was also a former Principal Secretary in Education and supposedly his good friend. I have always had those people as my friends and they stood with me and we have been good friends. Now I understand there might be other thoughts, but one thing that none of them can ever say is that I have maligned them in anyway. I always went to their defence, including the Principal Secretary for Health.

My concern with the position now is that she should formally oppose any abridgement of procedure when deals are taking place (such as the situation with International Healthcare Corporation). I have nothing against her, although I know that I am being criticised today, I have not come on this floor to criticise any Principal Secretary. I have a duty to do and friends or no friends, I am going to do what is right by this country.

To get back to this charge (and again I shall come to the defence of Civil Servants) we heard him blaming Civil Servants why the road works are not done in West Bay. Well I bet the road that goes down across John Bothwell in West Bay is done right down to his farm which does not even have a foul coop on it. Has he paid for it as yet? And, another road was done too, although it passed somebody else's house, but it went straight to his property which does not even have a stick house on it. Yet, people in West Bay who do not have a road to their house cannot get one and yet he says it is the fault of civil servants and particularly the Chief Engineer. Those people on Executive Council, if they live in glass houses they should not throw stones and the trouble with them is that they do have glass houses, but they believe nobody can see into it.

We very well remember that a trailer house was brought into this country while the Member for Education was in Executive Council and Council's powers were used to issue a permit to bring in a mobile home which was supposed to go to North Side for farming purposes. But instead, that trailer house which the permit was for (something like a 40 foot trailer house or trailer) came to West Bay and put on property that was all prepared for a trailer park. All that was done back in the years when everything was so good for them in the country, but our people; the carpenters, were then without work. It happened that a delegation went to the Governor to stop them from bringing in any more trailer houses. The people of this country very well remember. The Member said that the past needs to be talked about sometimes so that people can understand. Well, that is what I am doing.

I never cease to be amazed at how Members of Council can find excuses to suit their cases, invalid excuses, Mr. President. This motion is asking the Executive Council to stop

doing business with a company whose contractual agreements with Government came about in a manner which no one with respect for proper procedure of the Government's regulations can agree with. The only ones which seem to relish the whole fiasco is the Member for Health whose irresponsibility gave the people the contracts without following the proper procedure of Government.

The Member for Education will object to anything this side of the House puts forward and then proceed to make accusations and slander to make us look bad. And of course, the only other person who might be in agreement with this is Mrs. Orrett, a past Member of the House who admitted that she was promised a commission or kick-backs from the company she said she introduced to Government when she was a Member.

I might not get justice in this House, the Government regulations may not be followed because of the composition of this House, but if this House was a Court of Law, Executive Council's case could not stand the test of the law of true accountability. That is what I am trying to hold them to here, to be accountable. In any event I think that our case from this side of the House can be well defended.

Now I wish to deal with the smear carried out by the Member for Education on the Auditor General. I state emphatically that at no time did the Auditor General gave me any information to be used. I say again, as I said throughout my presentation, the facts that I have put forward dealing with the motion have been gleaned from answers to questions in this House over a period; gleaned from information; gleaned from the public; utterances of the Member for Health and questions put to Mr. Conti, himself. The facts that I have put forward have come from information from Finance Committee; from the Financial and Stores Regulations and from the Public Accounts Report of 1987. The Auditor General had nothing to do with this motion. My motion was tabled a long time before the Auditor General even gave us his Report.

The Member for Education tried to say that because words in my speech in the introduction of the motion are similar to wording used by the Auditor General, that the Auditor General gave me some letter. That is a pile of rubbish and I am here to defend that man today because he cannot do it. It looks to me that they now relish an attacking senior Civil Servants who they believe might be in a position to expose them and to try to get rid of them.

In this House, constantly words and phrases have been used that are the same or similar as have been used in other places. This scam that has been cooked up as a ploy to help get rid of the Auditor General and also as a means of an attack on the Financial Secretary must stop. I want this matter to be put to rest. Those phrases obtained openly and competitively came directly out of the Financial and Stores Regulation. I will read for this and honourable House the relevant section of the Financial and Stores Regulations. Chapter 8(1) dealing with tenders, contracts and local and overseas purchases:

"The principle governing the purchase of goods, works and services for Government departments and offices is that they must be acquired by the most economical means commensurate with quality and efficiency, so as to obtain the maximum value for the public[']s moneys expended."

Indeed, under section 38(2)(e) of the Public Finance and Audit Law, 1985, the Auditor General has a duty so far as practicable, to satisfy himself that this is so. I want the House to take particular note of the next words:

"Moreover [goods, works and services] must be obtained openly and competitively so that not only do all potential suppliers of the goods, works and services have an equal opportunity to bid for public contracts, but the award of such contracts is seen by the community at large to be fair and equitable."

These words I took directly out of the Financial and Stores Regulations which I have had since they were published and would I not have gone to this [document] knowing that the whole motion surrounded that issue? Certainly, I would have done my homework and gone into the Financial and Stores Regulations.

The other words that he complained about were these, and I now read from the Report of the Auditor General for the year ended 31st December, 1987. This is what it says, section 26:

"A review of the procurement arrangements in various sectors of the administration suggests that many departments have so far made few attempts, if any, to comply with the new regulations; moreover, no effective machinery exists at present to ensure that they do. In the course of discussions and correspondence with departments [and these are the words that I want the House to note], I have sought to make the point that public officers, who choose to ignore the procurement regulations when entering into purchasing commitments on behalf of Government, may well one day find themselves exposed to charges of partiality or worse."

I took this directly out of the Auditor General's Report for 1987. The Auditor General at that time was, Mr. Kelly. Those were the words I used with maybe a word added at the end. The other words he made much about were "monetary and technical competence".

For many years I was out there campaigning against the former Government about the handling of money and contracts and so on. The Cayman Islands know that, I do not need

to try to hide that. The phrase monetary and technical competence was taken directly from a 1984 campaign speech where I was dealing with our manifesto which talked about integrity in Government and which promised judicious spending of public revenue and I will not take the time of the House to read the speech, but I will certainly give you a copy of that speech and the manifesto.

The Auditor General never gave me any report other than the one he gave to the Chairman of the Public Accounts Committee. I hope that there will be a stop put to the aspersions cast on his integrity by the Member for Health and the Member for Education.

Now, the Member for Education made a big thing of what were the duties of the Auditor General. He said that the Auditor General should not do any kind of investigation except on the Annual Accounts of the country. This is a lot of rot. According to the Finance and Audit Law and specifically section 39(1)(a) and I quote:

"39 (1) In the performance of his duties and the exercise of his powers under this Law, the Auditor General may -

(a) authorise in writing any public officer on his behalf to conduct any inquiry, examination or audit and require such public officer to report thereon to him:".

This says that whenever a situation warrants an investigation, examining or inquiry, it is the duty of the Auditor General to have those things done. He can do it himself or he can appoint someone to do it.

Now, it is only logical that the Auditor General would intervene into any given situation where management of finances is questionable at the time it comes to his attention and not wait for one year to elapse when money would have already gone down the drain. The Auditor General must be in the position to do something, to take action before a situation gets too far out of hand and I presume, and that is what I believe the Audit Law is talking about when it says that he 'can authorise in writing any public officer on his behalf to conduct any inquiry'. But what are they afraid of, if the man did an inquiry? If all things can be in public, let it be public.

Now, I would like to read further on the general background on the Auditor General: The primary aim of the Auditor General is to provide independent assurance, information and advise to the Legislative Assembly on the proper accounting for Government and related expenditure, revenue and assets including compliance with regulations and on the economy, efficiency and the effectiveness of the Government's use of resources.

The Auditor General is independent of Government and reports to the President of the Legislative Assembly. In the performance of his duties and the exercise of his powers, the Auditor General is not subject to the direction or control of any person or authority. The Governor, with the prior approval of the United Kingdom Secretary of State, appoints the Auditor General.

The powers, duties and responsibilities and independence of the Auditor General are defined and safeguarded by the Public Finance and Audit Law, 1985. The Auditor General serves only the public interest and the needs for proper accountability for public funds. The Auditor General has strong links with the Legislative Assembly's Public Accounts Committee who considers his reports and makes a report on its findings on the Report of the Auditor General. The reports of the Auditor General deal with matters affecting the finances, the Government and the economy, efficiency and effectiveness (value for money) and the use of public resources. This is a very important link. This is a very important link in the chain of public accountability and stewardship of public funds and is very important in helping to ensure that Government achieves good value for money in the use of their resources.

I say that the Auditor General has a duty to insure proper value for money and the Executive Council should let him do his duty without harassment and the threat of expulsion from his job. No Auditor General can afford to be without independence. He needs it as a judge needs it in order to be impartial and fearless in criticism. He needs his independence to be able to publicise his criticism in an open report.

The criticism that has been thrust at him from the Member for Education and Health is uncalled for. It is time that these men appreciate that the Civil Service does not consist of a collection of saboteurs and political obstructionists, but for the present, they should realise that the present Government is giving as good or sometimes better service as any Government in the past.

What they, as Executive Council Members, need to do, is to insure that they do their work so that the Civil Service can be able to have direction and carry out policy. But, if a Member of the Executive Council is responsible for Education and is taking his time running around with a petition and looking about golf courses, it is no wonder school projects for West Bay are in disarray?

He can not blame civil servants and criticise them on the floor of this House. He must do his work and stop looking out for personal business. Leave the civil servants to do their job. I am not saying that they are without fault, but by God we have some good civil servants and we have some good ones at the top!

Throughout his whole speech the Member for Education has gone to great lengths to try to impute dishonesty, irresponsibility and bad faith in all Members of the Backbench and some on his side, the Auditor General and even the Chief Engineer. The Member went on to suggest that there is a 'mole' in Government service that needs to be exposed, or something else done with it. I do not know what he

was suggesting. I do not know of any mole now in Government, but I certainly very well know of one between 1980 to 1984 and 1984 to 1988, when that Member for Education had to apologise to the House for statements taken out of Finance Committee before time.

In my hand I have a confidential report, a confidential memorandum, signed by the late Jim Bodden, addressed to Mr. Haig Bodden, the now Second Elected Member for Bodden Town and the then Member for Communications and Works. It is copied to all Members of the Legislative Assembly including Mr. Benson Ebanks, the now Member for Education. This confidential memorandum relating to Caribbean Utilities Company was given to me by the Member for Education and I want the House to also have that on record.

Further, concerning these moles....

MR. PRESIDENT:

Are you tabling that letter?

MR. W. MCKEEVA BUSH:
for the records.

I am giving it to the House, so they can get a copy and I want it

MR. PRESIDENT:

But you have not said what the contents are, I do not think.

MR. W. MCKEEVA BUSH:

No I have not said, because it is a sensitive issue.

MR. PRESIDENT:
contents, because it becomes part of the record.

Well you can hardly table it. If you are not declaring the

MR. W. MCKEEVA BUSH:
not going to read it.

The Member for Education says that I should read it, but I am

MR. PRESIDENT:

Excuse me, wait a minute.

You cannot table it unless you are prepared for it to become part of the public record. You can draw attention to it, but if you do not quote it [you cannot table it].

MR. W. MCKEEVA BUSH:

I thank you for your advice, Mr. President.

Now, the Member is over there muttering. He should get some of his supporters to write letters about his behavior, instead of getting them to write letters about mine. I copied from him, Mr. President.

Now, that was not the only time he gave me confidential information. Further, and even more serious, are the copies of these extracts of Executive Council Minutes, when he was trying to destroy Captain Charles Kirkconnell, of a proposed deep-water harbour facility in the North Sound. A matter which caused a lot of national controversy and about which I, as a Member, brought a petition to this House sent by residents of West Bay against this development. These extracts were given to me by that Member or the copies of these extracts. If there ever was bad faith, if there ever was irresponsibility or if there ever was mole in Government or in the banking community, it is that Member.

Since the Member has said in his debate his job is to see that the country runs according to the Constitution and other laws and not to apologise to anybody, I wish he would practice what he preaches and stop being pretentious and phony! He gave that to me, because I did not support the proposed deep water harbour and that I went around and took the position and brought a petition here. He did that when he, that Member for Education was in Executive Council and authorised the Member for Communication and Works at that time to go ahead to look into the study. Yet, he encouraged me to bring the petition by giving me and showing me what was going on. You will hear him say that he did not do it; 'The country knows I am a good man', that is what you will hear him say.

Mr. President, not everybody is blind. Not everybody is a fool, although he thinks so.

POINT OF ORDER

HON. BENSON O. EBANKS:
going to table those...

On a Point Of Order, Mr. President. I wonder if the Member is

MR. W. MCKEEVA BUSH:

I am not going to give away, Mr. President.

HON. BENSON O. EBANKS:
I think they should be tabled.

The copies of those extracts, Sir. I think it would be interesting.

MR. W. MCKEEVA BUSH:
that Member. Now, he is doing all this because he is making a statement after I come, but I am going to wait to see what his statement is. Under the Orders, I guess I can make a statement if he brings up anything that is controversy.

MR. PRESIDENT:

I think the point is about these extracts. If the Honourable Member for Education wishes for there to be proof of your statement about extracts from Executive Council

Minutes, it will be necessary for the Chair to see them in order to determine the point. But, it is not necessary to compel you to make them public.

MR. W. MCKEEVA BUSH:
he wants.

Mr. President, I will make copies and I table them if that is what

MR. PRESIDENT:
should be provided to the Chair.

No, I do not think they should be tabled in the House. They

MR. W. MCKEEVA BUSH:

Oh, I will provide them then to the Chair.

The bunch of them... (and I will only for this purpose leave out the Member for Tourism and the Member for Communications and Works at this time, but the other two did their endeavour best in the last couple of weeks to sink me. That Member for Education there did his endeavour best to help send my mother to the grave by the things that he has said. Not only that, I want this world to know, and I want you to know in your capacity as Presiding Officer and in your capacity of Governor, that I have been threatened and if anything happens to me blame the Member for Education; blame his brother Owen Graham Ebanks and blame his nephew Davie Ebanks, because I have been threatened and I want the world to know it.

HON. BENSON O. EBANKS:
he was threatened. I certainly did not do it.

Surely if the Member has been threatened he can say by whom

MR. W. MCKEEVA BUSH:

You did it! You are part of it! It is time that it is stopped because that group I just named believe that they can manhandle people; they believe that they can intimidate people; they call the Third Elected Member for West Bay during the campaign and tried to intimidate him. This is not...Mr. President, I do not need to say too much because the world knows, the Cayman Islands know what I am talking about.

Coming to that, Mr. President...

MR. PRESIDENT:

I want to give notice to Members if I may interrupt you, yet again - this is nothing to do with what you have said - but there was a ruling in the House of Commons in 1886, in regard to offensive language used outside the House. The ruling is quite clear, that 'offensive language used outside the House, complained of in the House, is not taken cognizance of by the Speaker'. In other words, it must be used in the House. So among the restrictions, I intend to apply after this debate is finished, just that. The ruling was the language complained of by the Honourable Member was not uttered in this House and therefore, I, the Speaker, has no cognizance of it and no jurisdiction which means that it will not be mentioned in the House.

Thank You.

MR. W. MCKEEVA BUSH:

Mr. President, I thank you for your advice in what is going to happen, but I know that what I said here, was no...I only want you as Presiding Officer to know what is going on and I wanted you as Governor to know too, what is going on. I said it so that if anything happens to me the world knows what happened.

In regards to the nephew who wrote [an article] in the newspapers, let me say this, these Islands and in particular the West Bay district [people] know that McKeeva Bush came from a poor family. They know how hard I have worked. The people know from the time I was 13 and a half years old, I worked for myself on buildings such as the Barclay's Bank building and other construction sites. I moved from there into the hotel business, and I moved from there into a bank where I took the lowest position and I moved up to teller. They know that I went into insurance and that I was successful at insurance and my people know that McKeeva Bush has worked hard these last 21 and half years or more.

So, none of them can point a finger at me and talk about hard work. I got elected the same as his uncle got elected. We got elected, he got elected, the difference is that when I got elected I had something! And, most of all, to remind me to remember my roots, Mr. President, I am forever...that is why I keep with my people. They are preaching to the converted, Mr. President. They do not have to preach to me about that, I would advise him to try to dig up and find out his roots because he seems to believe that they come from the royal family.

The other thing is, this thing about my wife getting benefits from her uncle. What a joke! It would have been better for them to have given us a dose of poison than for them to assist us and come into the House and talk about it. I would suggest to that young man when he talks about 'we West Bayers', what a joke. It is a joke, because he was one of them who left West Bay saying that West Bay was no good. The only time he shows his face is when he visits his family or around election time when he comes down to try to intimidate people into voting for his uncle. That is the only time. I have lived in West Bay, I was born in West Bay and I am going to die there.

It is because I have given such good service why I am back in this House and I am still giving the good service I gave. They can talk about what I am doing. When we consider that when I first got elected we did not have a playing field. I started a function and raised \$3,000 and with the help of other community minded people and some help from Government we got a playing field. Further to that, in the course of my years I stuck out my neck and the Honourable Finance Secretary stuck out his neck and gave us some money to start the 'commons' play ground that we now have there, under the opposition from the Member for Education. But he agreed with it after we got going. When I first tried to get the money he would not agree, but the Honourable Financial Secretary helped me. I will tell all of them, that if his uncle had done as much and worked

as hard as I have worked with the young people in West Bay, West Bay in his early days, in his early life, would have been a better place. But when he left office, \$43,000 was spent on youth and sports or playing fields and not a cent was spent in West Bay and the West Bayers kicked him out.

After I got elected, young and energetic, I fought and pushed and took my licks and tried to get things done for my district. I have been criticised today. Why? They say I am unruly, well you, Mr. Speaker, and I know that I get unruly sometimes, but never had I gotten as unruly as that Member for Education.

As far as shouting, I speak with force, my background is such, I come from slaves, from an accordion playing Negro as a grandfather with (you would say) a holiness background. I can preach as hard as any backwoods preacher or I can be as solemn as a Presbyterian after a hearty night of drinking, because I come from both. I have nothing to hide. So let them do their worse, this is not the first time that I have been criticised. I can take my blows, but the world knows where I come from. They know my roots and I did not tell anybody that I had a college education when the West Bayers elected me in 1984, as their Second Elected Member - and by the way, I could have topped the polls if those same people who said they were supporting me had done so. But with so many one votes cast in 1984 for Benson, McKeewa came in second, because I was strong and I bettered it in 1988. I did the wrong thing by being the First Elected Member, but everybody knows where I come from. I do not have to let those people get there and play angels because everybody knows them too. Now, Mr. President, I think that is enough on that little old letter in the paper.

It is plain for all to see, it is loud enough for all to hear, that the Caymanian people do not want the two-site hospital plans as proposed by IHC. Technically, they believe that it is unworkable; economically, it is unaffordable; professionally, it is a con job and politically, it is contrary to the public's interest of the Caymanian people because they are going to get something that we cannot afford. We want the honeymoon deal stopped.

This contract (this sweetheart deal) and these recommendations reflect a deep malaise within our system of contractual arrangements. A crisis if you like, because from a country renown for its prudence and good money management, we are fast becoming unbalanced, feeble and slack. Simply because there is that type of management which is politically motivated and pushed and is pushing civil servants who are there as the checks and balances aside and degrading them.

When we see Government having to pay out the kind of money in overruns, claims and so on, what are we coming to? Contractual relationship such as this one that I am dealing with would have tumbled any other Government from office. Today, they treat such deals as normal, natural even inevitable. Mr. President, I say it is most regrettable. Are we taking a break, Sir? No, all right.

MR. PRESIDENT: I understood the House wanted to finish the business before it....

MR. W. McKEEVA BUSH: Well, Mr. President, that is true and we are going to do that. Now, Mr. President....

MR. PRESIDENT: But seriously, how much longer do you think you need? I would point out, I think you have covered the subject quite well.

MR. W. McKEEVA BUSH: Well, except that I have to go into these recommendations because they have claimed that the contracts I am dealing with are value for money, I want to show the ludicrousness for him to say that these are value for money.

MR. PRESIDENT: Very well. In that case perhaps we will take the break. Before we do I have to inform the House that I have a statement of intention here under Standing Order 28 from the Honourable Member for Health stating that he wishes to raise a matter which he believes affects the privileges of the House and I shall consider it during the break. Proceedings are suspended for 15 minutes

PROCEEDINGS WERE SUSPENDED 11:30 A.M.

PROCEEDINGS RESUMED AT 12:15 A.M.

MR. PRESIDENT: Proceedings of the House are resumed. I am sorry for that long break in the light of the desire of the House to conclude business, it was unavoidable. Before I call the First Elected Member for West Bay to continue, I referred briefly to a matter of privilege and I cannot proceed with it at the moment. I think probably it will come up on the Order Paper tomorrow. The winding up speech on Private Member's Motion No. 14/90, the First Elected Member for West Bay continuing.

MR. W. McKEEVA BUSH: Mr. President, in the course of the debate, we have heard from the two Members in Executive Council who dealt with the matter, that we cannot sever connection because it is illegal, immoral and that we have had good value for money. I want now to read a few paragraphs from the report given to us

by the Member for Health.

POINT OF ORDER

HON. D. EZZARD MILLER:

Mr. President, on a Point of Order.

That information was circulated under confidential cover. It is therefore privileged information at this time and should not be disseminated to the public. For your information, I have a copy of the letter, which I will give to the Sergeant-at-Arms, under which they were circulated.

MR. PRESIDENT:

This is the letter covering the documents that you are referring to, is it? It is a letter of June 20th from the Member for Health to all Members of the Assembly, which is headed 'Final Report from International Healthcare Corporation on Interim Recommendations George Town Hospital'. Is that the one?

MR. W. McKEEVA BUSH:

such a letter.

I do not recall it, but Members here are telling me that we had

MR. PRESIDENT:

Well, this letter is stamped confidential and it does say: "Please note that these (that is the Reports), have been given under confidential cover for information purposes only and are not for public dissemination. Your compliance with this request is greatly appreciated.". That is the request from the Member who issued the letter and the documents.

Now, I cannot say that there is an absolute right to enforce such confidentiality, but it must surely be part of the fabric of the conduct of business that Members do respect this. That is all that I can say on the matter.

MR. W. McKEEVA BUSH:

Mr. President, I was just going to say that I do not recall receiving the letter, I had the packet, but I do not recall the letter. I do not think there is anything unlawful about me going into the matter because we have been dealing with contracts and this particular matter; these are recommendations on a specific contract done by IHC. But if the Member insists that these not go public (although I think they should) to show the ludicrousness of the whole matter. I will comply, but I do not think it is illegal or unlawful, but I will comply.

MR. PRESIDENT:

it is a question of protocol if you like - convention.

I think you are quite right. As I said, it is not a matter of legality,

MR. W. McKEEVA BUSH:

Yes, Mr. President.

I will say this, what is so blatantly obvious about the recommendations made (and what I will do, since I cannot deal with it in the House, I would ask you in your capacity as Governor, to have a look at them and see what the situation is) is that these are conditions which should have been obvious to the Hospital Administration and Management. He said that it is value for money, but I believe that they could have been produced by a conscientious Hospital Administrator, such as we have, were he requested to do so because they are in a great majority normal run-of-the-day matters.

I sincerely believe that if the Hospital Management and Administration had been given a fair chance to express their opinions on systems and services, rather than the Member jumping to hire consultants, these same conclusions and findings could have been reached at a much less expense to the Government and taxpayers of this country. In any event the whole matter looks bad on the Member for Education who was the Member for Health from 1984 to 1988, and who should have had enough interest in the health services to have seen the conditions and moved to rectify them.

As I have said, they are in a great majority, normal run of the day matters. Having been stopped by him, I will not proceed, but if they have nothing to hide, they would make them public.

What is important here (they have been talking about good value for money) is to show you what their economics are like. The Member for Health has been praising that the West Shore Post Office would have \$25,000 per year profit. For the five year contract it would mean that Government would have made a \$125,000 in five years. But, it cost the Government, in rent alone, \$300,000 in five years and interests at 12 per cent - \$249,600.

The Member never mentioned the rent and the interest for the five years. What I am saying is that in five years, the cost would have been to our Government over \$500,000. But their one-sided economics used was only going to make us \$125,000. Yet that was a good deal. That is about as much a good deal as that thing which I cannot make public that Mr. Conti did.

Unless we dump Conti and his group now and unless we can find a place to hang our hat where we can and will reach it, this country is going to perish beneath the blistering umbrellas of debt and taxation. It is the business of IHC to make money; that is their business, we cannot blame them for that. But it is the business of all of us in this House to act responsibly, to make certain the country's money is well spent.

Mr. Jim Conti and his group are speculators, they have agreed this...(those on that side and we cannot afford this type of speculation when we are dealing with \$20M or \$30M projects). It is more serious when the capital developments of this country become the by-product of speculation and activities are guided by speculators. It is a known fact then that the job is likely to be ill-done.

This thing about value for money. The important thing is not only whether IHC complete their jobs in a given time, but whether the jobs could have been done more professionally and at a less cost if the Member had followed the right procedure and put the contracts out to tender, and a company well known and experienced in hospital management had got the contracts. That is the issue.

The Audit and Finance Law was brought to this House in 1985. Before that, there were no regulations as we have now. I do not have to go back in time to say what a former Government should have done, as was done by the Member for Education concerning the Unity Team's Government. All I know is, that we have guidelines now, we have certain procedures laid down by Law and today the Executive Council is supposed to follow these guidelines and procedures. That is why these Regulations are there so that we can do everything above board.

What is all this rot about what happened before we had the Law? Surely, that Member must understand that the importance of this matter is that now we have a Law and the Government should stay within the guidelines of the Law. What kind of example would we be setting for future Governments if we help make Laws and Regulations and then proceed to disobey them with the excuse that previous Governments did the same? We know that there is such a thing as precedent and we would be setting the most dangerous precedent. How can they say that they follow what a previous Government did? If the Unity Team was so bad, why are they following them?

We are reminded today that one great English jurist, Blackstone, said, "We can follow cases because that is established rule, unless flatly absurd or unjust." If they say a previous Government gave out contracts without putting it out to Public Tender, then that Government did not do the right thing because while that Government did not have the Public Finance and Audit Law and its Regulations, they had the Colonial Regulations. That is no excuse for this Government because following what I just pointed out, it would be absurd or unjust.

There is no need for me to go back to that jurist. Our common sense tells us that what this Executive Council is doing is setting a dangerous precedent when it comes to not following the guidelines set out by the Financial and Stores Regulations, especially when we deal with the amount of money that we have dealt with and especially when the Member circulates the works under confidential rule and tells us that we cannot discuss it in the House until he feels like discussing it.

It was said by the Member for Education that the motion was moved that we could malign the Member for Health and Mr. Conti. In winding up, the motion was moved because we are very much afraid that this sweetheart deal with Mr. Conti, will lead us into a similar situation as happened in 1975 with the George Town Hospital expansion when the company in which the Member for Health then, and the Member for Education now, had close connections was doing the work.

In that year, Project Management Limited, the company doing the work at the hospital, had a dispute with Government on overruns. Project Management Limited took the Government to Court and they agreed to settle out of Court.

We knew that the Member for Education now, the Member for Health then, have denied any connection in that company. However, we do know that his employee took his company's truck and picked up material that was left on one job by that Project Management company. So there were close connections.

This is our fear with IHC. If there was an overrun in 1975 and an out of court settlement, what are the possibilities today, with \$20 million and \$30 million involved and a past Member of the House acknowledging promised commissions and proper procedure and regulations not being followed? We need to sever connections with these people and we need to do it pronto, pronto!

In summary my case is this. The Member for Education debated this motion in style and fashion, true to him as he did on the 12th of June when he began this Meeting, slanderous, accusing, insinuating, all manner of evil about the Backbenchers, about civil servants and about private citizens. It got to the point where I gave my side of the story and in fact, told some and I said some, not all of what I know about the Member for Education.

What I have said here is the truth and it was high time for those in the country that did not know what kind of man he is, to find out. I have pointed out, where these moles have lain, the documents that I have, came from the bank, and I had said in the campaign of 1988, he showed me a copy of a document belonging to CNB, he said, which pertained to a loan for John Jefferson Jr., and others and that that document had CNB's stamp on it. That is what I saw.

We know too, that the United States Customs Agents and local Drug Officers searched his warehouse; that copies of confidential extracts of the Meeting of Executive Council during 1985 were given to me by him; that a copy of a confidential memorandum written by Jim Bodden....

HON. BENSON O. EBANKS:

Mr. President,

MR. W. McKEEVA BUSH:

Relating to Caribbean Utilities was given to me by him.

POINT OF ORDER**HON. BENSON O. EBANKS:**

On a Point of Order, on a Point of Order, Sir.

As I recall, the Member undertook to make you, as President, have sight of those extracts that he claims he has in his possession.

MR. W. McKEEVA BUSH:

Mr. President, I am going to do that, but the Member is sitting there like a vulture; waiting to pounce on me after I sit down under the Privilege of a Personal Statement.

I have said again, I know my Standing Orders, I know *Erskine May* and I will have my say as well if anything is brought up. I will give you those copies, Mr. President. I have said that and I will.

Before I was interrupted, I said that a copy of a confidential memorandum, written by the late Jim Bodden relating to Caribbean Utilities Company was given to me by him. We know that land was purchased and the Master Ground Transportation Plan is scheduled to go through it and that he knew this when he bought the land. I know that he promised to do one day to First Cayman Bank and another bank which was, and is, managed by a local young man, what he did to Interbank - whatever that was.

We know the scheme with the Fraytag Development and the canal to his property and I guess in many places it would be insider trading. I know that he told me about the Safehaven project, the one his nephew is working on and they claim is going to be such a good thing for this country. As far as Dexco is concerned, I have told the country the truth about it. The Member, by whatever means, had some knowledge of the people who he mentioned and I was pulled in. But when I was requested, I went to the police and afterwards I went to the Attorney General, I did say that afternoon (and you can go back to the Hansard), I see the papers are saying that I did not mention his name, but I mentioned his name to the Attorney General; I mentioned the whole Executive Council situation, that elections was coming up, and what the position was to clear myself. Afterwards, I have never heard anything more about it until that Member for Education came up and talked about these Government contracts that they had, I did not know anything about it, I still do not know.

I never knew anything about these Caballero Brothers, I do not think I ever met them, as far as I know and I did not hear anything about them. I see where the paper is saying that they were involved with some development, but I did not say that. You can check back in the records to see what I said. Well, the Member says he knows, he knows because he set me up with it before I went to the Law Firm.

POINT OF ORDER**HON. BENSON O. EBANKS:**

On a Point of Order, Mr. President.

I merely pointed that I had an extract of the Hansard and the [news]paper has quoted him correctly, Sir.

MR. W. McKEEVA BUSH:

I have an extract too. The paper did not quote me correctly. I said I heard that they were doing some developments, meaning Dexco. I have never heard anything about these Caballero (or Corbellero) brothers until that Member brought them up.

I have told my country the truth. What I have said in this House is God's truth. That Member sought to destroy me as he said he would; now he will be able to get up and say he did not do this, he did not do that and he did not do the next thing. I resigned from that company, he knew about it, I have it here in my files.

Let this country know that what I have said in this House is the truth, the whole truth and nothing but the truth. The country knows some of it and was waiting to see when somebody would be brave enough to bring it out. Let him do his worst, they cannot say anything more about me than what has already been said.

We say in this motion we should get rid of IHC. We believe in and adhere to the form of Government of the United Kingdom Government. In the Legislature, though Government supporters grumble behind scenes and occasionally in public, it is the Members of the House who oppose Government in some of their workings. They are called Opposition and are charged with the duty of examining and constructively criticising what the Government has done and proposes to do.

As a loyal Opposition for our people, we propose to keep our charge to make the Government behave, to force them to be prudent. It is our duty to see that our country gets the best value for money; to see that Government is acting in the best interest of peace, order and good Government. When there is so much unrest and uncertainty which came about because of the actions of Members of Executive Council, we need to let the country, and I say this again, settle this matter. Let the country take me out or take them out, and let us get on with the proper Government.

What is happening now is not that and you find Constitutions not working and everything else, and this game being played and the next game being played. They must understand that we on this side object to the spending of large amounts of money which the country does not have and which we cannot afford. As Opposition Backbench, we will not allow them to put us in a bankrupt position. We will not allow these kinds of sweetheart deals to take place to put money in the pockets of out-of-work politicians.

I believe, in the interest of all that is proper, we should sever connections with IHC. It would be legally correct because these contracts were not gotten properly in the first instance. It would be morally correct, because the commission charged seems to be exceedingly high. It would be administratively correct because there is not good value for money and most of all, it is good to do so because we

have checked on Mr. Jim Conti (and if you were to ask for credit references, that could be checked through reliable independent credit sources, such as Dunn and Broad Street, a well known credit resource centre for the United States and indeed a world wide company) and we came up with nothing, meaning that Mr. Jim Conti and his company is insignificant and never made his mark in any creditable way. Further, there are certain things hanging over the head of Jim Conti, that we do not need to do business with him. One of these days, that is going to come to light. It might not be today, but it is going to come to light. So you let them fool around. The award of these contracts is an acknowledgment of the supremacy of politics over economics, morality and common sense.

In closing, I was challenged to say what or how I would deal with the matter if I found something wrong with it. Well, let me say this, if a Member wishes to spend money for which his statutory authority is in any degree doubtful, one of the most effective restraints of the Principal Secretary is to remind him that the Principal Secretary is the Accounting Officer of the Department and that he or she has to answer for the department's expenditure before the Public Accounts Committee.

This is a polite way of telling the Member that he cannot run the risk of exceeding his statutory authority and that if the Principal Secretary, as Accounting Officer, were challenged by the Public Accounts Committee, he/she would be compelled to inform the Committee that the expenditure had been incurred on the Members personal instructions after he had been warned about it by the Accounting Officer.

I trust that when the Public Accounts Committee calls there will be no humming and no hawing over questions. The motion is left to the Government, they have the support, let them do what they want with it. We have done our part, we have put our case forward.

Thank you, Mr. President.

MR. PRESIDENT:
14/90,.

The question will now be put on Private Member's Motion No.

against No.

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

AYES AND NOES.

MR. PRESIDENT:

Would you take a division please, Clerk?

CLERK:

DIVISION NO. 31/90

NOES: 8

Hon. Thomas C. Jefferson
Hon. Richard W. Ground
Hon. J. Lemuel Hurlston
Hon. W. Norman Bodden
Hon. Benson O. Ebanks
Hon. D. Ezzard Miller
Hon. Linford A. Pierson
Capt. Mabry Kirkconnell

AYES: 7

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

MR. PRESIDENT:

The result of the Division is eight noes, and seven ayes.
The Motion is accordingly negatived.

PRIVATE MEMBER'S MOTION NO. 14/90 NEGATIVED.

PROCEEDINGS WERE SUSPENDED AT 12:47 P.M.

PROCEEDINGS RESUMED AT 2:35 P.M.

MR. PRESIDENT:

Proceedings of the House are resumed.
The House had reached, I think, Private Member's Motion No.

16/90.

The Third Elected Member for George Town.

PRIVATE MEMBER'S MOTION NO. 16/90 LIMITATION OF GOVERNMENT LOANS

MR. TRUMAN M. BODDEN:

Mr. President, I move Motion 16/90 which reads:

WHEREAS the Government's loans are now approximately \$28 million and the cost of servicing such loans is about 6 per cent of Government's 1989 recurrent revenues.

AND WHEREAS there are now a number of very large projects proposed by the Government;

AND WHEREAS it is considered prudent that Government's loans do not exceed ten (10) per centum of the annual recurrent revenue (excluding money received from loans) and proper that funds should be appropriated before contracts are entered into by Government;

BE IT THEREFORE RESOLVED THAT -

1. The Government shall not borrow money to a total larger than that which can be repaid as to both principal and interest (calculated from the date of drawdown on the loan whether or not a moratorium on repayment is given) by not more than ten (10) per centum of the annual recurrent revenue (excluding money actually received from loans) for the preceding year.

2. The Government not enter into any contract, commitment or other obligation (legal or moral), unless the full sum of money (including all reasonably anticipated additional charges connected with such contract, commitment or other obligation) has first been properly authorised and appropriated.

MR. G. HAIG BODDEN:

Mr. President, I second the motion.

MR. PRESIDENT:
seconded.

Private Member's Motion No. 16/90 has been duly moved and

Will the mover wish to speak to it?

MR. TRUMAN M. BODDEN:

Mr. President, this Motion deals firstly with the borrowing of money. It is the concern of this House and it is the concern of the public that the Cayman Islands should not borrow more money than can reasonably be afforded to pay back from its recurrent revenue. At present, as the Motion mentions, the public debt stands at approximately \$28,000,000 which is approximately six per cent of Government's 1989 recurrent revenues. That sum is quite a large amount when we realise that in 1989 the borrowing, excluding loans, amounted to \$93.8 million. There has to be set proper limits beyond which there should not be borrowing. Failing which, I think we will then find ourselves getting into the position that other countries in the Caribbean have gotten into, whereby they owe large amounts in debt, and many of them can hardly pay the interest much less repay the principal.

This is an area of planning that is very important and we have heard from Government from time to time, a lot has been said about proper planning, and it is on that basis that I have applied what has, for many years, been the acceptable guideline which countries should not borrow and that is when it reaches 10 per cent of the recurrent revenue, naturally, exclusive of money received on loans because Government's accounts are cash accounts and money from loans are brought in on the revenue side.

The other aspect is to calculate really where the country has reached because several Government loans are not being repaid as to principal at this stage. The repayments on these that I mentioned will be beginning sometime between late this year to 1991, and one actually commences in 1992.

There seems to me to be approximately \$8.5 million outstanding or there about, made up mainly of the water and sewerage contract sums and the water supply amount. Also, a small amount for the Master Ground Transportation Plan, which add up to approximately \$8.5 million (and I do not have the details to specifically calculate what the actual amount will be due when they come up for repayment).

In the future what I have done is to take a rough percentage based upon what the repayment of principal now is. The fact is that some of these loans are actually 10 years and not 15 years, it appears to me that when the principal of another \$8.5 million comes up for repayment, it will take a further 1.3 per cent of the revenue to cover it. The interest naturally would remain because we are paying interest from what I can see on all the loans at this stage. So we will be (if we take into consideration the moratorium), somewhere between seven and 7.5 per cent of our present revenue.

I believe that it is most important that when we are near to that 10 per cent we evaluate very carefully the position of the country. Even though we are getting an annual increase of 12 to 18 per cent in recurrent revenue we are finding that the supplementary expenditures during the year of which, for example, this year, in the last few weeks we probably approved about \$1.5 million, just for expenditures and overruns (and one of the contracts was a large amount). That seems to be taken up largely by the general growth in expenditure in these areas.

Very important also is the fact that approximately 57 per cent of this revenue is spent on the Civil Service salary and benefits. In 1989, approximately 20 per cent went to capital which was a very high percentage going out to capital. A part of that, I appreciate, would have been loans as well. Therefore, when you add those together we are left with probably 20 per cent or a bit more upon which we have to pay the 10 per cent and it leaves a further 10 per cent for the other expenditures each year.

I would think that with such a high outlay in relation to recurrent matters (such as I mentioned) on Civil Servants' salaries and benefits on the capital expenditure that 10 per cent is a prudent amount. I know that in the past we have accepted this amount as the ball park figure that Government should not go beyond.

So on that section of the motion I would ask Members to accept that if we remain within the 10 per cent (which we are now well within it, and would probably give us another, I guess, \$20 million or there about that could be borrowed depending on the length of time and the amount of interest) that we not try to borrow where we would go much beyond a total debt of between \$40 and \$50 million.

Having said that, it would be good if a part of that 10 per cent could be reserved. For example, one per cent for events which may not be foreseeable, such as any type of natural disaster, a hurricane or something like that, where there would be heavy expenditure that would not be account for.

The second aspect of the motion is basically that Government should not enter into any contract or commitment for which the funds had not been fully appropriated; that the full sum of money be appropriated by the Finance Committee.

This too, is very important because while it is accepted that the Legislature is supreme and cannot bind itself, I believe that parameters should be set by this House which would bind the Government, that is the Executive Council, to what is more or less I would say unenforceable against Elected Members, guidelines that have been laid down in the Finance and Storage Regulations.

We have seen just recently where we had to appropriate three-quarter of a million dollars over the actual contract sum in relation to the water and sewage works. I guess some of these will arise, but as far as possible contracts that can be fixed and contained within a specific amount is really what is aimed for by the Motion.

We have seen very large projects raising their heads that I believe would put this country far beyond what is acceptable in borrowing. I also believe it is important that whatever contracts are entered into, they are phased, so that the amount of money appropriated is the amount of money that the contract itself deals with, because it is legally possible to execute a contract and then to have a future Government saddled with it. That is what we would hope to avoid by this motion. This, I think, Members will find is good planning, to ensure that we do not get into a position where third parties (contractors on the outside) could be looking to the Government for contract sums which go beyond what has been appropriated by the Legislative Assembly.

The fixed price contracts are naturally what we have been trying to preach and hope that these would be what Government and the Public Tenders Committee would be looking at. Therefore, in summary, the first part of the motion basically asks Government to stay within prudent guidelines and not get into borrowings which go over its head and which could force Government to ultimately raise duties or taxes to pay for the interest or principal on these if they are going outside of the acceptable amount (which is the 10 per cent) of the annual recurrent revenue.

Secondly, that Government's contracts and obligations actually do not exceed the amount of money that is appropriated including all reasonably anticipated additional charges which we have found with some of the contracts can be fairly substantial amounts of money. There is no reason why specific figures cannot be put in for those. So at least there would be an outer limit to stop the expenditure under the contract.

I would ask Members to support the motion and to find that it is prudent and timely; that it be brought in as a guideline for future commitments of loans and contracts.

Thank you.

MR. PRESIDENT:

Does any other Member wish to speak? [Long pause.]

Members will forgive me if I say I find it hard to believe that no other Member wishes to speak on this motion. It is an extremely important one.

MR. TRUMAN M. BODDEN:
frightened everybody from speaking, Sir.

I hope that because you are enforcing the rules, it has not

MR. PRESIDENT:

Oh, I hope not.

The Honourable Member for Communications and Works.

HON. LINFORD A. PIERSON:

Mr. President, my contribution to this motion will be short. I had hoped that another Member would have spoken, as I had wish to do more research into the motion. Nonetheless, there are some key points which I feel should be brought to attention.

It is true that the public debt now stands at approximately \$28 million which forms about six per cent of recurrent revenue. I also feel that it is important that Government should not enter into expenditure beyond what they are capable of paying. If we look back over the past few years, I think that it is quite clear, that this Government has made every attempt to ensure that proper planning is put in place. Not only in regards to public debt, but indeed all of Government's major policies.

I believe that it is true that in 1986, Government decided on the Five Year Economic Plan, was the first such major plan that had ever been considered by this country. We are aware that this came about within the last few years under the present Government now in power. This Government is responsible for that Five Year Economic Plan.

Before this plan came into effect, we know that the only such plan at the time was the 1977 Development Plan. So, while it is true that Government must be as prudent as possible, I feel, that this Government has demonstrated that prudence is its key word.

We appreciate the Member who moved this motion reminding us that we should endeavour to live within our means. But, this was indeed the thinking behind the whole idea of moving a motion to have a Five Year Development Plan in place. So that this Government could properly plan not only for capital development, but indeed, for other areas of our country's development including the social development.

If one looks at the expenditure for this country it is readily seen that the Civil Service Departments take up a large portion of the recurrent expenditure each year. I think some 57

per cent is taken up by the Civil Service. Of the balance of 43 per cent, 20 per cent of that goes into capital works. So we can see that it is indeed necessary that very careful attention is given to any further capital investments in this country.

The point is, that this is at present being done and while I would not regard the motion before us as being totally redundant, I would say, that what the resolution asks for is now being actively pursued. The resolve section of the motion states:

"1. The Government shall not borrow money to a total larger than that which can be repaid as to both principal and interest (calculated from the date of drawdown on the loan whether or not a moratorium on repayment is given) by not more than ten (10) per centum of the annual recurrent revenue (excluding money actually received from loans) for the preceding year."

This is exactly the course that the Government is taking at the present time. If we were to extrapolate the amount of \$28 million in public debt (which represents the six per cent) and put that six per cent at 10 per cent, we are looking at a total of near \$48 to \$50 million.

We also know that with the increase in recurrent expenditure and needs for capital expenditure in the country, we have a growth rate within our revenue base.

I would just like to briefly refer to some of the growth within our revenue base. In 1985, the total recurrent revenue of the country was \$56.3 million which was the five per cent increase on the previous year.

In 1986, the annual increase was 12 per cent over 1985. In 1987 it jumped to 14 per cent, which accounts for the very healthy surplus position the Government is in. So we can see that between the period of 1985 to 1989 we had a very healthy position indeed. This did not just happen by accident. This was indeed the result of very good stewardship.

In 1988 there was an 18 per cent annual increase over the previous year and the last year, we had a 13 per cent increase over 1988.

While it is true that we have indeed spent quite a bit of that money, it is also true that within the last five to six years that we have each year, accumulated a surplus and we have not had to dig into our revenue reserves.

The point here is that the Government has followed a very sensible and correct path of prudence. So to be reminded at this point in time that we need to exercise prudence is where I consider this motion as being redundant. In fact, we are doing that.

We have, as I mentioned, been the first to consider the need for an Economic Development Plan. So this is being very, very religiously followed. I believe, that while the motion is well intended it is really unnecessary.

Even in respect of our expenditure as can be seen from the balance sheets of the previous year, we have each year, shown that our expenses have been less than even the budgeted figures. One only has to look at the financial position back in October 1984 when the last Government (that is the 1976 to 1984 Government), was in power, to see that since that time this Government has accumulated very, very impressive surpluses and that the revenue position is in a very healthy position.

I could understand the need for this motion had there been a downturn in our surpluses or in our revenue or general reserve position, but the opposite is true. I believe that the Third Elected Member for George Town is really preaching to the converted. It could be very easy, to just say to the Member, we accept your motion because this is exactly what we are doing.

I would like to just mention to the Member that his motion is somewhat redundant in that in order for us to commit 100 per cent to all details here we would have to have much more information than what we have been provided with. I would have thought that in presenting this motion that the Member would have gone into much more details than he did because in fact, there are a number of variables that should have been addressed by him.

We look at the revenue position in 1989 as against the recurrent and capital expenditures and we know that even with the wide allocation that was made against capital expenditures, we are not in a position to be able to complete a number of those projects that our revenue position will probably be even better than it was projected to be in the budget.

Just looking at a statement of surplus and the deficit account, one can see that the brought forward figure at the 1st of January, 1989, was \$13.7 million. The transactions during the year showed that the recurrent revenue was \$95.9 million as against loan income of \$4.5 million, giving a total revenue position of \$100.5 million. Against this amount was recurrent expenditures of \$75.3 million, capital expenditure of \$15.3 million and statutory expenditure of \$5.7 million, which show a total expenditure of \$96.4 million leaving a surplus for 1989 of \$4 million which when added to the brought forward surplus is some \$17.7 million.

It is important to note that in 1989, through the prudence of this Government a total amount of \$6 million was transferred to General Reserves and this, is the key. This Government was so prudent during the period that we have been in power (or in Executive Council) that we were able in 1989 to transfer to General Reserves an amount of \$6 million to carry us through that rainy of period.

So when it comes to prudence I believe it is true to say that our stewardship will proof our prudence. We took \$6 million to General Reserves in 1989 and left a balance. We did not clean out our surplus account. We left a balance in there of \$11.7 million.

I believe that even at the end of 1990, that you are going to see a much better position because even with the big capital expenditures estimated, I do not believe that with the

speed of work that is being carried out now, unfortunately, we will not be able to complete all of the capital expenditure and that much of that money will fall back into surplus.

I would hate to see that happen, but this is a reality. Thus far, because of the slow returns of a number of priorities from the various constituents and the slow start up work by Public Works, we are finding that much of the work that should have been complete is really still pending. While I apologise to the various Members for this slow approach, I would have to mention that the policies of the Portfolio have been intact and we have given out certain directives. Hopefully these directives will be carried out.

Now, it would seem that the reasoning, the rationale behind the motion is to prevent Government (as I have heard mentioned in this House) from entering into these grandiose schemes as they are referred to.

I would have hoped that having satisfied the Members' wishes by withdrawing the MGTP here one day of last week, that they would have seen that Government intends to work with the Backbenchers as closely as possible. The reason why this plan was scuttled, was because of the same fear. I thought that perhaps we had put this fear to rest, because regardless of the impressions that may be given, it is our intention to work as closely with the Backbench on capital projects and indeed to satisfy the desires of the members of the public, while so doing, to ensure that our capital projects are kept within reasonable limits.

If there is a fear that Government, even with the restructuring of the Finance Committee, will be going into grandiose projects, I would like to remind all Members of this honorable House that the same prudence and careful spending and planning that have been exercised ever since we took over in 1984, which has resulted in such a very fairable and healthy financial position, will continue to be religiously observed. We are as concerned with the healthy state of this country as all the Members of this House and, it is to our benefit that whenever we leave and turn over the reign of Government that this country's financial position is as healthy as it has ever been. We realise that this is only possible if we continue to practice prudence.

A motion requesting this is unnecessary at this point and it is on the basis of our past performance that I am able to say this without any fear of contradiction. If there had been any signs that this Government was spending the people's money without control, then I could have seen the necessity for a motion like this.

It is quite clear, one can look at the accounts of the period from late 1984 to date, and it all adds up to a success story. Each year there has been surpluses; that does not equate to imprudence. That equates to a lot of prudence on the part of Government and we are to be very thankful that guiding this process has been our able Financial Secretary, working along with Members of Executive Council.

We, in the Cayman Islands, have a lot to be proud of. We have the highest per capita income in the Caribbean or indeed, in the world. We have a very enviable position in the world's economy. We are believed to be perhaps the fifth largest banking centre in the world. This has come about because of the stability of this country. Not of what we hope we will accomplish, but on the basis of past performance.

We do not intend to jeopardize that position. It is true that wild spending could jeopardise the economy of this country, but this will not be done. We have very sound people who make the decisions on Executive Council. We have a very strong opposition that will ensure that the checks and balances are kept in place each year. The Third Elected Member for George Town might want to retort by saying that this is one of the checks and balances. But my position is that this motion is not a check and balance. It is somewhat redundant because it is really stating the obvious course that this Government has been following over the years.

We have also been accused...and I realise that you [Mr. President] has mentioned that you will religiously stick to the procedure and I will not go around that. As you will recall, I have been following very closely your Rulings in this House and I will continue to do so. I am very pleased that you have decided to enforce the rules very strictly.

It is quite clear to see that if this Government was not a prudent Government, was not a caring Government, that we would not have been in a position to be offering our civil servants a 22 and half per cent increase out of General Revenues at this point in time when we find a number of the Caricom countries cutting back; having to go to their civil servants and ask them to cut their salaries in order for them to be able to carry out other needed projects.

My position on this motion is, one only has to look around the country; there is no unemployment, there is a full employment position and even where there is a question...I saw in the statistics some place where it is stated that there is a six per cent unemployment rate. But, I would have to question that. I ask the question: How can there be a six per cent of unemployed people as we know the term of unemployment? Are they seasonally unemployed? Are they unemployable? Or are they totally unemployed? I think that question can best be answered when we look at the almost 8,000 people, expatriates on work permits in this country.

In a small country of 26,000 people and we have 8,000 people on work permit, then that six per cent cannot be a solid unemployment figure. It has to either fall in the category of a seasonally unemployed or those individuals who really do not want to work, Sir.

So, the point that I am making is that this country's economy is booming. We have an over-employment situation, the incomes of this country are sufficient to cover our expenditures as has been demonstrated here by the annual increases we have had in revenue. Even with a 12 or 14 or 18 per cent growth in our revenue, the expenditures are still not exceeding that growth.

Now it is true, that had we not prudently, as we did recently, come forward to Government and to this honourable House with a revenue package to offset the expenditure which was recently passed, by the end of this year we would have been suffering a deficit position. But there again,

it proves the prudence of this country in that we saw that this problem would have faced us. So, we went to our other Members of Executive Council, discussed this with the technicians, with the professional people we have in Government, and in the private sector and realised that the increases in the revenue position would not have adversely affect the economy of this country.

We did a full study on this, Sir. We, in this House, through the Financial Secretary, the First Official Member and I believe that I, also dealt in some details with this point; showed that even with the withdrawal multiplier affect, because we were prepared to put this money back, even with a saving rate of 50 per cent going into the bank; if civil servants, out of that \$9.4 million decided that they were going to save 50 per cent of that sum, with the other 50 per cent being put into the economy we would still have had a net surplus.

So, this is very, very good planning; this is good economic planning. Where else in the world can you find a small nation like this...

POINT OF ORDER

MR. W. McKEEVA BUSH: On a Point of Order, Mr. President. Standing Order 36. The debate shall be relevant to the matter of question before the House.

MR. PRESIDENT:

Thank you.

I am grateful to you for keeping your eye on this in the same way that I am. I think if the Honourable Member had gone much further on the ground previously covered I would have called his attention to it. But, I think he had not quite gone to that. His argument is basically that the Government is prudent and therefore does not need the restraints proposed in the motion. I hope you will all bear in mind not to repeat ground previously covered in previous debates.

Perhaps we could take the break there, if it would suit you anyway.

Proceedings are suspended for 15 minutes.

PROCEEDINGS WERE SUSPENDED AT 3:26 P.M.

PROCEEDINGS RESUMED AT 4:05 P.M.

MR. PRESIDENT:

Proceedings are resumed.

The Member for Communications and Works, continuing.

HON. LINFORD A. PIERSON:

Mr. President, it is important to note that the Government is guided by the Law, by the provisions of the Public Finance and Audit Law, 1985 (that is Law 23 of 1985), section 27(1) and (2) regarding borrowing powers and loans. The reason for making reference to this section is to make it quite clear that there are guidelines under which the country and the Government operates.

Section 27(1) of the Public Finance and Audit Law, 1985 states:

"27. (1) Subject to subsection (2) the Government shall not borrow money except in accordance with a law.

(2) Notwithstanding the provisions of any other law, the Financial Secretary may borrow by means of advances from the Crown Agents or from any bank, by means of a fluctuating overdraft or otherwise, such sums as may be required to meet day to day payments and any interest or service charges in respect of such sums shall be charged on revenue."

We also know that the Financial Secretary has certain flexibility with regards to loans from the Caribbean Development Bank. I regard this section of the law very important and relevant to the motion before us. I believe that for us to deal with this motion as properly as it should be dealt with, it is important for us to know exactly what is meant by public debts and what is comprised in the public debts of this country.

We know that on 31st December, 1989, the public debts of this country (that is the loans excluding self-financing loans), stood at \$19,387,316 million. It is important that we know what comprises this \$19 million. I feel, that in the interest of clarity and for the information of the House and the listening public, I should deal in some depth with the statement of public debt as at the 31st of December, 1989.

We see a number of major developments such as our broadcasting station, our airport facilities, our dock facilities, and our water facilities; these infrastructural facilities do not just come about. We have to know what the details are attached to these loans which make these facilities possible. On the broadcasting station, which forms a part of our public debt, it is important to note that there was a loan of \$85,580 sterling, repayable over 18 years commencing in 1982 that will be complete in the year 2000. The annual repayment on this loan is 4,800 pounds and it is interest free. The balance at this point as at the 31st of December, (the CI balance owing on this loan was \$85,000) is now \$67,000.

Similarly, with the Public Works Department security fencing. There was a loan of \$35,050 sterling which has a balance of \$28,446 at the end of 1989.

The learning Resources Centre had a total loan of 125,821

pounds where the repayment commenced in 1983 and the balance as at the end of December 1989, was \$75,421 sterling or CI\$101,920.

We also had a small loan for a printing facility of 17,546 pounds which commenced in 1983 and the balance at the end of December 1989, was CI\$14,251. Similarly, in respect of the Public Works Department stores, workshop and offices we see a balance which is included in the \$19,387,316 of \$17,057.

The Education building programme, the repayment was over 18 years and it commenced in 1984, and will continue to the year 2002 and, it has at the end of 1989 of CI\$120,199. With the expansion of the Public Works Department facilities there is a balance outstanding of \$20,285.

I would just touch on some of the bigger balances, we have a United Kingdom loan agreement, signed in 1977, with a balance of \$456,284. Also, under the roads, there is two balances here. The first one was in respect of a loan of CI\$400,000 which was repayable over 20 years and this commenced in 1971 and ends this year. The balance on this year is only \$20,000. This loan was initially for \$400,000. The second loan for US\$2.4 million repayable over 10 years commenced in 1987 at two per cent over cost of raising the loan and the balance on that as at the 31st of December, 1989, is US\$1.5 million.

We all see the benefits from the sewage scheme on the West Bay Road. This loan was in the amount of CI\$3.9 million, repayable over 10 years in quarterly installments and this commenced on the 31st of March, 1989, at 10 per cent interest rate. The balance at the 31st December, 1989, is CI\$3.5 million.

I am taking time to deal with these items so that it can be quite clear that the public debt is comprised of very, very needed and necessary facilities. The Tower Building was for a loan of \$5.5 million repayable over seven years and this commenced in 1985, at one per cent interest over current deposit rate. Also an agreement has been made with Barclay's Bank that Government Reserves will not be moved from Barclay's Bank during the period of the payment of this loan. The balance of this loan at the end of December, 1989, was CI\$1.3 million out of the US\$5.5 million.

With the Caribbean Regional Development Bank, we have a small loan for a feeder road of \$592,000, at the end of December, 1989. In respect of the Master Ground Transportation Ground study, the Caribbean Development Bank had given the country a loan, with the balance at the end of December 1989 of \$235,215.

In respect of the Water and Sewage Project, the loan was obtained out of a basket of currencies. The currency was in United States dollars, Sterling, Canadian and other currencies. This amount as we know was for US\$7 million and this was at various and variable interest rates. The repayment will commence on the 30th of June, 1991.

In respect, of the next public debt which was for the water supply, I need not say, how important this has been to the country. This was for US\$2.775 million and repayment will be by quarterly payments, commencing on the 31st of March, 1992, and showed a balance of CI\$2.3 million as at the end of December, 1989.

Also, if we are successful in Finance Committee, we will be asking Members of this honourable House to approve a loan to the Water Authority for works in Cayman Brac and hopefully, this will also be a self-financing loan. All we are asking at this point is a moratorium on the loan to allow the Water Authority to be able to get a good start in the Brac. But, I do not think that anybody will not agree with me that this is a very needed facility. Mr. President, I will deal that at another time.

The airport facilities, the fire service was for US\$1,529,000 over 15 years at eight and half per cent and this had a three year moratorium. The balance as at the 31st of December, 1989, was \$1,274,167.

So, that is exactly how the \$19,387,316 is comprised in our Public Debt Statement as at the 31st of December, 1989. It can clearly be seen that the history of this Government and Governments before has been following fairly careful expenditure with regards to our public debts. A lot of prudence has been exercised and it should be noted that the Water Authority which comprises a large segment of this public debt, became an independent statutory body on the 1st of January, 1990. These loans which amount to \$13.5 million will appear as self financing loans in future years.

There is also another segment of the \$28 million referred to in the motion moved by the Third Elected Member for George Town, that is the self-financed. I would just like to explain that self financing loans are loans raised by the Government on behalf of Government agencies which are required by agreement to reimburse all principal and interest charges paid by the Government on these loans.

This is not a loss to Government, these are self-financing loans that will be repaid. I would like to just quickly give an overview of some of these self-financing loans. Firstly dealing with the self-financing loans provided through the Caribbean Development Bank; we have the Port Authority with a loan repayable over 17 years and it commenced in 1977. This too, was acquired out of a basket of currencies including Canadian and the Cayman Islands/Bahamian currencies.

The Port Authority in Cayman Brac also received a loan in 1986 (which is also self-financing) and this is repayable over 20 years in the amount of US\$1.5 million. I am happy to say that at the end of December, 1989, the balance owing on this US\$1.5 million is CI\$937,500.

We also have, through the Caribbean Development Bank, students' loans and the repayment terms on these loans vary according to final date of the course completion. These can vary quite substantial depending on the contents of the course.

The establishment of the Agricultural and Industrial Development Board was one of the biggest assets to the people of this country. The Caribbean Development Bank has made a number of loans to this Board. We also have the airport improvement in the Civil Aviation Authority.

There was a loan with a repayment of US\$5 million, with a repayment of 15 years at 10.5 per cent with a three year moratorium. The balance on this loan is C\$4.5 million.

The airport facilities, again, this loan was from a basket of currencies and this loan has been reduced quite substantially, and, in accordance with the schedule of payments. In addition to the Caribbean Development Bank, we have received financial assistance or loans (self-financing loans) through the United Kingdom Development Loan Fund.

The Cayman Brac Airport, Civil Aviation Authority received an amount of a 174,630 pounds repayable over 18 years and this commenced in 1984.

MR. PRESIDENT:

If I may just interrupt you, for a moment. A Member has asked me a question. He has made the point that you are reading from the accounts which have not yet been tabled. Which, I think, is true. I think the point really is that the document exists. The fact that it really has not been tabled, I do not think prevents it from being commented upon, but it is of course subject to audit. The Auditor's Report, and Public Accounts Committee. I think that point can be made.

I also appreciate that another Member signalled to me that this is rather heavy going. I am afraid that Finance and Economic matters often are rather heavy going.

MR. TRUMAN M. BODDEN:

If I may just ask, what my letter said, was, "might I remind Members that the contents of these reports are confidential and should be treated as such until the report of the Public Accounts Committee along with these reports are laid on the Table of the House". That is what my letter said, Sir.

MR. PRESIDENT:

This is the covering letter of the...

MR. TRUMAN M. BODDEN:

Yes, Sir.

MR. PRESIDENT:

...the Auditor General's letter?

MR. TRUMAN M. BODDEN:

No, Sir. Of Mrs. Myrie's. The Clerk of the Assembly.

MR. PRESIDENT:

Well, I think that that refers more specifically to the Auditor General's Report. I think. Nevertheless, you could just as well quote from last year's Accountant General's Report and you would be making the same sort of point, I think. Perhaps I could ask the Honourable First Official Member, the Financial Secretary, whether you recall the Accountant General's Report as confidential at this stage? I have certainly seen it circulating quite widely.

HON. THOMAS C. JEFFERSON:

The Report of the Accountant General is something quite new, Mr. President. I think the first one I saw was the accounts for dealing with last year. We tabled the Auditor General's Report, together with the Accountant General's Report. So, in that sense, I believe that the two accounts might be treated equally.

MR. PRESIDENT:

Do you have last year's Accountant General's Report?

HON. LINFORD A. PIERSON:

Mr. President, I have the Estimates that have been already laid on the table of the House and is a public document and the information here is substantially (or very) close to what I was reading from.

The Accountant General's Report as I see it, is not a confidential document. I could understand the objection being made to the Auditor General's Report which is tabled together with the Public Accounts Committee's Report. But not the Accountant General's Report because they are figures that are quite available.

MR. PRESIDENT:

I think another way of looking at this would be that if any Honourable Member asked a question about up-to-date figures they would receive that and there would be no difficulty about it. But, we all would probably be more comfortable if you would use the estimates. The second document you just referred to. Are you with me? Would you continue using the Estimates of Revenue and Expenditure, the document you just referred to?

HON. LINFORD A. PIERSON:

Mr. President, I am aware of these little tricks, these little political tricks. They are really to try and knock me off my trend, but I can assure the Third Elected Member for George Town, that he will have to sit here and listen to this for awhile yet.

MR. TRUMAN M. BODDEN:

Mr. President, with respect. I did not raise this at all. The note to you did not come from me. He is blaming me for stopping him, I merely got into it along the way.

MR. PRESIDENT:

If the Member who sent me the note does not mind being identified? It was the First Elected Member for West Bay, for the purpose of avoidance of doubt.

HON. LINFORD A. PIERSON:

I should have thought that it was my good friend from West Bay trying to pull one of his smart ones, but let us say that we have until 6:00 and the information that I have here, I can

go well beyond that without having to use the Accountant Generals Report. But I must point out, that I can hardly see this document or this information being confidential at this point in time. But since, you have ruled on that, I will certainly follow the directives of the Chair.

MR. PRESIDENT:
on a previous occasion.

Thank you, I think it is what I call the 'belt and braces' approach

HON. LINFORD A. PIERSON: I will continue to point out some of the loans and the details of the loans recoverable that have been entered into by Government. I am going to be taking this which is identical in scope and almost identical in amounts from the Estimates of Revenue and Expenditure of the Cayman Islands for the Year 1990.

MR. PRESIDENT: I am sorry to keep interrupting, but I just want to point out that we have not moved the motion for suspension upon the basis it was noted last week that we intended to sit until 6:00.

HON. LINFORD A. PIERSON: Thank you, Mr. President.

The first of such recoverable loan was for the Cayman Brac power and Light Company Limited which is repayable over 20 years at 3 per cent interest. It was granted in 1980 and the balance is \$78,400.

For the Port Authority (that is the port's assets vested for the Port Authority Grand Cayman) was 30 annual payments of \$48,460, the date granted was 1980 and the balance was \$1,066,095. Another such recurrable loan was the Wesleyan Holiness Church and this amount was payable over 10 years at \$5,200 per annum with a five year moratorium from 1987 and the date granted on this was 1982 and the balance of \$38,012. Then we have the National Council of Social Services with a date of 1982 to 1983 and the balance on this is \$228,086.

Government also supports the civil servants' mortgage scheme, repayments vary or are at five per cent interest rate. This commenced in 1982, with an initial amount of \$2,078,000 with a balance at December 1988, of \$1,401,049.

The Seventy-Day Adventist Church also received a payment, a 10 year loan at 7.5 per cent interest and this was granted in 1984 with a balance at the end of 1988, of \$36,000. The balance at the end of 1989, is something like \$30,000.

The Triple 'C' School loan of \$100,000 is repayable over 15 years and at the end of December 1988, was \$90,699. I believe the same position existed at the end of 1989.

Then, we have the Paradise Manor which has caused some concern and has been reported on in the Public Accounts Committees Report. This was granted in 1985. At the end of 1988, the balance had not changed. No payments had been made during the period and I understand as of the end of December, 1989, the position has not changed from the 1988 figure. So payments, have been made over that period, but it is a recoverable loan and I am sure Government will do whatever is necessary in this matter.

The Cayman Prep School was another institution that benefited from a Government loan and the repayment on this was over a period of 10 years, at 7.5 per cent interest rate. The balance on this loan, is \$31,000.

Mr. President, these guys on the Backbench are confusing one of my colleagues. A recoverable loan was also made to the Cayman Turtle Farm Limited in 1983, and this is repayable over 10 years with a three year moratorium granted on interest and repayment. The interest rate of five per cent. We have also assisted, the International College of the Cayman Islands with a loan in 1987 and this is nearing completion.

On overseas medical expenses we have assisted various individuals and the total at the end of 1988 which has not changed substantially since, was \$1,064,849. I believe that the figure for December 1989, is just slightly lower at about \$1,040,000.

It can be clearly seen that in all of the public debts the total amount stated in Private Member's Motion 16/80 that in fact these are all solid loans with about approximately \$11,000,000 of these loans being self-financing. There is no secret in this country that in the past five to six years since 1984 Election, that this country has done exceedingly well. When the Government took over in November 1984, the following position was very, very scary. There was a negative balance (that is, an overdraft) on the Surplus and Deficit Account at that time - \$590,747. There was at that time a Reserve Account balance (at the end of 1984) reduced to \$7,783,009 which...

MR. PRESIDENT: I trust that these figures, which we have of course heard before in this House, are going to have relevance to the Loan position.

HON. LINFORD A. PIERSON: Yes, Mr. President. The position that I am showing here is the prudence, the financial prudence of Government. My friend, the Third Elected Member from George Town, need not upset himself about the prudence of Government, because I am about to show him how prudent Government has been since 1984 and that is the reason for giving these figures.

At the end of 1985, we had still not done very much with the surplus and deficit account because there were a lot of debts outstanding which had to be paid. As a prudent Government we also believe that we should pay our debts, or even the debts of previous Governments.

So the deficit position had increased slightly at the end of

December, 1985, and the reserves had decreased slightly, with a total balance including the deficit on the surplus and deficit account and the balance on reserve account, the total balance of \$5,000,000. Against this was a public debt balance of \$11,000,000 and self-financing loans of \$3.2 million. That was the scary position even at the end of 1985.

I want you to take note of what happened when this Government started implementing all of our proper plans, our fiscal plans and our financial prudence was put in place. Mr. President, also in 1986 as I mentioned earlier, the Development Plan was implemented.

So, from the time we were able to clear off the debts that had been left by the previous Government, the 1976 to 1984 Government, things started improving. This is why I mentioned earlier that in 1985, the annual increase in revenue was only five per cent over 1984, but in 1986, it jumped to 12 per cent. That was when we started implementing good financial and fiscal planning. In 1987, this figure jumped to 14 per cent. This was not all our doing. We take credit as an Executive Council for the policies put in place, but credit must also be given to our Financial Advisor, the Financial Secretary; and in 1988, the annual increase in revenues had jumped to 18 per cent.

I cannot understand why at this stage with the good track record that we have behind us, why the Third Elected Member for George Town should find it necessary unless of course he wants to keep us in the House for another two weeks, but why should he find it necessary at this point in time to want to remind us of prudence when we have proven beyond any reasonable doubt that we are a prudent Government. Now I know that the Member is going to say that his denial of certain funds for certain projects assisted the 1989 figures.

There is no proof to that. The same prudence that we exercised from 1985, 1986, 1987, and 1988 we will continue to exercise in this country. Mr. President, as if the figures given already were not impressive, I would like to give a few more.

In 1987 our recurrent revenue was \$72,000,000. Our loan revenue \$5.3, with a total revenue position of \$77.3 million. Against this, was total expenditure of \$72,000,000, against the \$77 million in total revenue. So, that is good prudence, that is good fiscal planning. We did not use up all of our revenues. We did not commit the country's revenue to end any grandiose schemes or any big schemes.

It must be borne in mind, that in a developing country and developing economy such as ours if we had sat back when the loan was negotiated for the airport, or for the Port Authority, for the sewage, for the water works in this country, that is all necessary for the infrastructure development to keep pace with our economic development in this country, we would have been way behind, we would have been left behind.

If we had at that point said that because these were large loans, such as the loan that was necessary for the sewage works on the West Bay Road, if we had looked at it from that point of view, if this motion for instance had been into affect at that point in time, we would have still been 10 to 15 years behind time, and, this country would not have developed to the extent that it did. So much so, that at the end of December 1987, and I am just giving a record of the prudence of the Government and what we accomplished. Our stewardship. This cannot be denied, these are solid figures that can stand scrutiny. Our surplus and deficit position at the end of 1987, was not the \$590,000 deficit debt we took over the country with. But, instead we had transformed that deficit into a surplus positive balance of \$7 million. That was the growth, That is the kind of prudence I am talking about. So, we need not be reminded of prudence.

MR. W. McKEEVA BUSH:

Mr. President,

HON. LINFORD A. PIERSON:
President?

We need not be reminded...is this a Point of Order, Mr.

POINT OF ORDER

MR. W. McKEEVA BUSH:

Yes, Sir.

Mr. President, the Member has been taking this line of argument before and I think he is very much repeating himself and I call your attention to that particular Standing Order.

MR. PRESIDENT:

Thank you.

The Member is making an argument about prudence which is in reply to the mover's line of thinking and he is taking a considerable amount of examples, perhaps, I can say gently that I think the point has been well made.

HON. LINFORD A. PIERSON:

Again, I am not going to enter into an argument with my friend from West Bay, because I am sure he has his reasons for wanting to stop me. We have worked together in the Backbench before, so I know a little bit of his techniques. So I will not let him disturb me too much. He knows that I am not repeating when I go from one year to the next.

I think it is important that in view of this motion which has some very significant areas in it, that we should deal with this matter very comprehensively. To deal with it in a cursory manner, would be an injustice, not only to this honourable House but indeed to the listening public and such an important matter as contained in the Member's motion, I am sure he would wish to have properly dealt with.

I would not want to let him feel that this matter is at all being slighted by the Government Bench, but that it is being given the very serious and in depth consideration. This is exactly what I am doing, and showing that the total balances at the end of 1987 had jumped to \$15 million. This

was from a total of \$7 million at the end of 1984. That is double in three years; double the position in three years, yet the Member is reminding this Government that we need to exercise prudence. That is what my argument is about; trying to point out that this motion is totally redundant, it is really unnecessary.

Since my good friend from West Bay would like that I not deal too much in depth with this, I would just like to mention that at the end of 1988, the total balance had jumped to \$24 million and at the end of 1989, it had jumped to \$28 million.

Now, when you compare the public debt of the country at the end of 1984 as a percentage of the revenue at that point and compare the public debt at the end of 1989 as a percentage of the revenue for that period, we can see, where prudence has been exercised by this Government.

So, there is no need to remind this Government of prudence. We have demonstrated by our stewardship that this country exercises financial and fiscal prudence. This is why it would be very difficult for Government to even consider unless we wanted to say to the Third Member for George Town, yes, we agree with you that prudence is necessary, but yes we are doing just that. We are a prudent Government. But, he has said here that Government's loans should not exceed 10 per cent. Perhaps when he is winding up he will provide this Honourable House with the basis for his financial lever on the amount of public debt that Government usually incur, or is allowed to incur. What is the ceiling?

If we had to use other countries within the Caribbean, or other countries that could compare with the Cayman Islands (such as perhaps Bermuda or the Bahamas), what is their public debt? Or if we had the temerity to look at bigger countries, such as the United Kingdom, the United States of America, Canada; they are developed countries; they are the ones that should be setting the example of keeping a ceiling.

Another side of this picture is that while we will continue to maintain a surplus position, we will not pull this country into any debt. We will continue to keep a surplus position. I think that on the basis of the arguments which have been put forward by me in respect of other large and necessary expenditures such as the sewage scheme, such as the airport, such as the Port Authority, that it might be foolhardy, for us to bind ourselves to a single percentage when in fact there is very little basis for that percentage. These same departments that were formerly Government Departments are now statutory authorities and they are functioning on their own.

The same might be said later on if it was decided out of necessity, if this country decided, if this honorable House decided that it was necessary to have to enter into any expenditure, all of these considerations would have to be given very, very serious thought.

In addition to our general reserves it is important to note that we in fact have investments in a number of areas, in a number of companies of public companies that is. Public undertakings is perhaps a better phrase. There is a fairly heavy investment as we know in Cayman Airways. But no-one can deny the need for our national airline. We also have to be putting into the airline some very heavy subsidies. But no-one can deny that this is needed. One only has to look at the Grand Cayman to Cayman Brac route and one will see that that is a non profitable route; but a necessary route, to provide service for our people. So, such an investment is very, very important.

Another such investment, was the Turtle Farm. We have had to invest in the Turtle Farm. It may not be as profitable as we would wish to see it, but, it is necessary. It provides a number of jobs for our people and it is a major attraction in this country. As we all know, the Government also has certain contingent liabilities. But, this in itself by making provision for these liabilities will indicate the prudence, because any good solid accounting practice or principle will tell us that certain provisions are necessary. So, whether that payment has to be made today, or in a year's time or six months time we should provide for it out of general revenues.

Now, regarding the fear expressed in this motion of Government spending beyond its limits. I think that the mover of this motion and indeed other Members of this honourable House should know that there are certain checks and balances in place.

We know that under the Finance and Stores Regulations the accounting officers within the Portfolios are responsible to make sure that money is not spent lavishly and that they must account to not only the Portfolio, but indeed the Accountant General who heads up the Treasury and the Auditor General and of course the Public Accounts Committee.

In my experience in the four years that I was Chairman of the Public Accounts Committee, I must say that great prudence...I have seen a lot of improvements in the manner in which the departments have accounted for public funds. I must take this opportunity to congratulate the First Elected Member for Bodden Town who took over the Chair, as Chairman of the Public Accounts Committee, for continuing the very solid foundation laid and improving in certain areas. Even though I cannot say that when I took over in 1984, I found such a very solid infrastructure laid in that committee. But I will not go into any more details on this particular point. I think it is record and history that the Public Accounts Committee did not function, or functioned in a very limited way, prior to my taking over the Chairmanship in 1984.

I think the Third Elected Member knows who was the Chairman of the Public Accounts Committee from 1980 to 1984 and I believe that he knows (even though he may not have been in the House), that the Public Accounts Committee functioned properly and worked very closely with the Auditor General and the Accountant General between the period of 1984 to 1988, but more particularly since this motion is a motion before the House today, he knows that it continues to be a well functioning committee, with a very able Chairman and very able Members of the committee. So, knowing the Chairman as well as I do, he is not going to let anything slip through his fingers. He is going to keep a very close check on the finances of this country.

But, the Member might rebut and say, that is after the fact. I

have dealt with before the fact; before the fact is before the money is spent. These are the carrying out of the details and guidelines by the accounting officers in Government. They have a responsibility to ensure that they comply with the various regulations governing the expenditure within Government departments.

MR. PRESIDENT: You are not actually being quite irrelevant; I am not going to rule you as being irrelevant, but I think the argument here is about the approved loan capacity of the Government, rather than the measures by which accounting for monies is exercised.

HON. LINFORD A. PIERSON: Thank you so much.
The relevance on this point for my point of view, Sir, was that since this Government took over in 1984, we have a track record of prudence. Not only did we pull a Government that had a deficit position of almost \$600,000, into a surplus position of some \$16 million at the end of 1989, but we also appointed a committee that ensured that this prudence was maintained; that the checks and balances were maintained and this is the relevance of mentioning the Public Accounts Committee.

MR. PRESIDENT: I think that is perfectly fair, but I think you should not go into too much detail about the workings of the committee. You will have to learn, I am afraid the Whole House will have to learn to bear with me, the interruptions like this because we have got to feel our way into what I will refer to as a new mode. Thank you.

HON. LINFORD A. PIERSON: Thank you, Mr. President.
The question I still have to ask is the basis for the 10 per cent ceiling? Perhaps, I would not have had to go into as much detail as I am going into if the Member had given a better presentation of the motion. If he had given, the basis for the 10 per cent ceiling. I would not have had to be trying to pull the information out of him. But, to bring a motion before the House which states:

"WHEREAS the Government's loans are now approximately \$28 million and the cost of servicing such loans is about 6 per cent

AND WHEREAS it is considered prudent that Government's loans do not exceed ten (10) per cent."

What is the basis for this? This is not what I would expect from that Member. But, since the motion came before the House I expect that the Honourable Member would have taken the time to explain the basis for the 10 per cent that he is advocating that should be a ceiling. I would just like to stop at this point (maybe the Member can) since this is such an important matter, he can clarify the basis for this 10 per cent. I will give way to him.

MR. PRESIDENT: I do not think that I can waive the rules to permit the Member to speak a second time before he winds up.

HON. LINFORD A. PIERSON: It would helped if the Member could have told this honourable House what basis he has for 10 per cent. Why not 11 per cent, why not 12 per cent, why not 9 per cent? What is the basis for the 10 per cent? I am at a loss and I believe if I ask either Member of this honourable House what is the relevance of 10 per cent, they would not be able to tell me, especially in a developing country like this.

It could be a situation where the percentage might have to be 10.5 per cent, 10.25 per cent. Why are we going to hold this country so rigidly to 10 per cent? What is the rational behind this?

It would have helped since there may be other speakers if the Member had taken a little time that I gave him to explain what this is all about. It would save me having to go into more depth on this.

MR. PRESIDENT: I really think you have made that point. I think it would be in order for you to ask whether his colleagues could explain it? That might be more to the point.

HON. LINFORD A. PIERSON: Or maybe, I would be very happy to allow the seconder to take a few minutes to explain it, if he feels like he would like to do that.

MR. PRESIDENT: No, no I was not suggesting that. I was suggesting that when the turn of other Members came to speak, it would be perfectly in order for you to suggest that they might care to do it.

HON. LINFORD A. PIERSON: Thank you, Mr. President, I thought that was what you meant, Sir. But I still..

MR. W. McKEEVA BUSH: I will draw your attention to repetition to relevant matters in a debate. I think the Member is playing for time and we said we were going to stick to our rules and he is really playing for time according to what I have heard him say before.

MR. PRESIDENT:

I have a few seconds ago, pointed out that the point had been made, which if you like is a polite way of saying that there has been enough repetition. Point has been made, but I think it is entirely in order for the Member to ask why the figure of 10 per cent? Which is the point he has well and properly made.

HON. LINFORD A. PIERSON:

Thank you.

That is indeed the point that I wanted to make and that is most relevant. Because this motion, we cannot get away from this motion. The motion is indeed contemplating 10 per cent. That is what it is talking about. The recital in the motion states: "**AND WHEREAS** it is considered prudent that Government's loans do not exceed ten (10) per centum of the annual."

MR. PRESIDENT:

I think we should take the motion as read. I do not think you need to read it again.

HON. LINFORD A. PIERSON:

Mr. President, there is no question that the financial procedures of this country are being followed very closely and religiously. The size and complexity of the Government's activities are at the point where they have grown considerably in the past 10 years.

When we look at the expenditures back 10 years ago, which were something like \$27 million, we today see an almost 400 per cent increase. This is what we are looking at. In closing I would like to again point out, that in those years there has been a tremendous increase in our revenues position. We have had a growth in 1985 from five per cent to 18 per cent at the end of 1988. That is an annual increase in revenues.

I would reiterate that we move from a negative position of approximately \$600,000 on our surplus and deficit account, an overdraft position, to a balance of some \$11 million at the end of 1989, with a reserve of some \$18 million. At the end of June the latest figures that I have available, the figures were something like \$16 million on our surplus account and a balance of some \$19 million on our general reserves.

I have reiterated that point to show that this Government has been a Government that practiced very, very strict fiscal and financial prudence.

I thank you, Mr. President.

MR. PRESIDENT:

The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.:

Mr. President, I rise to add my support to Private Member's Motion No. 16/90 entitled, 'Limitation of Government Loans'.

There is not one on the Backbench that is refuting Government's present favourable financial position. We have heard here since this Session has started that we do have reserves in the region of about \$18 or \$19 million and surplus revenue in the region of about \$13 or \$14 million, for a total of about \$34 million. That is good, and this is why the motion has been brought, to ensure that Government maintains or retains their favourable financial position.

I think what is very important for us to remember is that this has been the key to our economic success in the past. The key has been prudent physical policies which were adhered to by past Governments.

We have been very careful as a country, with regard to external borrowings. I know we have some loans on our books, but our loans at the present time, are reasonable and affordable. For the information of the Member who just spoke, that is the Member responsible for Communications and Works, the reason why the motion calls for a 10 per cent ceiling is that both the present Financial Secretary and also the former Financial Secretary, Mr. Vassel Johnson, have thrown this out as a benchmark or guideline for Government with regard to its borrowings; that is that no more than 10 per cent should be committed in repaying borrowings.

I would also like to add that I think to a large extent the \$6 million that Government was able to put in their reserves in the past year or so, the Backbench had something to do with that, because, we, as a Backbench, including the First Elected Member for Cayman Brac and Little Cayman, refused to approve Government's large projects which would have called for a substantial amount of borrowings.

I think what is important for Members to recognise that even though we just boasted of a budget of \$109, \$110 million for 1990, that a large percentage of this budget is committed for recurrent expenditure. Presently, according to my calculations and after the new raise has gone into effect, it probably will change, Government now commits in the region of about 57 per cent of its recurrent budget to take care of civil servants salaries and benefits.

What is also important, there is an increasing demand from the public to provide services, that is, social services, health services, and other essential services; and, we have to ensure as legislators that there are sufficient funds available to continue to meet these demands as reasonable as possible.

Our demand, also for capital expenditure is constantly increasing as projects become more numerous, larger and more expensive. The reason for this motion that was just moved by the Third Elected Member for George Town is that the projects presently being touted by the present Government is of serious concern to us. We feel, that if we are not in a position where we can exercise some control over Government's commitments, that the projects which they have in mind will result in a substantial

amount of external borrowings to finance these projects.

This morning and last night I watched the news on countries like Brazil, Mexico and Jamaica. I think last night the article was on Brazil and the present financial position that country finds itself in. I remember back in the early 1970s, when I was in university, Brazil was considered an economic model for the rest of the world. They had everything going for them, but because of the constant demand and request for public or external borrowings this country which boasted once of such financial and economic might, has found itself in the position where it can no longer adequately and consistently service its borrowings.

As a matter of fact, it had to suspend repayment on its borrowings because it could not afford it. Mexico found itself in the same position. And the only reason why the loans of the United States' banks have not been written off to these third world countries is because if they did, it would cause the financial collapse of many of the larger banks in the United States: City Bank, Chase Manhattan and the others because of the financial position they find themselves in. They have loans on their books to countries which can no longer service those commitments.

We do not even have to look that far, all we have to do is to look is next door at our neighbor Jamaica, and the position they presently find themselves in with regard to the amount of borrowings and the pressure this has caused on their economy. The results of these measures is massive unemployment, economic stagnation, political and social unrest and instability and a general deterioration in the standard of living of the people in the country. This is what concerns us, Mr. President.

There is no question in my mind that the Cayman Islands' Government in going to any international market at the present time can borrow basically any amount of money that they would want to at this stage because of the excellent credit rating and also because of the excellent financial position, that the Cayman Islands presently finds itself in.

It was amusing to hear the Member for Communications & Works taking credit for the financial position of the Government between 1984 and 1988 which he was not a part of. That is all right as far as I am concerned. The fact remains that we have to be very careful as a small country. The pressures have not been any greater in the past than they are on us today to exercise fiscal prudence as a Government.

The Member for Communications, mentioned that the opinion I had was that larger countries such as the United States and the United Kingdom do not seem to be too concerned about their level of borrowings. Both the United Kingdom and the United States Governments have the ability to print money anytime it feels like it. We have never exercised that policy here in the Cayman Islands and I do not think we should ever adopt those kind of policies.

What the United States has in mind right now (according to my information, the currencies have already been printed, because they are concerned with regard to their borrowings position), is over a long week-end they will introduce a new currency and call in what is owed to them and that is how they intend to fix their financial position, because, the U.S. Government cannot, in a life time, ever expect to repay what they owe.

The Member for Communications and Works also mentioned that a strong opposition provides the checks and balances which are necessary and he acknowledged that at the present time the Government does have a strong opposition. I agree with that, but if we notice their actions recently is to eliminate the strong opposition by putting themselves in control of the Finance Committee which is now controlled by a majority of Elected Members.

He also mentioned that the checks and balances lie with the accounting officers in the departments on paper that might look reasonable. But when you are a principal secretary of a Portfolio and you have very strong or demanding Members, it puts you in the position where it is very difficult for you to say, 'all right well, I am in charge here. Regardless of what you want, I am responsible for accounting for these funds.' We have heard of incidents where this policy was not truly followed.

He mentioned that the Auditor General provides a check and balance and the Public Accounts Committee. They do play their role, but what is significant to recognise is that by design, the Auditor General and the Public Accounts Committee deal with an incident long after the fact, and, regardless of how much noise or what kind of report they are able to establish or offer, there is very little that can be done at that stage to correct the position.

He mentioned that the motion is redundant, since they are already exercising financial prudence. I wish I could really believe that and I wish I had the confidence in believing that they would continue if that is their present position to exercise that prudence. This is why we feel there must be some controls in place to ensure that Government does not go on a rampage spending spree.

I think it is very important for us, as a Government, to continue to exercise fiscal responsibility and prudence in order that we continue to enjoy the present position that we have, that is, of full employment, political stability and political and social harmony.

Mr. President, I support this motion.

Thank you.

MR. PRESIDENT:

Does any other Member wish to speak?
The Honourable Member for Health.

HON. D. EZZARD MILLER:

Mr. President, I wish to speak in opposition to this motion now before the House and the Government takes the position that in accordance with the Public Audit and Finance Law, any loans which the Government wishes to raise have to be brought to Parliament and be approved. Therefore, all

Honourable Members will have an opportunity to debate the merits and demerits of the loan and to say whether they believe the loan should not be drawn down because it will be over commitment of Government.

While it is true that the Government loans are now approximately \$28 million (and not wishing to repeat that very solid, substantial, strong argument put forward by the Member for Communications in opposition to this motion), it certainly bears repeating that the important thing in any financial statement is not necessarily the total quantum of the loan, but the repayment schedule.

He went into figures which showed that if all of the Government loans, that is both principal and interest were called in at the present time and the Government in turn called in all of its outstanding loans in terms of interest and principal, there would be a very healthy position of greater than \$5 million at the present time.

It must also be emphasised that much of the \$28 million in total loans now held by Government, is in fact, in the hands of public owned co-operations and are therefore self-financing; that is, the co-operations themselves are making the repayments of loan and the principal and are up-to-date and should remain that way in the foreseeable future. They are not a direct charge on the revenue of Government or are not presently being serviced from Government's revenue itself, but rather from the public co-operations like the Water and Sewage Authority and the Port Authority.

While talking (as we were told quite frequently by one of the seven articulate Backbenchers that there is a great difference between giving a speech and giving a talk) the Member moving this Bill gave Government some pointers, I guess you could call them, on ways and reasonings why it was necessary for him to bring this motion. What he did not state was that wonderful loan that was negotiated some time ago, which I believe at the time was \$508 million Japanese yen, to pay for the airport. I believe the equivalent was somewhere around \$5,000 and I speak subject to correction, because I do not have the specific, US\$5 million, Sir. I speak subject to correction as I said, because I do not have the relevant figures before me. But, suffice it to say, that we have been paying interest and a lot of people would like to believe principal for some time now and I believe, that we still owe US\$6 million after paying more than about US\$1.2, US\$1.3 million in interest payments on that loan and that is simply due to the fluctuating rate of the Japanese yen. That is an example of other people's prudent investment and the kind of loans that they accept as opposed to what the present Government gets involved in.

I, too, have to question the 10 per cent and why must we put ourselves in such a rigid position? Sir, I do not know of any country that has such a restriction or has any legal or any binding position that limits their borrowing legally. Maybe the mover of the motion has such information and would please let us know in his winding up. So there is nothing sacrosanct or magical about this 10 per centum. I believe, if my memory serves me correctly, it was first mooted by the immediate past Financial Secretary in a statement he made some years back expressing his concern at that time about the rising public debt and its particular relation of the repayments and the percentage of recurrent revenue needed to service that debt. I believe that he suggested that 10 per cent might be a good guideline.

I believe that it is fair to say that the present Financial Secretary might himself accept that as a rule of thumb. But, with the growth that has taken place over the last several years in the budget, in the revenue of the Government, I do not think it is necessary to restrict any Government, this or any future Government to such a hard and fast rule.

The question I would like to ask is what was to happen and I do not envisage this happening under the present Government, but there are other people who wish to be Government that it might be a realistic position. What was to happen if there was a downturn in revenue and the present obligations exceeded 10 per cent? Would Parliament then be forced to stop making those loans payments? Or would we come back and up that percentage to accommodate such an eventuality?

Further, I fail to see how this Parliament or any other Parliament, can bind the actions of future Parliaments. So, I would rather look at this motion as an exercise in futility to some extent when one looks at what can really be achieved under the motion. As the Member has said, if the present cost of servicing our loans is only six per cent and we have an annual growth rate, we were told a couple of days ago in their trying to justify not wanting to support the revenue measures, we heard a long elaborate presentation of how the 15 to 18 per cent annual growth could accommodate this expanded recurrent expenditure. Certainly with that kind of growth and the civil servants are going to be here for a long time into the future and that recurrent expenditure is not likely to decrease, and if we can accommodate that from normal growth in the country's revenue, then I do not think we have any fear of loans being drawn down by this Government, which are going to take us beyond the 10 per cent.

As for the second Resolve, this thing continues to be raised by the Third Elected Member and I assume here, he is getting back to his normal 'whipping wagon' of fixed contracts. I am not a lawyer, but he is a lawyer and he knows that there is really no such thing in life as a fixed contract, because, if our sophisticated society allowed for simple fixed contracts we would not need lawyers. There would be no need for lawyers and courts because if we could simply write it out and it meant what it said, then that would be the end of that profession.

I do not think that he is advocating that. I think he just tacked this on here to have something to talk about because he knows that it is the practice of this Government and most Governments in the past, to try and ascertain as nearly as is practicable, as nearly as is possible to forecast, what the cost of any programme is going to be before it comes to Finance Committee for funds to be appropriated and authorised.

However, he also knows that in the process of Government budgeting there are times when one has to put in a reasonable guesstimate because the estimates are usually prepared July, August, September, October, the year prior to the year that the funds are going to be expended.

So, I really do not accept that either of these two resolve sections are necessary or that they will have any meaningful controls on anything, because this Parliament is always supreme and it can decide tomorrow to undo something for a particular reason that it did today.

So, I really can not support the motion before the House, Sir.
Thank you very much.

MR. PRESIDENT:
mover wish to reply to the debate?

Does any other Member wish to speak? In that case would the

MR. TRUMAN M. BODDEN:

Yes, Sir.

Mr. President, I notice that a lot has been said about the 10 per cent restriction and very little, if anything, has been said about signing contracts that commit beyond the full amount of the sum that has been appropriated by Finance Committee. That strikes me as being somewhat unusual.

I would like to thank the Members who supported this Motion, in fact for a long time the Member for Communications and Works seemed well in support of it until after the break when he came back with a considerable amount of argument.

MR. PRESIDENT:

I have to ask you, are you arguing against tea breaks?

MR. TRUMAN M. BODDEN:

[laughter] Not at all, well if it is going to provide this amount of more time in here, maybe we should just cut them out, Sir.

HON. D. EZZARD MILLER:

I second that, Sir. May we vote on it?

MR. TRUMAN M. BODDEN:

I notice that shut down some other people's tea breaks. I see they are coming in, now that I have started to talk again, Sir.

Some of the reasons given, I think that it is my duty to go into in some depth because the Member for Communications and Works attempted to show prudence and in so doing he produced quite a substantial mass of figures.

In my opening remarks I have not taken and aimed specifically at any of the acts of past Governments and it was interesting to see the detailed extent to which the Member for Communications went in what obviously was a very tender area that I had touched when I tried to put a prudent restriction on the spending of the Government. And, in the beginning of his argument he basically had accepted the principle and then went at some considerable depth to try to show why it should not be imposed.

One of the areas that he did go into in some considerable depth was the rate of spending and the percentage of increases in the revenue over the years from Government to Government each year and also pointed out that things had been so bad in the past. I had hoped to steer clear of the past but I have to go back into a bit of it to clear up the areas that he has brought.

What is quite significant in all of this is, that if the Government feels it is prudent then they surely have not set any guidelines as to how much, and have not said how much, and what percentage of the recurrent revenue that they should spend. That is very significant. We have had here the criticism of the 10 per cent, but we have had nothing by Government to say within what limits they should set? Unfortunately, I can only throw that out as a question because there are one left to speak, but, I would have liked hear from Government as to how much they felt the country can go to with expenditure?

In asking that question, I too, will show in the past years how the percentage of annual revenue has increased and decreased and subsequently increased to the present amount to service the present debt of the Cayman Islands' Government.

Since we are getting near stopping time I do not want to begin on those figures as they will take me probably five or 10 minutes.

MR. PRESIDENT:

Perhaps this would be convenient to break. We have several reasons, among others the Clerk advises me that tape is about to be changed.

MR. TRUMAN M. BODDEN:

This would be convenient, Sir, thank you.

ADJOURNMENT

HON. THOMAS C. JEFFERSON:
until 10 o'clock tomorrow morning.

Mr. President I move the adjournment of this honourable House

MOTION TO SUSPEND S.O. 70(5)

HON. THOMAS C. JEFFERSON:

While I am on my feet, it was agreed in Finance Committee this morning that I should move Standing Order 70(5), which would allow the proceedings of Finance Committee this morning to be made public and aired on Radio Cayman. As the Committee has not finished its work, perhaps the suspension of Standing Orders 70(5) should cover it until it finishes its work.

MR. PRESIDENT:
against No.

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

AYES.

MR. PRESIDENT:

The Ayes have it.

AGREED. THAT STANDING ORDER 70(5) BE SUSPENDED TO ENABLE THE PROCEEDINGS OF FINANCE COMMITTEE MEETINGS TO BE HELD IN PUBLIC AND BROADCAST OVER RADIO CAYMAN.

MR. PRESIDENT:
tomorrow morning at 10 o'clock.

I shall put the question, that the House do now adjourn until

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

AYES.

MR. PRESIDENT:

The Ayes have it.

10 o'clock.

The House is accordingly adjourned until Tuesday morning at

AT 6:02 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10 O'CLOCK, TUESDAY, 24TH JULY, 1990.

**TUESDAY
24TH JULY, 1990
10:47 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.

MR. PRESIDENT:

Proceedings of the House are resumed.

Item 2 on today's Order Paper is personal explanation under Standing Order 31. The Honourable Member for Health.

**STANDING ORDER 31
(Personal Explanations)**

HON. D. EZZARD MILLER:

Thank you, Mr. President.

Mr. President, I wish to make a clarification statement in relation to the debate on Thursday, 19th of July, 1990. During the debate on Private Member's Motion No. 14/90 when the Honourable Member for Education referred to having a draft 1989 Report from the Auditor General and to the statement by the First Elected Member for Bodden Town in his capacity as Chairman of the Public Accounts Committee that it came from a member of his Committee; that statement was repeated in the Caymanian Compass on Friday, the 20th July, 1990.

I wish to make it quite clear that I supplied the information to which the Honourable Member for Education referred and a copy of the covering letter is attached and therefore tabled. This was supplied to me by my Principal Secretary to whom it is addressed of which a copy is hereby laid on the Table of this honourable House.

Thank you.

MR. PRESIDENT:

Item 2 on the Order Paper, continuing, personal explanation

under Standing Order 31.

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN:

On Thursday the 19th of July, 1990, the Member for Education read a letter dated 24th of June, 1983, addressed to me when I was Member for Health, Education and Social Services from the American Hospital Supply Equipment and Consulting. He seemed to give the impression by punctuations and reading into the meaning of paragraphs of the letter that I, or the Portfolio, were employing American Hospital Corporation to build a new hospital.

The letter specifically stated:

"As a result of the recent conversation I had with Mr. Jack Newby, I would like to express our sincere interest in helping you develop your proposed hospital on Grand Cayman Island". [And it goes on to say]: "Mr. Bodden, the next step should be for Ruben Rosales and me to visit with you and/or Mr. Newby on the island."

The Member said he did not find any reply from me to American

Hospital Supply Equipment and Consulting. Many letters offering services to Government were received each month by the Portfolio. This does not mean that I, as the Member for Health, Education and Social Services agreed to accept or employ the writers. I had enough good sense not to employ every expert who wrote to me offering services. If the Member for Education sought to imply that I did anything more than to receive the letter, then, Sir, he was incorrect in so doing.

**STANDING ORDER 28(1) AND (2)
(Matters of Privilege)**

MR. PRESIDENT: Before me move to Item 3, yesterday there was a matter of privilege raised by the Honourable Member for Health and I would like to draw the attention of the House to Standing Order 28 which sets out the procedure.

Under Standing Order 28(1) the matter was raised and I was informed by a note from the Member, so therefore under sub order 2, I call on the Member to briefly state the grounds on which he believes that the matter that he is raising effects the privileges of the House. The Honourable Member for Health.

HON. D. EZZARD MILLER: Mr. President, I informed you yesterday of my intention to move a Motion or Privilege under Standing Order 28(1) against the First Elected Member for West Bay because of certain remarks he made during his reply to the debate on Private Member's Motion No. 14/90.

Now, in accordance with Standing Order 28(2) I wish to state briefly the grounds on which I believe these statements made by him effect the privileges of this honourable House.

Mr. President, I wish to identify four statements made by the First Elected Member for West Bay in which I will contend that the Member is deliberately misleading the House and therefore committing a breach of privilege.

The first statement is, and I am quoting from the official transcript of his speech as recorded on tape 131; I quote:

"Now the Member for Health should explain his connection with out-of-date pharmaceuticals imported into these Islands through Miller's Pharmacy to be re-shipped back to the United States."

Now, this is a very serious allegation which would have to involve international firms and I categorically deny that Miller's Pharmacy, of which I was the Manager and majority shareholder until August 1989, when I sold it, ever imported expired pharmaceuticals for re-sale in the United States, the Cayman Islands or anywhere else for that matter.

I see this misinformation as a malicious attempt by that Member to mislead and misinform this honourable House. I therefore call on him to produce the proof of this statement or to withdraw it and apologise.

The second statement to which I would draw the attention of the chair is, and again I will quote verbatim from the official transcript, tape No. 131 of the Member's reply:

"... whether his brand new car, \$56,000.00 or as he said it was, was driven from Ohio to Miami."

Now, I have had no discussion with the First Elected Member for West Bay about my new car. I have not spoken to that Member socially or in any way, outside Government business since September 6th, 1989. But, to state the facts about my new Corvette and to ensure the public, they are:

(a) The purchase price for the car at the dealership was US\$32,000.00, and it was purchased with a loan from the Bank of Nova Scotia to the amount of \$29,200.00.

I have the Bill of Sale, the receipt for the purchase price, the bank loan, and the receipt for duty and freight.

(b) It was not driven from Ohio to Miami, but from New Wilmington, Pennsylvania."

Taken in the context of that Member's debate and other statements, it is quite clear that he was suggesting corruption on my part and that the car was wholly or partly a gift from International Healthcare Corporation in Ohio. Again, these are unfounded statements and could only be intended by the Member making them at the time to question my honour and integrity and a suggestion of corruption by International Healthcare Corporation and Mr. Conti.

I see it as a blatant abuse of privilege by the Member and call on him to withdraw the statement and apologise or to prove that the car cost \$56,000.00 and was driven from Ohio, and was offered to me wholly or partly as an illegal gift from IHC.

The other two statements I wish to bring to the attention of the

Chair are and again I am quoting for the official record:

"In 1988 after the General Election when he told me that he needed to be in Executive Council because he was broke..."; and "... how in the run of two years he got into Executive Council broke, as he told me in 1988, whether he can now own a condominium from a certain development."

And these are exact quotations from the official transcript, tape 131, of the speech of the First Elected Member for West Bay.

Again, the Member is impugning my character by his implication that I could not afford it so the developer and myself had to enter into some illegal action for me to buy this apartment or that I had otherwise abused my office as Executive Council [Member] to obtain the funds to purchase it.

The apartment was purchased with a loan from the Royal Bank of Canada of US\$75,000.00 and all the legal matters were handled by a Mr. John Broadbent of Bruce Campbell and Company, appointed by the Bank - not even my personal lawyer. So everything had to be done legally and properly. It was purchased from Hurlstone Corporation at Sunrise Apartments, No. 13.

The Member has abused the privilege of the House by making this implication of corruption on my part and I call on the Member to apologise and withdraw the statement or to prove it.

None of these four statements can be substantiated with proof of their accuracy by the First Elected Member for West Bay and it is time someone put a stop to these unfounded charges.

I therefore ask you, Mr. President, to rule that each of these statement by the Member affects the privileges of the House. If you do, it will then be my intention to move under Standing Order 28(4), that the House require the Member to prove his allegations or to withdraw them and apologise.

That motion, if I have to move it will read:

**NOTICE OF MOTION
Standing Order 28(4)**

"WHEREAS the First Elected Member for West Bay made certain allegations to which I have brought to the attention of this honourable House;

BE IT THEREFORE RESOLVED THAT this House require the First Elected Member for West Bay to produce satisfactory evidence of these allegations or to withdraw the statements and apologise."

Thank you, Sir.

MR. PRESIDENT:

Thank you.

It is a function of the Presiding Officer under Standing Order 28(3) to state whether in his opinion the matter may or may not affect the privileges of the House. In other words, whether there is a prima facie argument.

It is a complicated matter and I intend to study the statement made and if necessary consult with the Member referred to, the First Elected Member for West Bay, and then see how we should proceed.

Item 3 on today's Order Paper, Government Business, Government Motion No. 9/90 the Honourable Member for Education.

GOVERNMENT BUSINESS

MOTIONS

GOVERNMENT MOTION NO. 9/90 - REQUEST FOR CONSTITUTIONAL STUDY

HON. BENSON O. EBANKS:
which reads as follows:

Mr. President, I beg to move Government Motion No. 9/90,

"WHEREAS the last comprehensive examination of the Constitution of the Cayman Islands was conducted in 1971;

AND WHEREAS since that time the Islands have enjoyed considerable social development and economic growth;

AND WHEREAS there have recently been proposals for piecemeal alterations to the Constitution;

AND WHEREAS the debate in this honourable House upon Government's Motion No. 3/90 has focused much attention upon provisions of the Constitution including the role of the Official Members of this Assembly;

BE IT THEREFORE RESOLVED THAT this honourable House request, through His Excellency the Governor, the Secretary of State for Foreign and Commonwealth Affairs to appoint a suitably qualified and experienced person or persons as a Commission[er] to ascertain and evaluate opinion in the Cayman Islands upon possible paths of constitutional evolution, having regard to political developments in the Islands and to the social and economic development of the Islands since the introduction of the present Constitution in 1972; in conducting this assignment to consult with the Governor, the Members of Executive Council and of the Legislative Assembly, interested organisations and members of the public; and to report."

MR. PRESIDENT:
Member wish now to speak to it?

Government Motion No. 9/90 has been duly moved, does the

HON. BENSON O. EBANKS:

Yes, Mr. President.

This motion follows the announcement in the Throne Speech earlier this year that it might be timely for such a study as is proposed by this motion. It is further reinforced by the fact that over the last five years or so there have been indications that some Members of the Assembly, and certainly also members of the public feel that the time has arrived when there should be a constitutional study, or in fact, in some instances expressed requests or proposals for constitutional advancement.

There have been at least two motions brought to this honourable House asking that the House appoint a Speaker as provided under our present Constitution.

I recall that in 1985, there was a meeting of Members in the Committee Room at which the question of constitutional advancement was mooted. There was also, subsequently a motion that I believe was Tabled. Certainly, it was circulated to Members, but never reached the floor of the House. Of course the over riding reason is that as a result of Motion No. 3/90, much attention has been focused on provisions of the existing Constitution particularly concerning the role of official members and that of His Excellency the Governor. In this Sitting too, we have seen motions tabled which proposed piecemeal negotiations to the Constitution and surely, on reflection this cannot be the route to take.

I am reminded of the years prior to 1970, when there was considerable and continuous activity surrounding the changes of the Constitution. I believe that Lord Oxford and Asquith, who was eventually appointed the Constitutional Commissioner at the request of the then Legislative Assembly (and I must stress that that motion was unanimous), expressed the view that there had been groping for constitutional change over the past nine or ten years, but that even the Assembly Members could not agree among themselves what they really wanted.

It is now history that following the visit of Lord Oxford and Asquith which commenced on the 20th of January, 1970, that a Constitution evolved and was subsequently assented to in July, 1972, which has served this country well for the past 18 years.

If I could give something of the timing of the exercise that took place then. The resolution of the Legislative Assembly which requested the then Administrator to ask the Secretary of State for Foreign and Commonwealth affairs to appoint such a Commissioner was passed on the 23rd day of June, 1970. As I said, the Motion was passed on the 23rd day of June, 1970, Lord Oxford and Asquith arrived in Grand Cayman on the 20th of January, 1971, and spent a month or in excess of that in the islands visiting districts and talking with the people.

Every opportunity was given to people to see him either individually, in groups, or as organizations. He spoke with the then Administrator, Members of the then Executive Council and of the Legislative Assembly and went back to the United Kingdom and formulated his report which is a public document. I do not intend to go into the details of that. Suffice it to say, that the Foreign and Commonwealth Office acknowledged receipt of Lord Oxford and Asquith's Report on the 22nd of September, 1971, and forwarded it to the then Administrator with his comments. It is interesting to note that with very few exceptions, the Secretary of State appeared to have been satisfied with the impressions gained and the recommendations made by Lord Oxford and Asquith as the Constitutional Commissioner.

It is also true to say, that with very few exceptions the Caymanian public and the then Executive Council and Legislators agreed that he had indeed crystallized the thinking of the majority of people of this country as to what we wanted by way of a Constitution.

Of particular note, perhaps the fact that as I recall Lord Oxford and Asquith recommended that the election of the Elected Members of Executive Council could only be revoked by a motion which was carried by at least three-quarters of the membership of the House, that was subsequently reduced to two-thirds. It appears that some people would now have us reduce that further to a simple majority which I am sure on reflection, Members and the general public must see as a very dangerous move and precedent.

MR. PRESIDENT:

I think I must advise you as should you know, there is a motion down on that subject and you have to take great care not to debate the merits of that proposition.

HON. BENSON O. EBANKS:

Yes, Sir. I only mentioned the fact that the motion is on the agenda and of course it has been circulated to the public. I think it has been in the press, so I am only making the point that it is part of the reason for this motion.

MR. PRESIDENT:

That is entirely in order, that is fine.

HON. BENSON O. EBANKS:

The point that I wish to make is that it is my opinion and that of my colleagues in Government that when the country reaches the stage where there is continual or continuous call for piecemeal amendments to our Constitution, the time has arrived when a study should be conducted by a person or persons experienced and qualified in this area.

The procedure as Government envisages would be very similar to the exercise in 1970. An exercise where the Commissioner(s) would come to the country as the resolve section of the Motion indicates, speak with the Governor, with the Executive Council, the Members of the Legislative Assembly and be open to have dialogue with interested organisations, individuals, or groups. This process should give every individual in this country the guarantee and the satisfaction that their views will be heard as regard to any changes that they may think desirable to the Constitution. Or conversely, if they feel that our Constitution as it exists is sufficient and working well, then, that too will be able to be conveyed to the Commissioners.

Government has taken no position on this matter other than to this move to make the Commissioner or Commissioners available to the people of this country to discuss with them and to counsel them on the options that are available, that is, those that feel that it is time that we move forward. Government has only taken one position and certainly it is a personal position and that is, that should there be changes recommended, it certainly would not include any changes which would affect the relationship which exists between the mother country, the United Kingdom and this Colony. Government is totally convinced that the prosperity of this country depends to a very large measure on our association with the United Kingdom, particularly the reserved powers vested through that Constitution. That, in my opinion, is the guarantee which attracts foreign nationals to our shores to do business and which therefore contributes to our prosperity. Certainly it has been a contributing factor to no small degree to our present political stability. I believe that when this motion is passed today, as I believe it will, that any investor who is already be in the Cayman Islands and feeling a bit nervous would have his faith restored and certainly anyone that has been standing on the side lines taking a look-and-see attitude will, in my opinion, also have his fears allayed.

I believe that given the track record of Legislators in the past and some of the present, there should be reason to hope that following this study, the Cayman Islands will be set on a course of prosperity, stability, and tranquility for another 20 to 30 years. Mr. President, I recommend this Motion to the favourable consideration of Members.

Thank you, Sir.

MR. PRESIDENT:

We did start rather late this morning, would Members like to take the break now or should we take another speaker? [pause] That is a clear indication. Proceedings are suspended for 15 minutes.

PROCEEDINGS SUSPENDED AT 11:24 A.M.

PROCEEDINGS RESUMED AT 12:08 P.M.

MR. PRESIDENT:

Proceedings on Government Motion No. 9/90 are resumed. Does any Member wish to speak? I notice that not all Members are in the chamber, perhaps they are not aware that we have resumed. [pause] Does any Member wish to speak on this Motion? The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN:

Thank you, Mr. President. Taking note of what you have said about... I suppose what is general house cleaning in the terms of enforcing the rules, I expect that you will do as you say in the course of my debate.

It is perhaps a good opportunity to ask if in reference in identifying me if you would invoke Cayman Brac and Little Cayman instead of the Sister Islands?

MR. PRESIDENT:
again.

With pleasure and I trust you will remind me when I forget if I do

MR. GILBERT A. McLEAN:

Thank you, Sir. As I rise to speak on this Motion various thoughts are passing through my mind including the fact that I have heard along the way, over the past few days that this motion which Government has brought before this House is a trap. I suppose if one looks at it in a certain way, one would take that type of opinion on it.

What I wish to say at the very beginning is that I think this motion is a very desperate attempt by the Government of the day to try to draw the attention of the public away from political conditions which exist at this time. The Government of the day, and namely, I speak of the four Elected Members of Government, lurks in the background behind this motion.

It is well known in this country that over the past two decades, systematically, politicians and people of influence (business people and otherwise), have consistently put out misinformation and disinformation in regard to the Constitution of our country; what it is, what it implies, where it should go and all the rest of it.

I think that this has come about now because it will have such a psychological impact on the country at this time. It will not cause the public, hopefully (I think the Government believes that), to look at the radical change which is at least implied in this Legislative Assembly, that is, the change to the Finance Committee. Right now the country waits; everything is in limbo and everyone is guessing whether there will be the signature of the Governor placed on that particular motion or not.

One thing that seems very relevant is that the Government never sought an expert when this matter was being brought here and certainly Backbenchers at least argued that that was a fundamentally constitutional matter, but that position did not gain favour in this Assembly.

In the meantime I still contend, as I believe many of my colleagues do, the Government continues in a position where it is presently being directed by a minority of Elected Members. To put this matter forward at this time is very untimely in that, one of the biggest political questions that has ever faced this country stands unanswered.

In the debate of the Mover of this motion, he pointed out that it stemmed out of the Throne Speech which made mention of the fact that it was possibly time to look at a Constitutional Review. This statement was made by his Excellency the Governor in the Throne Speech. It has been referred to after the rejection of the motion to entrench in the Constitution through an amendment, the Finance Committee as it presently exists. It was also again restated by the Governor in a letter in reply to the Backbenchers setting out their point of view on Motion 6/90.

What is peculiar about it is that the statement was made by the Governor that it was suggested that consideration be given, as to whether the time had come when a fresh and open minded review of the Constitution should be carried out. Then it goes on:

"... that in stating this I should reiterate as in the 1990 Throne Speech that it does not reflect any personal view of mine or the view of Her Majesty's Government."

This question of Constitution goes on and on and on. It has to be the view of someone. If it is not the view of the Governor, if it is not the view of Her Majesty's Government, then it has to be in my opinion, the view of the Government of the day who wish to see a Constitutional Review. I do not see any grave sin in that because in the course of events such things do happen and, I dare say, should happen.

In moving this motion this morning the Mover went to great length to say he was making no recommendation and so forth and so on. He did say that over the past five years some Members of the Legislative Assembly and the public have expressed views that there should be conducted a study or a proposal for constitutional advance. But he is not saying that. That is the public or that is some mysterious Members of the Legislative Assembly over the past five years.

The Mover also noted that two motions were brought to the House which had constitutional implications. One was the motion for a Speaker and it is well known that there is provision in the Constitution for the appointment of a Speaker in this Legislative Assembly.

There was another motion which he said was drawn up but did not quite make it to the floor of this House. I think I know which motion he referred to. Again, I think what happened why that did not come to the House may have been a trap which I have heard this particular motion is supposed to be creating.

He mentioned as well that in 1985, there was a meeting among some Members of this Legislative Assembly on the question of constitutional advancement and that meeting took place in the Committee Room. I think that may never have ever been known to the public had not the late Jim Bodden exposed it in this Legislative Assembly - may God rest his soul. By him exposing that in 1988, I was able to counter charges made against me in the elections that I had some particular magic to change the Constitution. My accusers shut up real fast when I was able to play the tape of what the late Jim Bodden had to say and point out the fact that certain Members were in this Assembly and what part they played in it. I think a similar game is in place today on this particular exercise, politically.

The mover of the motion said that during the debate on the notorious Motion 3/90, debates focused on the role played by Official Members and the role played by the Governor in the Legislature and in the Government of the country and, rightly so. For as surely as a constitutional review is a major consideration then also was that motion to change something which had been entrenched in this Legislature for 31 years by convention. Of course some of the very fundamental basic considerations which are involved in our Constitution are that in this Legislature there are Official Members and civil servants who are appointed by the Governor to perform certain duties and assume certain responsibilities and there are Elected Members in here who sit on the Executive Council, who are appointed by other Elected Members. Any idea of Constitutional advancement surely someone somewhere has to take these things into account and somebody has to have some opinion on it as the Government says it does not have.

The mover of the motion said this morning that during this Sitting there had been tabled a motion for a piecemeal amendment to the Constitution. I imagine that the only thing he could be referring to was a motion which sought to have entrenched by an amendment Finance Committee as it presently exists. He also referred to the last Constitutional Commissioner's Report which said that people were groping for constitutional change and that is the same way it is now.

I do not say that I believe that there is any groping about constitutional change. Time and events has made it necessary for the good of this country, for the sake of majority rule versus minority rule and for the sake of maintaining one of the most basic principles of democracy; that elected members of the people vote the people's money. So that was not piecemeal, that was a very specific and direct request.

The Mover of the motion also said that some Members of this House would have the present situation whereby the Elected Members on Executive Council could be removed by a simple majority rather than the present two-thirds. That of course refers to a motion which is yet to come before this House. Of course there will arguments for and against that, I believe.

Following on what he said further, the Member said he and his colleagues think that when calls are made for changes there should be a chance for review. There were no calls made for changes by anyone besides the Government in requesting what is termed a 'Constitutional Study' because the motions which asked for an amendment were specific to the particular point. How can the Mover say that Government has taken no position except to get a Commissioner to advise on options which are available and that the personal position of the Government is that there should be no changes made which would sever the relationship between the Cayman Islands and the United Kingdom's Government?

Well, who has been making such suggestions or such remarks or requesting such changes? And, who has been talking about attempting to remove the reserved power of the Governor in this country? I do not know, but certainly it was raised by that Official Member this morning. He referred also to the fact that when this Motion is passed it will restore investors' confidence. I daresay, he has good reasons to hope for that because the motion which he has brought here a few weeks ago, in my opinion has certainly shaken that confidence to quite an extent. In fact, it is still rattling.

I would like to refer to the *Caymanian Compass* of today, the 24th of July, 1990, on page 5, captioned: "Advertisement Our Point of View... by the Elected Members of Executive Council". It seems to me that they have brought this motion, but they are really worried about what will be the public's reaction to it chiefly because they have in effect said nothing about it. And why have they said nothing about it? Yet they go to the newspaper to convey their point of view.

I note that no public meeting has been held in this country by the Members of Government. I note that no indication was ever made in the manifestos of these people during the last Election. I note in fact, that until now mention was not even made in this House which is an airing ground for various points of view.

This statement begins:

"There is no cause for the Caymanian public to become alarmed by the Legislative Assembly motion we have tabled seeking the appointment by the Foreign and Commonwealth Secretary of a Commission to conduct a study of the Cayman Islands Constitution."

I refute that. I think there is cause for alarm because this motion has come out of the sky and has simply fallen upon the Members of this House. Backbenchers who hold regular meetings in every district of this island have not had the opportunity of taking this matter to the public. The Government has not, but yet they bring it to the House and they say there is no cause for alarm. They say that they anticipate that there may be attempts to portray the motion as something which it is not, such as a move for constitutional advancement leading to independence.

Well, if the Members of Government are not going to the public, they have not said anything to the public except this advertisement in the paper knowing that the motion was coming here today, and if all they are doing is to invite someone from the United Kingdom Government to come to conduct a study and report. Well, the question is, what would he report? Is it not possible that he might report and say, 'the Cayman Islands are so rich and the Government Members informed me that the whole public wants constitutional advancement. Now is a good time for independence'. Is that not possible? Certainly it is.

No Select Committee has been called of this House. It has never been discussed among the 12 Members of this House. I say there is cause for alarm to know what might be the hidden agenda, what they have in their minds for bringing this motion other than what I have said, I think it is a good camouflage at this time to cover conditions relating and existing due to Motion 6/90.

They talk about scare tactics, I do not see any scare tactics involved. For example, from what I have just suggested it is plain, good common sense to be concerned about what the Government is intending to do by supposedly doing nothing and saying nothing, leaving it to someone from somewhere to come and say and do. Is that the shield behind which they would hide?

Then they make another statement:

"As was made absolutely clear when the motion was announced last week, it does not convey any commitment to constitutional change by the Government."

But what is the purpose of it? What is its purpose? No commitment to constitutional change. So if Mr. Somebody comes and suppose he says there must be constitutional change - because if we follow the logic of it he will have the word. He will bring the word. Suppose he says so will the Government commit then to constitutional change, and if so, what will be that constitutional change? I quote further from this article, it says: **"Instead, it is a commitment to creating an opportunity for every voter to have a say on this important issue."**

Well, if that is the wish and desire of the Government of the day, why have they systematically blown down any suggestions of a Referendum Law? Why have they not gone to the public on the political platform and outlined their views? That is the way the voters get to voice their opinions first hand. Shout, statements, meeting them after the meetings and all the rest of it. Why then did they not take such an approach?

As I mentioned awhile ago, the suggestion that it might be time

for a review was mentioned in the Throne Speech and they also mentioned that here, that it should not come as a surprise to the country because it was mentioned. They go on to say: **"The Governor referred to this again in his recent reply rejecting the Opposition's call for dissolution of the Assembly."**

Mr. President, is the alternative to a dissolution of the Assembly cause for having a constitutional review? Mr. President, the more they say and they are now saying in print, the more I think what might be behind the veil is being revealed. They referred to a dissolution of the Assembly. It was very clear in the statement which the Backbenchers made to His Excellency the Governor relating to Motion 6/90. What was requested and pointed out there was that there were no wish to change the composition and present structure of Finance Committee which this Government (the four Elected Members) are ruling from a minority position and that the right thing to do according to convention was to dissolve the Assembly and go back to the polls for the people to speak.

Today, I say that before this Government which is in a minority attempts to recruit a commissioner to study the Constitution they should make the issue of constitutional advancement an issue in the Elections which can be called. That is the normal way in which it is done from my knowledge and history of changes in Constitution of the various Dependent Territories, including those that are now independent.

Why does this not become an election issue? If they believe that the time is right and the public want it and all the rest of it, then, let it be the decision at a General Election. Among other things we all know that the Government of the day by their actions is not too much minded on getting out there among John public on a political platform and so on in attempting to convince the people of this country about things which they know they do not want.

This statement goes on further to say:

"We believe there are convincing reasons for such a constitutional study at this time without carrying the implication that radical changes are needed in the Constitution which has served us very well since 1972."

I suggest that there must be radical changes in the minds of the Members if they cannot come out and say what changes they see, if they believe there should be a review. They referred to piecemeal alterations to the Constitution. Again I say, what were requested from this side of the House were not piecemeal. They were specific to cause an amendment or a change so that democracy would continue and that we would continue in the stable-way we have been going. I may point out that that motion and the one to come is making it abundantly clear that the people must have the last word in this matter.

A Referendum, the people must be polled, you must take your argument to the people. You convince them, if they approve it then it is good, otherwise it should not be done. That is not what was being suggested. The implications are not what is being proposed here in my opinion.

If the idea is that the Constitution rightfully and properly should be changed as is necessary, then amendments to it are quite in order as have been put forward here by motion and motions seeking the approval of the people. Of course there have been other amendments to place in it, who can vote and all the rest of it and our Courts and so on have been defined. So that was a specific amendment and of course specific amendments can be made. Now it becomes quite sharply political here in this next statement that:

"In addition, the recent Assembly debate on Motion 3/90 included a number of references to the role of the Governor and Official Members which carried implications of a desire among certain Backbenchers for a more advanced Constitution."

Well, all I have to say to that is, that those Members should speak for themselves. Do not speak for the Backbenchers. The Backbenchers, when they spoke were specific in a Private Member's Motion. Speak for themselves. It is about time that they speak instead of attempting to foist something on the public about which they have not spoken and say we will leave it to the Mr. Somebody to do as he will.

Now it gets a bit funny here. The best way to show how few people in Cayman share this view that they have chosen to be the view of the Backbenchers is to have a constitutional study done by an impartial expert sent out from London. What a futile exercise that would be. He is coming here to find out how few people in this country want the advanced constitution that they alleged the Backbenchers do. If they want to start with few, there is only eight of us anyway. So how fewer do they want?

The best way to show how few people in Cayman share their view is to have a constitutional study. Well, is it being suggested that the constitutional study is to find out how few want constitutional advancement or is it that they want to have a constitutional expert here to tell him how many want these changes? Of course what changes there should be (because they are not making any, they are making no commitment to anything). Leave it to mother, mother knows best. It says that:

"... when the Earl of Oxford and Asquith came out as Constitutional Commissioner after what he termed nine years of indecision during which there was a distinct groping for Constitutional change...."

Like it is happening here now: I do not see anyone here groping for constitutional change. If the Government wants to bring about constitutional change or a constitutional review, then they should say so. They should do what they

claim is their policy to meet with all Members of this House and to co-operate with them and discuss the matter with them. How easy it could have been if those stalwart gentlemen had said, 'why not all 12 of us sit over there in the Committee Room and talk about this motion that we want to bring?' Or why was the trap flung that stopped the Motion from coming to this House asking for a Select Committee to debate this matter, to look at this matter, then go to the public and the public would give the feedback that is desirable?

MR. PRESIDENT: Proceedings are suspended until 2:15.

PROCEEDINGS SUSPENDED AT 12:50 P.M.

PROCEEDINGS RESUMED AT 2:35 P.M.

MR. PRESIDENT: Proceedings are resumed.

**STANDING ORDER 28
(Matters of Privilege)**

MR. PRESIDENT: Before inviting the Second Elected Member for Cayman Brac and Little Cayman to continue, I would just like to inform the House that I have been advised by the First Elected Member for West Bay under Standing Order 28, that he wishes to raise a matter of privilege in regard to a statement made by the Honourable Member for Health to the effect that the Honourable Member had signed a loan which kept the First Elected Member for West Bay out of jail or words to that effect. We will deal with that in due course.

Debate continuing on Government Motion No. 9/90, Second Elected Member for Cayman Brac and Little Cayman.

Continuation of Debate - Government Motion No. 9/90

MR. GILBERT A. McLEAN: Thank you, Mr. President.

When we broke for lunch I was referring to an advertisement in today's paper attributed to the Elected Members of Executive Council. I was commenting on the statement which said that back in time when Lord Oxford did the Review he said that the Legislative Assembly was groping for constitutional change and that was similarly the case at this time. I would like to continue referring to some points on this in that it said:

"... His visit, in which he talked with officials and Legislators and people in all the districts, produced the recommendations which led to our present Constitution after a draft had been taken to the people by their representatives."

My question is why have the Elected Members of Government not taken suggestions and recommendations to the people now about they find to be short comings in the Constitution, having observing it in use here in the Legislature and observed how well it works or does not work in terms of them managing the day to day affairs of Government?

The article reads:

"The changes then made had not been considered radical, but had been a rational response to concerns about small aspects of the country's constitutional arrangements."

I think that there may now be concerns about small aspects of the constitutional arrangements of the country at this time. The point that I keep returning to is that this should be something cleared with the people of this country, either by a referendum or canvassing through public meetings in all districts or through the issuance of a statement or recommendations on which the public would have the opportunity to respond.

It goes on to say:

"Whoever is sent out from London will have a sound knowledge of constitutional law and will therefore be able to evaluate the feasibility of any suggestions made to him, pointing out the implications during his interviews with the public."

I do not think that we are in real trouble with this particular situation because having sound knowledge of constitutional law, there are lawyers in the Cayman Islands who manage perhaps hundreds of millions of dollars for clients internationally. There are persons in the Cayman Islands who have knowledge of constitutional law who are in a position to advise the Government or advise any Member of this Legislative Assembly who may choose to discuss with them matters pertinent to the Constitution where they feel there may be a need for change.

It is my understanding that there are 60 lawyers in this country that are capable of doing this; some eminent Queen's Counsellors. Certainly in the Caribbean there are experts on constitutional law, extremely familiar with the evolution of constitutional law in respect of constitutions of

Commonwealth Parliaments (Commonwealth countries) in this Caribbean.

It is not a question of having to go and seek this expertise and knowledge on Colonial Constitutions. Perhaps there are persons like that who still exist in the United Kingdom, but surely there are those persons right here who are in a position to advise the Elected Members of Council on points which they may want clarification on.

Then it goes on to say that through that method or means suggested by themselves of bringing someone here from the United Kingdom it is better than having the people decide by a referendum. The crux of their argument seems to lie on that, excluding the people from the process in which they should directly be involved.

I believe that is necessary, I advocate that and I would certainly not subscribe to anything less. Let the people decide, take to them your suggestions, hear what they have to say. It might be surprising just how much they would like, or not like, to see done. This article continues with the Government wishing to make it clear that they do not anticipate that the constitutional study which they are proposing will lead to significant advance in our Constitutional position.

I ask the question, why anticipate? Why not take to the people concrete suggestions or recommendations that they know and they would like to see made in the Constitution. Why not do that? Why anticipate what someone else might recommend given the free hand with which it seems he would be given in this particular case? No one can know better than the representatives of the people what they come up against in dealing with the Constitution or functions under the Constitution. Surely at this point in time, particularly now, it is my belief that the people have lots of ideas about what they would wish to see. It is unnecessary to put the cart before the horse, to bring someone here to this Island before anything has been initiated by the Government in this particular regard.

Nothing in this motion here really says that the elected Government has any intentions of going to the people with this matter. How could they shirk the responsibility that is placed on them by the people who elected them? They cannot shirk the responsibility of going to the people with this matter. They cannot simply say, we got someone from the United Kingdom. This is what he said, mind you now this is what he said, this is my thinking, but he knows, so we have to go along with it. I find that intolerable, I most surely would not stand in this House and support any such move.

Mention had been made of the focus placed on the Official Members, the civil servants in this House, and there has been a ruling by the President in recent times regarding areas which, in his opinion, the Official Members would not vote and one of them was matter dealing with the Constitution.

I would hope that before this matter is put to a vote there would be some indication by the President as to what would be his ruling in this particular respect as it is my opinion that this is a constitutional matter being discussed here in every sense of the word. This should be a matter to be determined by the Elected Members of this House.

I would like to refer to the Resolve section of the motion which is asking the Governor to ask the Secretary of State to appoint someone, a Commissioner, or persons as a commission to ascertain and evaluate opinions in the Cayman Islands upon possible paths of constitutional evolution. Oh, the music of the English language; it is simply lovely! I believe that all comes down to one thing and that is what path, what route, and to what extent will the Constitution of the Cayman Islands be altered or changed?

I will not stand here and be so retarded as to say that there is no need for changes, but I will most certainly say that these changes should be initiated by the Elected Representatives of the people, by the elected representatives of Government, who should first know what they want and find out if that is what the people want, or, first poll the people and find out what they want and then suggest to them alternatives or additions or whatever and have their approval.

I have been saying in so many words, that I have my fears and doubts about someone simply coming here and deciding what should be from what should not be. There is some weight given to this argument by referring to the *Report of the Constitutional Commissioner*, Lord Oxford and Asquith and I will read:

"Section 8(e) of the present Constitution provides that the seat of an elected member of the Executive Council shall become vacant if his election is revoked by a two-thirds majority of the Assembly. I recommend that in this sub-section the phrase "two-thirds" should be replaced by "three-quarters" but that provision should also be made that the tenure of office of an elected member of the Council should be subject to termination by the Administrator at his discretion."

It is things like that which give me quite a bit of concern. As it was then, as it is now, "two-thirds" could remove; he suggested "three-quarters" to remove the Elected Member's of Executive Council, but he would put it at the discretion of the Governor to remove the Elected Members of Executive Council. Democracy dictates that a majority elects and therefore a majority should be able to remove.

MR. PRESIDENT:

I did earlier in this Meeting say that we would try to observe the orders on relevance and I have to say I am not quite sure of the relevance of the last part you have been speaking to the terms of the motion.

The motion seeks to recommend to the House a request to the Secretary of State to arrange for a review. Your seems to be arguing the merits of recommendations made, but not accepted in the last Constitutional Review. I do not think that is strictly relevant.

MR. GILBERT A. McLEAN: Yes, Mr. President, I agree with you that these were recommendations made but were not accepted, but I was using that to illustrate the point that if someone simply comes, makes certain findings, those findings would be way outside of what might be recommended by the elected representatives of the people.

MR. PRESIDENT: I do not want to get into debate because this is your debate not mine, but I have asked you to study carefully the terms of reference proposed in the motion. They do not say, make recommendations.

MR. GILBERT A. McLEAN: Yes, Mr. President, it says 'report' and that is what this is that I am holding in my hand, a Report by the Constitutional Commissioner, the Rt. Hon., the Earl of Oxford and Asquith. I imagine if there is a report going to be made, that report would contain some recommendations. Perhaps that is not the way it will be, but ...

MR. PRESIDENT: I have to hold myself back, I am not taking part in the debate.

MR. GILBERT A. McLEAN: Mr. President, going back to the Resolve part of this motion it asks that certain things be done, that someone be found, someone be appointed to do a constitutional review, or constitutional study. Also there is another part which I suggest is really a part two, but is included into the one resolve, it also states: "...who, in conducting this study this Commissioner would consult with". Namely the Governor, the Executive Council, MLAs, interested organisations, members of the public and report.

I have certain fears that if this matter is not aired as it should be, publicly, and before all of the people that there are certain people in this society who might tend to put forward their opinions in a way that it might be taken that that is representative of the majority at large. That gives me some concern.

I wonder if it is the intention of the Government that by initiating this particular motion and having it passed as the mover said that it would be, if in the meantime that will cover the situation which presently exists where I contend the Government sits in minority and whether they should continue to sit there while arrangements are being made for this matter to be undertaken?

This cannot be an alternative to the request which has been put forward by the Members of the Backbench of this House relating to matters which affect this House financially, and also the question that because of a minority position, it is becoming of a general election. One cannot very ably argue that in the Commonwealth Caribbean questions of constitutional changes have not been dealt with at General Elections.

In reaching certain conclusions, I believe that the process and the approach that is being put forward by Government is incorrect and does not allow for the participation of the public in the very initial part of this as it should. If I could once again refer to the *Report of the Commissioner* on page 29, I quote:

"At the meeting of the Legislative Assembly, held on the 12th day of August, 1969, the following Private Member's Motion No. 3, moved by Annie Huldah Bodden, M.L.A. for the District of George Town, seconded by C. A. Hunter, M.L.A. for the District of Bodden Town, was unanimously passed by the House:"

Back then, prior to the coming of the Commissioner, a motion was passed in this House. The 11th of next month would be 21 years ago when a motion was passed that there should be a Select Committee consisting of the Elected Members of this honourable House to be appointed to go into the matter referring to the matter of examining the Constitution and make recommendations to her Majesty's Government for some form of an advanced Constitution for the Cayman Islands, the quorum of the Select Committee to be not less than nine.

Twenty-one years ago the Members of this Legislative Assembly found it necessary to have a Select Committee where they could all sit down and discuss this matter and I am told that this matter was very much aired from political platforms in this country. Why should less be done now? Even though there was a minority report of two persons out of the total that were then in this Legislative Assembly, they found it necessary to have a Select Committee of this House look at this whole affair and not call in someone to do what they themselves should have done.

In this Report, the Committee of the Legislative Assembly at the time, made specific recommendations on the Legislature, on the qualifications of elected membership, qualifications of electors on Executive Council and it even included a Bill of Rights. Why should less be done now?

There are no shortage of Constitutions to refer to. I have here copies of the Virgin Islands, Anquilla, and the Turks and Caicos Constitutions. We have our own, and we have a copy of the Bermuda Constitution. If it is the desire and the wish of the Elected Members of this Government to see certain constitutional amendments or changes, we really do not have to wait a year or however long for someone to come from the United Kingdom to advise us. We have documents that we can sit down with, study, and determine what we, by consensus, would find as necessary and be sensible enough to make recommendations for which we can seek the approval of the people and which, if after a Commissioner should come, we are in a position to say, "Mr. Commissioner, here is what we have looked at, here is what we have agreed, here is what the people approved", and so his job is made real easy. In fact, I know we have draftsmen or legal brains here that can easily do the necessary draft following guidelines as set down in these other Constitutions.

It will of course be left to the United Kingdom Government as to whether they accept them or not, but believing what they say, that where there is a desire by the people towards advancement in their Constitution that they will do nothing to hinder that.

To further refer to something which I think backs up the argument I am putting forward, I would like to quote briefly from the minutes of the Commonwealth Parliamentary Association Seminar that was held here earlier this year. The Speaker, who has quite a bit of experience in this matter, the Honourable Sir John Sharpe of Bermuda, explained Bermuda's Constitution to us at this seminar and various questions were put to him. I would like to quote a question put to him by Capt. Mabry S. Kirkconnell. It reads:

"Sir John, I am seeking really a comment and maybe some advice. With you having come from a colony that has been very successful with a highly advanced form of Government, in a colony such as the Cayman Islands where we do not have a very advanced system of Government what procedure would you advise we should take in looking at our Constitution? Would you advise through a constitutional review by a professional or by the needs as advocated by the Elected Members, or by the wishes of the people? What advice would you give us on that subject?"

To quote, Sir John Sharpe;

"It is a difficulty getting the wishes of the people and we always have to remember that the people are relatively unconcerned about things as long as they seem to be going well anyhow, but you, Members are in a better position than the general public to know whether things are going well. Who was it? Edmund Burke [who] said, "We were elected not as a representative of the people so much as to use our judgment and our experience on behalf of the people; you are not a delegate of the people, you are representative to use your judgment and experience which you have gained on behalf of the people.

I would think that if you not only wanted to think in terms of changes, but wanted to confine or limit the changes rather than have too broad a spectrum across the board, that it could be done by a Committee of your House. I do not know that you need the services of a constitutional advisor because things are fairly self evident, I think. I do not think he would be able to tell you anything that you do not already know.

When we were thinking of changes, or at least the party, [referring I think to Bermuda] we got Sir Ralph Hearn who is an expert on constitutional matters from the United Kingdom to advise us. But there are so many models of constitutions now which you, yourselves can look at, but I think you should not be preoccupied with other models. You should be preoccupied with what suits you in the Cayman Islands. And nobody should know better what suits you, what is good for you, what is agreeable for you, and what will work for you than you Members, yourselves.

You always have to be thinking in terms of the public's support for what you do, but I think the way to do that would be to produce a select committee report setting out the changes you have under consideration in the way of a green paper, in the first instance, perhaps rather than a white paper which is more definitive. Publish it, and get some feedback from your constituents."

I do not agree that the position proposed by the Government in this motion is correct. I do not agree that they should put the cart before the horse and invite a Constitutional Commissioner here without going to the people and finding out even the slightest of their opinions or views.

I do not agree that the Government should attempt to hide behind such a move. If the Government have ideas about constitutional amendments or changes it should be done collectively among the Members of this Legislative Assembly. The people should be involved in it whether in testifying before that committee or whether, through a paper prepared specifically with the changes which the Members believe is good and is proper, but the people have to be involved in it, in my opinion.

I intend to say as much in public meetings hereafter because I have not had the opportunity of doing so prior to this because of the suddenness of this particular motion and I will surely sound off to find out and ask what are the opinions of the people of this country in regard to certain matters relating to the Constitution.

Of course it would go without saying that I supported the motion which was not allowed in the House to entrench Finance Committee in the Constitution as it presently exists. Of course there is another motion which I, and another Member, will be moving and there are various other matters which are simply straightforward, but can make a whole lot of difference in this country. The Government cannot expect to get away with bringing this motion to cloud major and national issues at hand in this country at this time or figure that this can buy any time for them to continue governing in a minority position. When it comes to vote for this Motion, I will not support this motion for the reasons I have given.

Thank you.

MR. W. McKeeva Bush:

...better get up and speak, he is going to take the vote.

MR. PRESIDENT:

Does any other Member wish to speak?
The Honourable Member for Tourism.

HON. W. NORMAN BODDEN:

Mr. President, I rise in support of Government Motion No. 9/90, requesting that a request be made to the Foreign and Commonwealth Office for a study of the Constitution of the Cayman Islands to be carried out and reported thereon. Although, I am in no position to state how much change, if any, at all should be made, as this will have to await the outcome of the study which must naturally take the wishes of the people of these Islands into full consideration, I nevertheless, firmly believe that the time has come for an examination to be conducted.

I also believe that the Foreign and Commonwealth Office will comply with this request because the United Kingdom, in my opinion, have always been willing to respond to the wishes of the people of Dependent Territories and to allow whatever the majority of the people in these islands indicate they want.

I do not think that there can be any doubt about this. Some debate has been aired on the procedure which should be followed in this exercise. It is my position that the people of this country will be involved at every single stage. Input from the people will be taken. I envisage that it will be put in proper form and that there will be meetings held throughout these Islands because I am sure that all 26,000 people or there about who live here will not find it convenient to meet with the Commission. So there will be need for public meetings and the procedure as to which comes first as long as the results are the same, I do not see that there should be any prolonged or differing views expressed on the exact procedure.

Just for comparative purposes, in 1972 (18 years ago), this country had a total population of 12,100. We had a total of 81 banks and trust companies at that time and we had a total of 30,646 tourists arriving by air and 1,014 by cruise ship.

We had for the first time, that is in 1972, a Legislative Assembly comprising of 12 Elected Members and three Official Members with the then Administrator as Speaker of the House, the same as we have now except for the change of title for our Head of State to Governor. Even back then in 1972, these Islands could still rightly be described as 'The islands time forgot'. Today the scene has changed not only substantially, but I would say that there have been tremendous changes with the passage of time that I have referred to.

It is an acknowledged fact that our country has been transformed through rapid development and economic growth far beyond anything ever imagined by the early forefathers, nor even by those who some 20 years ago put much of the framework in place from which we all benefit today. Cayman's success story continues to be marvelled at by many in the region and indeed the world because quality, economic growth and development are desired by all, yet illusive to many. There can, however, be little doubt that in the process of gaining economic success we have suffered some sacrifices and have experienced some far reaching changes. In many instances priorities have changed, values have been reassessed and along with these, even attitudes and operating styles have changed. We live in a changing world and while one must not change for merely the sake of changing, one must seriously consider changes that produce improvements.

We have indeed come a long way since 1972. Today we have a population of over 25,000; not 12,000. We now have approximately 525 banks and trust companies; not 81, and we have a total of over 600,000 visitors a year; not 31,660 as in 1972.

In all this, I would like to believe that in this process we have also become more politically aware, informed and motivated as a people who are fortunate enough to live in a free, democratic, enlightened and progressive country such as ours.

There can be little doubt that the framers of our Constitution did an outstanding job since it has for 18 years served our country faithfully and well and was therefore generally accepted by the population of these Islands. In fact, it was only seen necessary to make a change in 1984, as far as I can remember in dealing with qualifications for elected members, those persons qualified to vote and the Cayman Islands Court of Appeal, necessary and important changes at the time affecting the future of our country.

Equally true is the fact that recently the Constitution, like many of us, has been brought under modern day stress and strain to the extent that there has been much discussion of and proposals for piecemeal alterations. Some changes that might serve the whims and fancies of a few, but surely, when tampering with a document of such national importance this in my view is like a marriage, it surely must not be entered into lightly or without deep and serious thoughts. It must, however, be obvious to all concerned that the time has come for proper research of this to be made and for professional and experienced advise on this most important and all-embracing matter to be properly and authentically obtained. For advice of the population to be sought in a sensible, democratic, and practical fashion.

These days one also hear much talk and promotion of a Referendum and a Referendum Law which I do not subscribe to. I never have, as I believe that among other things that many different tools or devices can be used to influence and affect the final outcome of a referendum the results of which in my mind can be suspect.

In such an exercise, questions would have to be stated exactly and framed in such a way that citizens understand quite clearly and distinctly what they are being asked to respond to. I have to ask how will replies to such a complex, complicated and far-reaching matter be thoroughly analysed

and summarised? In this regard that is dealing with referenda, I find that I have to once again make my position clear and it is exactly the same as I stated in this honourable House in May of last year and once again I have to ask the question, these people who support a referendum on everything, have they already held one to find out that the people in this country want Government by Referendum? Or, how did they established what the people want; on what basis are they making such a claim?

I would like to read my short contribution to the debate in May of last year when a motion was brought to this House and I will quote my words at that time and my position remains the same:

"I do not believe the handling of any important matter critical to the well-being of the country can be blamed on not having a Referendum Law. What we have always had and will continue to have, is a situation where some people are for and some against any particular issue. In the majority of instances the position taken by some people is purely on political grounds not what is the truth and in fact what is good for the country.

Then of course there are those persons who will go around lobbying support for their views, in many instances misleading and misinforming the public. These types attempt to dictate and take the decision out of the hands of the duly democratically elected Government. If a Referendum Law could do away with this type of individual, I would vote for it. Unfortunately these types will be with us. Individuals whom the voting public would not elect and yet they have the ability to stir the pot and create upheaval and mischief. A Referendum Law to my way of thinking would be right up their alley. I am sure that is what they want to see happen in the Cayman Islands.

As far as I am concerned the people of these Islands have always had a time-tested, practical, and effective means of communicating their views to their Elected Representatives. This has not changed, it has always been my experience when any matter of significance and importance have been raised, those Caymanians who are interested in the affairs of their country will leave no doubt in anyone's mind as to where they stand on the subject."

MR. PRESIDENT:

It is about half past three. Convenient to take the break?

Before we take the break, I did notice one or two eye-brows being raised about the possibility of relevance. I am keeping a very close track of the debate. The possibility of a Referendum was raised and I think it is reasonable it should be replied to. So we all understand.

Proceedings are suspended for 15 minutes.

PROCEEDINGS WERE SUSPENDED AT 3:30 P.M.

PROCEEDINGS RESUMED AT 3:56 P.M.

MR. PRESIDENT:

Proceedings are resumed.

The Honourable Member for Tourism, continuing.

HON. W. NORMAN BODDEN:

Thank you, Mr. President.

I have no more to say on Referenda so I will move on. I think I have made my point there.

I have no more to say on Referenda so I will move on. I think I

Regarding this method of getting input from the public and public consultation, I believe that the procedure which was followed in 1971, that produced such a prized document should be repeated. It is a time consuming method, but in my opinion it is worth it. It is the most thorough and preferred way to deal with such an important subject as this.

Here, I would like to make it emphatically clear that what Government is proposing is for the Constitutional Commissioner or Advisor, whatever he might be called, and his team to carry out the widest possible public consultation. Taking as long as may be necessary for the purpose so that every man, woman, and child of our three islands; Grand Cayman, Cayman Brac and Little Cayman will have the opportunity to state exactly their wishes for change and if for change, what changes are being recommended or whether no change should be made at all.

Through this exercise it must be established beyond doubt what the population really want. The final outcome must be totally free and clear of any semblance of manipulation or influence one way or the other. The people must make up their minds of their own free will, for it must be remembered that whatever the outcome, we will have to live with this for several years to come. The Constitution of a country is not something that is changed daily like a shirt or other pieces of clothing.

This is my opinion. This in my opinion is the way to find out from the people. This is the method I support and the final decisions taken will have to be based on the report of the study which is made.

The last part of the Resolve section of the motion states and I

quote:

"...in conducting this assignment to consult with the Governor, the Members of Executive Council and of the Legislative Assembly, interested organisations and members of the public...."

As I have said, everyone will be given an opportunity to state their case as they have a right to do and if they choose not to take advantage of this opportunity, then again as in the case of marriage, they will have to henceforth hold their peace. I think this is fair and reasonable, Mr. President.

I would like to deal with a few points which were raised by the Second Elected Member for Cayman Brac and Little Cayman in his contribution to this debate. He spoke a couple of times about a trap and he also mentioned the veil. I am not sure exactly what the inference was here. I am not sure either if anybody is trying to fool anyone else or to trap anyone else or to hide behind any veil for that matter.

I see this as truly a genuine and sincere attempt by Government to establish what the people in this country want; to establish exactly how they feel at this time regarding the Constitution that we have had for the past 18 years. Government has made its position clear, a study is requested and a study as far as I am concerned, is what it will be. The results, the report of the Commission's findings in my view, will have to be the deciding factor.

In the event that any attempt might be made to get any degree of political mileage at my expense, just let me say here for the sake of the record and refer to an interview which was conducted with me shortly after the 1988 Election by a reporter of the *Caymanian Compass*. It was quite a wide and comprehensive interview and several questions were posed at the time. In one of my remarks or in responding to the reporter, I said that a form of Ministerial Government a step or two above what we have now will come in the near future.

That is my opinion and view. In saying that, I made it clear that I was not reflecting or expressing the view of the Government and as an Elected Member of the people and as a citizen of this country, I will have an opportunity to express my view to the Constitutional Commissioner as other members and other residents of this country will have. I intend when the proper time comes to express my view and my position has not changed. So, nobody is attempting through this exercise to veil or to trap anyone. At least not to the best of my knowledge.

The Member also referred to a letter which was written back in 1986, and he referred to the late Mr. Jim Bodden. Other than that I will not call any names because I believe that should be kept to a minimum in this House, but it was a letter written by a Member of Executive Council at that time, dated the 9th of September, 1986. The Member said at that time:

"The other meeting which was arranged for the 25th of August to deal with other subjects including the Constitution was attended by eight Members including yourself. During these meetings you will recall that on two occasions I made my position quite clear that in my election campaign I committed myself not to support constitutional change and I could not at this stage go against that promise to the public.

On the last occasion, because of my stand followed by another persons, a Member walked out of the meeting after tearing up a draft resolution which had been prepared, calling for the subject to be put to the public before any other consideration is given to constitutional changes. I also made it clear that I would not chair any other meetings."

Apparently this got into the hands of an individual, a private citizen and I am not going to read the portion that deals with that person's name, but the writer of this letter went on to say to Mr. Jim:

"Of regret is the fact that he used [that is referring to this person] this information to gain political mileage and at the expense of the Elected Members of Executive Council.

My own position was made quite clear which you recognised and accepted and agreed ultimately that I should not sign the resolution, I appreciate it very much, your understanding.

It seems, however, that with the best of intention there is little hope of the two groups working in an amicable manner dealing with even those subjects considered to be national issues and simply because of that animal in us called politics.

I invited all Elected Members to my meeting to deal with a certain review as stated in the notice convening the meeting because I thought the subject merited an input at that early stage from the political arena."

No commitment was made by any individual, no decision was taken or reached. No recommendations regarding the Constitution were arrived at. The type of dialogue which the

Second Elected Member for Cayman Brac and Little Cayman was complaining about was not done, was actually what was attempted in the meeting referred to in this letter. This is what was envisaged by the Elected Members of Executive Council of the day. With all due respect to all concerned, if this was the case in 1986, I believe that a similar dialogue would have ended no differently.

The Member also said, that 'mother knows best', as if the Advisors would come here and tell us what is best and what should be done. I do not accept, nor envisage that that is what is going to take place.

I think our people will make representations of what they want and at some stage a position will be arrived at as to what we can get and what direction we should head in. Of course, I have much respect for the United Kingdom and as I said earlier in my presentation, I am sure that they are prepared to give this country and give our people what we ask for and what we want. I believe that their advice can be relied on and in many instances it is a fact that 'Mother knows best'. Their experience has served this country well and will continue to do so.

In conclusion, I support the motion. I believe that the project is necessary and timely and I believe that the results will serve a useful purpose to this country and our people once again hopefully for many years to come. Our country has progressed in so many other areas of which we are justly proud; accomplishments which are naturally based on our country's stability and the smooth and efficient handling and conduct of its affairs; a quality that must be maintained if we are to continue to succeed.

In my opinion, all this hinges on a Constitution that fully meets the needs of a developing and progressive country such as ours. It is left to be seen and established whether or not the present Constitution measures up in this regard, and if not, a decision must be taken as to what is going to be done about it.

The watchword must be caution. Much care and caution must be exercised as to how far we decide to go and how far our ambitions will take us. If any move at all is decided on, and in the words of wisdom recently offered to us by Sir John Sharpe of Bermuda, whom the Second Elected Member for Cayman Brac and Little Cayman referred to in his presentation, in his words "we must hasten slowly". I must say that in reading the record, and that Member reading the words of Sir John Sharpe, I think supported much of the method that Government is recommending in this motion.

I have intentionally not mentioned the word independence because in my vocabulary the word independence, as far as Cayman is concerned, does not even exist. I believe that most people know my position on this and that is, that this country has always gotten its priorities right and many of the people who have filled these seats, they have also directed this country in the direction of economic stability and success.

A country such as ours, these Cayman Islands, cannot consider political independence, at least not for the foreseeable future, if ever at all. I do not think that this figures into the discussion or consideration of this motion at all. The people, the majority of Caymanians, well recognise and appreciate fully what our Crown Colony status means to these Islands, to their success in tourism and investor confidence. I believe that it must be kept that way.

In the final analysis, I sincerely believe that once the rhetoric settles, that at the end of the day this House will concentrate and will arrive at a position that is best for the security and future of these Cayman Islands that we all call home.

Thank you, Mr. President.

MR. PRESIDENT:

The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN:

Mr. President, I cannot support this motion to appoint a Commission to study the constitutional position of these Islands unless it is amended in such a manner as to allow the public to have some input into the matter. I believe there are three ways in which the public could indicate their feelings on this matter. One would be to set up a select committee which would have the power to hear from organisations, from individuals, particularly if the committee met over a long period.

The Report of this committee could be made public, could be laid on the table of this House, Members would then be free to take the final decision of the committee to the public again and only when we are satisfied that the public has concurred would we go to call in the Constitutional Commissioner.

This matter could also be put to a Referendum, a law would have to be passed, but we have been sitting here so long for this meeting that a couple of days more would not matter. Of course, the extreme manner of dealing with this motion and one which I am not really pushing for at this time, would be for it to become a matter in a General Election.

This meeting started out with a motion which, in my opinion, called for political and constitutional retardation. I am referring to the motion which, if passed, would add the Civil Service Members to Finance Committee. Throughout the six weeks that we have met we have dealt with matters which have confused and obfuscated the business of the House and now at the close of this meeting they come with a motion which seeks a constitutional review which in my opinion, could lead to constitutional advancement.

We know that the matter of the constitutional review had its conception in the Throne Speech earlier this year. If the actions of the Government are allowed it will have its confinement in this meeting. I believe the Government is confused about the conception and the confinement.

We know that despite the fact that the Throne Speech contained that paragraph which mentioned a constitutional review that no Member of the Government debated the Throne Speech, and, by so doing, denied the public the right of hearing what was actually meant by that passage in the

Throne Speech. They are very good at making statements, even like the libelous one in the newspaper today, yet, they have made no statement on this matter with the exception of the statement which appears today.

My question is, why is this being kept secret? Why is there all of this hush-hush about this matter? It is indeed amazing to find that the Government has brought this Motion at this time, a motion which will undoubtedly result if it is carried to its final conclusion, in a constitutional amendment. According to the text of the motion, the Government wants to ascertain and evaluate opinion in the Cayman Islands upon possible paths of constitutional evolution. That phrase in the motion comes from the Report by Lord Oxford and Asquith on the 1972 Constitution. In fact, it was a part of the terms of reference given to the constitutional expert and contained on page 2 of his Report.

We note also, that the same phrase to examine the various parts of constitutional evolution are also contained in the paper that was sent by Alec Douglas Holme to Mr. Long who was the Administrator of the Islands at that time. This phrase of ascertaining and evaluating opinion in the Cayman Islands upon possible paths of constitutional evolution resulted in much advancement of the Constitution as it had existed prior to 1972.

So the Government cannot argue that they simply want an expert to look at our Constitution. If that was all that could flow from this Motion, there would be no need for it. I consider this an important Motion, but this important motion finds its way at the bottom of the agenda of the longest meeting in the history of our Parliamentary Government. If it is true that this motion was conceived in the Throne Speech in February or March this year whenever it was delivered, why did it not surface? Why was it not circulated to the Members? Why has it only come to our notice during the sixth week of this meeting? We heard nothing of it until the motion was tabled last week.

Here we are today on the 30th day of the seventh week debating a motion which is of the greatest significance to this country. Why? Why has this motion been positioned at the tail end of this Meeting? While I do not decry the validity of this motion to be here, nor the right of the Members to bring it, I must decry the unorthodox treatment and the low esteem accorded to this matter by the Government.

This motion is one which should be discussed and examined by every resident of this country before any action at all is taken on it. It has been kept from them, hidden in those large briefcases which they lug around with them, perhaps in the same pocket in which they hid Motion 3/90 until the polls were closed for the Bodden Town By-Election. These are important matters, earth shattering matters and they are secret...

MR. PRESIDENT: I think you have made that point four times, I must ask you... you have made it four times at least. I think that is sufficient.

MR. G. HAIG BODDEN: You mean...

MR. PRESIDENT: The point that was secret and was hidden, you have made at least four times. I think that is sufficient times in any normal discourse.

MR. G. HAIG BODDEN: Is it fair when Members must be physically and mentally exhausted, when the patience of the Chair has been tried....

[Members' laughters]

MR. PRESIDENT: Thank you, thank you.

MR. G. HAIG BODDEN: ...to ask us to deal with this matter? We have had Motion 3/90, 6/90, and now we have 9/90. At least they are keeping up with the sequence of threes and perhaps we shall see 12/90 before we are finished next week.

The Motion has been badly timed. It comes in the midst of the greatest political turmoil this country has seen; in the midst of the greatest constitutional uproar this country has seen. Since the 30th of May the residents have been upset with the attempt to remove the Financial Secretary as the Chairman of Finance Committee with the addition of Official Members to the Finance Committee. The evidence of this turmoil is all around us. Letters have been written to the press, articles have appeared in the press, editorials have spoken out, the Legislative Assembly building has been picketed, a huge march went up to the Government offices, groups of people such as the Chamber of Commerce [members], Cayman Bar Association, Citizens' Committee and the Young Men's Business Association have taken up the cudgel against the Government. Public meetings have been held. Dissent has been ubiquitous and, amidst all this, the Government drops an incendiary bomb which will continue to inflame an already volatile and a touchy situation.

The motion is moved by a Member who, in my opinion, is not very popular now, although I heard last night he could be President of the United States. One can only wonder if this motion is an attempt for Executive Council to have its way and continue its perpetual existence as a minority Government.

The approach to this matter has been wrong. If the Government believes the time has arrived for a constitutional review or constitutional change the Government should asks the electorate what they want to do about the change and whether they want the change or the review. And, only when the Government is truly satisfied that the people want a constitutional change should they call in the mechanic to fix it. My information what the public would relish is a change of Government more than a

constitutional change.

I believe that a constitutional review or a constitutional change should only be made when the majority of the residents of the Cayman Islands see the need for that change. It should not be made and I know we cannot change the document, but the move to change it should not be made by Executive Council.

I heard a feeble attempt made to tell about how Lord Oxford and Asquith came down here and consulted with all these people back in 1971, but page 9 of his Report tells a different story. In paragraph 21, the last sentence reads:

"I made myself available for interview at all the main centres of population in the Islands (that includes Cayman Brac) and about 100 people took advantage of these opportunities."

Of course he mentioned that he had discussions with the Administrator and Senior Officials, on several occasions with Elected Members of the Legislative Assembly and interviews with members of the public including lawyers in private practices and members of the Chamber of Commerce. So the method employed here will not in my opinion result in a very large and representative portion of the population meeting with the Constitutional Expert.

On page 57, of the July issue of the *Newstar* Magazine we find this interesting quote:

"A Bermudian Government Official speaking anonymously said, 'perhaps you need something in the nature of a mediator to talk to the two camps and see what common ground there is on the constitutional question. Later on once you determine what you want then you consult a Constitutional Expert on how to effect the changes.'"

We seem to be going about it the wrong way by bringing down the Commissioner when we have no idea what the public wants and no idea whether they want anything or not. I believe one Member tried to show that we are following almost identical paths with the system used for the 1972 Constitution. I hope nobody believes that because the system used then, as set out in this Report, is that a Select Committee of the Legislative Assembly went in to study the matter and came up with certain recommendations.

Undoubtedly the Members of the House at that time had been talking to the electorate about these changes and it was only after that stage that the Commissioner was called in to discuss the problems. This is very clear from page 8 of his Report, paragraph 19, the second sentence reads:

"On 23 June, 1970, it was resolved unanimously by the Legislative Assembly 'that the reports of its Constitutional Committee, together with the minutes, be referred to the Secretary of State through the Administrator, for his advice and guidance and for the consideration of the provision of a Constitutional Expert to visit the Cayman Islands to meet with the Select Committee and discuss the difficulties and implementation of recommendations'. In consequence of this resolution I was appointed Constitutional Commissioner with the terms of reference which I have set out in the covering letter to this report."

So we are not following what I called the ample provisions which allowed public input. We are calling the Commissioner down to fix the problem which the Government has now because certainly if their interests in this matter had been the good Government of the Colony, they would have called the Members of the Assembly together informally and say to them, 'Members, this far-reaching motion is about to be tabled in the Assembly and we trust you will give it your usual support.'

I found an interesting quote from McCauley. He said: "A good constitution is infinitely better than the best despot."

MR. PRESIDENT:
think several Members did not.

Could I ask you to say that again? I did not quite catch it. I

MR. G. HAIG BODDEN:

It says: "A good constitution is infinitely better than the best despot." I make no comments on it, I only said I found that quote. I believe it was the Member for Tourism in his remarks mentioned that some time ago he had brought up the matter of the ministerial system or having something to do with ministers. I can only say that in my opinion, he has done his homework well.

The Constitution under which we now work has reached a stage of evolution which is considered by the experts to be stage 4 on the road to Internal Self-Government. These were published some years ago by a former Attorney General of the Cayman Islands at a time when a constitutional matter had provoked very strong debate.

While I do not have that here, there is a book which deals with Legislatures and Executive Councils in the British West Indies. It describes the type of Constitution we now have where, and this is number four of the stages. There are nine stages, we are in the number four, I will not be long on this.

- MR. PRESIDENT:** No, I am asking what the relevance of this is to the merits of the motion?
- MR. G. HAIG BODDEN:** Well, because the Member spoke about his interest in the ministerial system. I do not think it is relevant, but he brought it in. I am saying he has done his homework quite well. [Laughter]
- MR. PRESIDENT:** Surely on your own argument if it is not relevant, you should not be replying to it. [Laughter]
- MR. G. HAIG BODDEN:** But if we were to move from where we are, we would have to get into some form of ministerial government and I will be happy to discuss it with him at some time.
- MR. PRESIDENT:** Do go on, I was just slightly alarmed that you were going to give us a very long quotation which I might have had to interrupt. That was all.
- MR. G. HAIG BODDEN:** The Member who introduced this motion gave at the beginning a few feeble excuses for bringing this motion. I have already dealt with one of them which followed the announcement in the Throne Speech, and he went on to say that two motions had been brought in the past asking for the appointment of a Speaker, but certainly, this must be in jest because the appointment of a Speaker can have nothing to do with his Motion since there is a constitutional provision for the appointment of a Speaker. Later on in his speech very close to the end, he said, "part of the reason for bringing this motion was because the Backbenchers have a Motion asking for a majority change to remove Members from Executive Council." I take it that when he said, "part of the reason for this motion" is our motion, I believe he was being his usual modest self and it is my opinion that the real reason for this motion is the motion which the Backbenchers tabled just a few days earlier. I must say the present Government has been a Government of surprises. I would feel more comfortable if in future they do not surprise us with motions of this magnitude. I believe that it is unreasonable to expect the public to accept this motion in its present form. If we look at page 6 of Lord Oxford's Report, you will find in paragraph 14 that he said:
- "... the Assembly elected three years before the demise of the Federation had no mandate to speak for the people on this important and controversial matter."
- I think the same thing is applicable to this motion. An Executive Council or a Legislative Assembly elected 20 months ago without any talk by a Member for a constitutional review does not have today any mandate to seek a constitutional review.
- There is another example which I believe had been mentioned in another debate where a resolution went up to the Secretary of State seeking constitutional change and which was not agreed to because the Secretary of State felt that it should be a matter for a General Election. In other words the people must say.
- Although I do not want to go into the debate on Motion 3/90, it was suggested that that motion might be an alternative to the dissolution of the House at that time. I am wondering if the Government feels the same way, that a constitutional change would now remedy the position they are in. I guess on any given day one looks at the Constitution one could find some reason for changing it, but we should be careful with the change particularly if the change results in an advanced Constitution for this must only be done with the agreement of the majority of the public.
- I believe that no one really knows what the public wants unless we give them the opportunity to say so. Lord Oxford, himself used almost the same words on page 9 of his Report, paragraph 22, he said, in talking about the people with whom he had discussed this matter:
- "A remarkably small number were in favour of any radical change (that is, an immediate or rapid advance to a ministerial system). About one-third indicated satisfaction with present constitutional arrangements. The remainder, more than half the total, wanted certain changes of a cautious and not very far-reaching kind."
- I believe the same position exists today, but we will never know unless we give the public an opportunity to say so by a referendum. One Member mentioned having Government by referendum. We have never advocated anything like that. I believe a referendum, if such a law is put in, should be used only sparingly and in fact I would suggest that it be used very infrequently.
- That same Member said that caution must be our watchword. He said that. We are trying to implement it. We are trying to make caution our watchword. We are objecting to this motion unless the Government puts the motion before the public. He talked about hastening slowly when he is rushing out to bring in the mechanic to fix the job. And of course, throughout the entire debate, none of the Government Members have given today, nor since, the Throne Speech one single reason for the haste with which they are inviting the constitutional expert. They have not told us the reason why they have not aired this on Radio Cayman's Open Line programme, nor on the news bulletins which have been used or in the prime time news which

is even used to advertise a certain person's political meetings like a newscast last week.

Do they really want the public's input? I do not think so.

MR. PRESIDENT:

Does any other Member wish to speak?

I shall give Members ample time because as has been pointed out by (I think), each speaker, it is a very important motion. I do not think I care for these reproachful looks about lengthening the proceedings.

If no other Member wishes to speak [pause] In that case I call

upon the Mover to reply.

HON. BENSON O. EBANKS:

Mr. President, as the old saying goes, "we saw them coming".

I would have thought that my presentation of this motion this morning would have set the tone for a reasonably high standard of debate on this motion. It is an important motion, a national motion and I am somewhat disappointed that it has been treated in the way that it has, but I am not exactly disappointed.

If Members look at the advertisement, 'Our Point of View', in today's *Caymanian Compass*, it will be seen that the four Elected Members of Executive Council said, "we anticipate that there may be attempts to portray the motion as something which it is not, such as a move for constitutional advancement leading to independence. The public should resist such scare tactics for they are unjustified and anyone who attempts them will be doing it for selfish purposes."

As to the contribution made by the Second Elected Member for Cayman Brac, you know, I said before that the Parliamentary Seminar was of significant value to the country, but that much of its value had been lost because a lot of what was said by some of the resource speakers were conditioned by what they were asked.

It is unfortunate that on a national issue such as this that the Second Elected Member for Cayman Brac, who used the official report of the first local seminar on *Parliamentary Practice and Procedures* held here from the 23rd to the 25th of April, 1990, did not read all that was said on this issue of how one might go about constitutional advancement and said by the same Sir John Sharpe. When I got an opportunity to ask him a question, this is what I had to say:

"Thank you, Mr. Chairman.

Sir John, I am going to make a statement and then I am going to ask a question.

When we [got our] Constitution in 1972, the form it took came about by us having a Constitutional Advisor visit the country. He spoke with the Members of the Assembly and he made himself available in every electoral district so that people could, and did, go and speak to him. Then he came back and conversed with the Legislators again. And I think that the fact that that has served us so long indicates that it was a relatively good job, for the day at least.

On the question of how easily or smoothly the change took place in Bermuda, do you believe that that might have been conditioned in any way by the fact that many of your leading politicians in Bermuda were also the major players in the financial industry there? In other words, that your banking interests and so on were heavily represented in the Legislature."

This was Sir John Sharpe's reply:

"Yes, I have to admit there is a lot of truth in that. Sir Henry Tucker was our first Government Leader. He was also, while the Government Leader, the Chief General Manager of the Bank of Bermuda. He took the not apologetic view basically that what was good for Bermuda was good for the Bank and vice versa. And coincidentally it usually was, as a matter of fact. So the main players then were the old guard (of which I have finally become), who were the established and the leading businessmen. And, as I say, I think they perhaps got nervous at the prospect of this new party which, by their standards and in their view, were inexperienced people and so decided they should coalesce the forces of experience into a common denominator in the way of an alternative party - which they did. So there is a good deal of truth in what you say.

Since then, mind you, the mantle has fallen from those people who were the establishment of the day to others who were not the establishment; partly because the remuneration was made more attractive so the people, who had not otherwise been able to afford to, could in fact participate in the process.

I was interested in your first point when you said that you had your last Constitutional changes. The prelude to it was that you had a Constitutional Advisor

visit the country. Was that someone sent or lent by the United Kingdom or was this someone of your choosing or what?"

My reply:

"It was someone sent at the request of the Legislature through His Excellency the Governor. The truth of the matter is there had been several local committee meetings for, I believe it might have been, over a period of 10 years. There was groping for change, but there was no consensus on where we wanted to go. And this visit crystallized it."

Sir John Sharpe:

"That was exactly the word I was going to use. He probably acted as a catalyst in a way and there may be merit if you could find somebody who knows Cayman. As I say, he would not know it as well as Caymanians, but they do not have to accept his advice either. So there could be merit in having such an advisor."

I made the comment, Mr. President:

"In fact I might add that he first offered us the committee system. That is what he came prepared to offer us. But he soon found out that that was not going to work."

And then, Sir John Sharpe said: There you are.

So, Sir John Sharpe did not really think that a constitutional advisor was a bad idea.

I heard the Second Elected Member for Bodden Town reading some comment awhile ago that some Bermudian (I imagine) politician had made. While I have a lot of regard for some of what has been done in Bermuda, I would like that Member to know that we do not necessarily follow Bermuda in everything. In many instances we set the pace and Bermuda follows. It happens that they have a more advanced Constitution than we do, but that is by the choosing of the people of this country.

Was that when he said that looking around the Cayman Islands it appeared to him that we were doing very well indeed and that his advice to us would be, if we had any ideas about constitutional change to make haste very, very slowly.

In other words, he was saying, do not do anything rash and at another point in his speech he admitted that Bermudians were nervous when they got their present Constitution and that it was his opinion that the majority of Bermudians do not want any further constitutional advancement because they appreciate the connection with the United Kingdom. They understand the benefit of the image of the 'big brother' or 'mother' whatever you want to call it.

They learned from the Cayman Islands because it was not long ago that they held a referendum to decide whether Bermuda wanted to go independent or not. In Bermuda, as it would happen in Cayman with a referendum, the issue was not clear from that result except that a lot of people were scared.

We have not hidden anything from the electorate. This motion was filed one day after the motion by the Members on the other side calling for specific constitutional changes. What is important is that when we filed this motion, a Government Information Services release was made to the newspaper and the radio about it. The country was told what we are doing and let me put the matter straight.

My information is that this motion has served to reassure a lot of people because they were worried to death about what these piecemeal attempts at the amendments to the Constitution that were being proposed by others. This move to have a study of the Constitution as I said in my opening remarks was done in the Throne Speech.

It was my intention and others on the Government bench at that time to flesh out those remarks, to put flesh on those statement, but unfortunately a Closure Motion was brought, moved by the Members of the Backbench so that that Throne Speech was never properly debated.

I do not know whether at that time the motion was prompted by a desire to stifle debate on this very issue, so that some of their motions could come forward or not, but that is a possibility, a distinct possibility, Mr. President.

We in Government...

MR. TRUMAN M. BODDEN:

Would the Member give way? The question of explanation...

HON. BENSON O. EBANKS:
No, Mr. President, you waited on that Member to speak for five minutes and I had to leave my work in the Committee Room to come out here to wind up now, when he ought to be speaking.

POINT OF ORDER

MR. ROY BODDEN:

Mr. President, on a Point of Order, the Member is misleading the

House because the Closure Motion was only moved after they had ample chance to debate...

HON. BENSON O. EBANKS: Mr. President, that is not a Point of Order, Sir.

MR. PRESIDENT: I will rule, I do not think it is a Point of Order. I think it is a fair observation to make that there was a certain reluctance to speak on the part of all Members of the House, that is a fair point.

HON. BENSON O. EBANKS: Mr. President, there is no question that the Government bench was reluctant to speak.

MR. PRESIDENT: Please do not let us pursue this point.
I want to say something on Points of Order. I do not have it with me, but I found a very interesting ruling from the House of Commons of the late 1800's on the questioning rulings of Points of Order. The Speaker had ruled and a Member stood up to question it and the Speaker said, 'I have ruled, it is very inconvenient for Members to continue to question my ruling.'
Please continue.

HON. BENSON O. EBANKS: Yes, Mr. President, and I would like to comment on the reluctance of Government Members to get to their feet on the Throne Speech in February. I am not questioning or even commenting on your ruling.

The point that I want to make is, that the Throne Speech or the Speech from the Throne or as they would say in England, the Queen's Speech, as every good parliamentarian knows, is the speech outlining the Government's policies for that year. That, having been made, the Backbenchers should take the lead in that debate and criticise Government's expressed policies and then Government reply, but they sit down and wait, playing cat and mouse until Government speaks, then get up and speak after. Something is coming up later in this House that will teach people that it does not necessarily benefit them to speak after me. Hopefully, that will set the tone for the debate on the Budget Address and the Throne Speech in future.

I am sorry for the delay, but my colleagues have asked me to read what was said in the Throne Speech because in their opinion it was misquoted by a previous speaker. I believe it was the Second Elected Member from Cayman Brac who either misquoted it or he did not quote it in its entirety. In other words, he did not fulfill the obligations which are placed on a witness in the Court to tell the whole truth and nothing but the truth. He might have told the truth, but he did not tell the whole of it. So I am going to read the entire passage from the Throne Speech on this question. This is what it said:

"All human institutions and organisations need to be examined from time to time, to ensure that they continue to serve the purpose for which they were constructed, and if necessary to consider their adaptation to fit changing times and needs. Such periodic examinations or reviews should not, of course, pre-judge or pre-determine what, if any, changes may be needed.

It may now be worth considering whether the time has come to request the United Kingdom Government to appoint a suitable person to conduct a review of the Constitution of the Cayman Islands, taking wide soundings among the community, and to report on what he finds, for the consideration of the community and of this Assembly, as on the last occasion.

It is emphasised that in raising for consideration the possibility of such a review, I convey no personal view, nor any opinion of the United Kingdom Government as to any possible need for changes. These remain as matters for the people of these Islands to consider and decide upon."

That was the total quote from the Throne Speech, Mr. President. This motion is in keeping with that message. Before I get much further into this debate, or this winding up because I believe that I am going to use at least the time that is left today if not a little bit tomorrow morning.

MR. PRESIDENT: I am reminded of another ruling from the House of Commons which I came across last night. I would like to just mention this ruling. I do not think it quite applies, but it was to the effect that Members should not make threatening statements.

HON. BENSON O. EBANKS: I agree, Sir. I remember too, a past Member of this House, who, when he said that he hoped Members had a couple of days to listen to him, that was before the four hour rule was invoked, you could expect that he would sit down after five minutes, but if he did not threaten to speak for days, he would go on for a week if you left him, Sir.

Nevertheless, I do not want to be deterred or side tracked from a very important point which I wanted to make because I happened in re-reading that statement to have been reminded of it. And that is that it carries, shall I say, no opinion from the United Kingdom.

Members of this House should be reminded that the Minister who was Mr. Eggar at that time, said in Bermuda and in Turks Island, and the British Government is on record in the

United Nations as saying that they - and to come a little bit further home - when the advisor to the Foreign and Commonwealth Office was here a couple of weeks ago, Mr. Wallace made it clear that the United Kingdom had no desire to push the Cayman Islands in any direction. That whatever direction the people wanted to go was fine with them.

He made one stipulation and that is that as long as the British Government was expected to give certain guarantees in the Constitution that they would have to retain the authority to be able to invoke those guarantees. That is what I was referring to this morning when I said that in any change that might be suggested the Government was firmly of the view that our relationship with the United Kingdom should remain intact.

Now, I know that I will be called and considered in some areas coward and that I am unimaginative, but those Members who would take that attitude should pay a little attention to what is going on around us.

I remember in 1967 when we held a Commonwealth Parliamentary Conference in Cayman, I think it was the British Virgin Islands, I am certain had just gotten a ministerial system of Government. The exuberance of the Chief Minister who was the delegate was obvious and he said something like, I hope the day will not be far when the people of the Cayman Islands will follow us and get a ministerial form of Government and he went on to indicate that they had every intention to go on to independence. I remember asking him, "Going independent, with what and from what?" You know what is true? Those people today are copying our mode of Government.

When the Committee of 24 met in Barbados in June or the end of May (which meeting incidentally was referred to by some Member of the Backbench earlier in this meeting), the delegation from the British Virgin Islands to that meeting said words to the effect to the Committee of 24 (they could have borrowed it from what I told the Committee of 24 in West Bay when they visited there), that we do not need you to cajole us or to entice us into anything. We will know when we need to move and how far we need to go; that we were not hamstrung in anyway by the British Government and that is exactly what they are now saying.

What I am trying to say, those people have learned from the errors of their ways. Those countries realise, as they look at the bigger countries in the Caribbean that they thought had natural, unlimited and unending resources, and which are now flat on their knees, they realise that political independence without financial independence is barren. That is what our ambitious politicians should understand. I could quote, Mr. Wallace a little bit further. He said:

"In Cayman the Members of Executive Council were indistinguishable from Ministers in the other countries that Cayman had not been a problem to England as far as operation of its Constitution was concerned."

He made the point that the crux of the matter was not so much in what was written in the Constitution but the way it was worked and that in Cayman we had a lot of say in what went on, that the British Government had only had to intervene, or had not had to intervene in Cayman for many years. It was only once, I believe, somewhere down the road when some people did not want the Government to introduce the Cadastral Survey and Land Registration Laws. The British Government said at that time that you go back and you debate these laws and pass them or else. That was good advice, Mr. President. If they do not give us any worse advice than that we can live very happily in this country because those laws are the foundation of our prosperity today.

I too want to read a little bit from *Lord Oxford and Asquith's Report* because I am not sure that the whole truth has been told here again. The truth of the matter is that committees had been meeting from September, 1969, in this case straight through to the 8th of April, 1970, and there was no consensus. We had one Report signed by nine Members and another Report signed by two. In other words there was a majority and a minority report. Finally on the 23rd of June, 1970, the Legislative Assembly because they had no agreed approach, moved to get advice from the British Government.

I, too want to read a couple of paragraphs because it is significant and at page 9, paragraph 21, Lord Oxford and Asquith had this to say:

"21. To assist in the formation of these judgments I visited the colony, arriving in Grand Cayman on 22 January, 1971. My consultations, spread over a month, included talks with the Administrator and senior officials, meetings on several occasions with elected members of the Legislative Assembly and interviews with members of the public, including lawyers in private practice and members of the Chamber of Commerce. I made myself available for interview at all the main centres of population in the Islands and about 100 people took advantage of these opportunities."

Now I believe that somewhere else in Lord Oxford & Asquith's Report also recognises that some groups and some individuals made written representation. But it is interesting to continue at paragraph 22:

"22. My initial discussions with elected members revealed little change from the opinions which they had recorded in the previous June. In my interviews with the public, what struck me most was the absence of any marked or widespread divergency among the views expressed to me. A remarkably small number were in

favour of any radical change (e.g. an immediate or rapid advance to a ministerial system). About one-third indicated satisfaction with present constitutional arrangements. The remainder, more than half the total, wanted certain changes of a cautious and not very far-reaching kind."

Then he goes on to give his findings. The important thing is that the group that signed that majority report conveyed to Lord Oxford & Asquith a fair representation of what the majority of people wished.

I want to reemphasise that what we are doing here, has no similarity to what was mentioned by the Second Member for Bodden Town, where the knuckles of the Government were rapped in 1969, because at that time they asked for specific constitutional changes and it was that type of request that the British Government said, "No, no you will not. You go to the people first in an Election."

We at this time, are not making any recommendations for constitutional change. What we are saying is, that we have in our hands a bunch of disgruntled Backbenchers who have indicated and made moves to change the Constitution piecemeal. They have sought to take the wheel out of the hands out of the Master of the ship and I am sure that they would let it go just as quickly when the weather gets rough. They only want the wheel now because of that \$35 million in surplus that the Government has. If the weather goes a little rough they would all go to bed sea-sick and leave the Captain on the bridge by himself.

A former Administrator in his departing speech spoke about that type of fair weather politician. Politicians who, when it comes time to raise revenue, to pay civil servants will not do it. I am saying...

MR. PRESIDENT:

I must at this point ask you to move on. I think it is reasonable you should have said what you said so far in reply to what was said by the first speakers from the Backbench, but I do think you should now move on.

HON. BENSON O. EBANKS:

Yes, Mr. President, I thought you had detected that I was going to go in a little different direction now and probably even wind up by 6:00 P.M., Sir.

What I was saying is that this request which we are making is not something that would be put to the people at an election. What we are really doing is inviting our parents to come for a visit. We are not even inviting them to come and take up lodging permanently with us. We are inviting them to see how well we are doing and to hear whether our children and grand-children want any little change in the House to make life more comfortable and more pleasant because they have the wherewithal to advise on this type of thing.

If the Secretary of State himself had the time we would have asked him to come. We know he does not have the time, so, we are asking him to send a good architect, an experienced builder of Constitutions to advise the people in this country on the kind of Constitution they may have, as opposed to the type of constitution which those people who are complaining about not taking it to the people, would be prepared to put on them without their consent or wish.

No reference has been made to the people as to whether they want a referendum or whether they want the Official Members removed from the House or from Finance Committee. Let us deal with that while we are at it.

I heard a Member say that he had copies of the British Virgin Islands Constitution, the Montserrat Constitution, the Bermuda Constitution and all those Constitutions. That Member must have seen that they had Official Members in their House who were also Official Members in Finance Committee. When Members advocate going beyond that, people who have a ministerial system of Government, one Member said that we had reached the fourth stage. Well he must be wanting to go to number one.

What we are saying by this Motion is, we are asking someone versed and knowledgeable in Constitutions to come to this country, and to make themselves available to every Tom, Dick, and Harry to hear what they have to say about what they think about how the Constitution is working at the moment, or whether there should be some slight changes. That is a perfectly reasonable, logical, and legal position for this Government to take. I recommend this Motion to Members. I hope that the Opposition is going to vote for it, Sir.

PRESIDENT'S RULING ON OFFICIAL MEMBERS' DEBATE ON PRIVATE MEMBER'S MOTION NO. 17/90

MR. PRESIDENT:

Before I put the question, I will deal with the point you have in mind. I would like to congratulate Members on the quality of their debate and the willing adherence to the conventions of parliamentary debate.

Earlier on in the debate the question was raised about the position of the Official Members in regard to this motion. So I would like to take a couple of minutes to explain the position. There are two motions before the House, one which is now being debated and the next one on the Order Paper which is Private Member's Motion No. 17/90, which both have reference to the Constitution. If I could deal with the latter one first.

Private Member's Motion No. 17/90, seeks from the House a specific commitment to a stated and significant change in the Constitution. It also refers to a matter which affects Elected Members only, quite specifically. I therefore have no hesitation in saying that in that debate, the Official Members should not take part and should not vote in that debate when it comes to the House.

On the motion which has just been debated this is rather different. It is a Government Motion, it was corporately agreed on in Executive Council. The motion makes no proposal to change the Constitution in any detail, great or small. It simply invites the House to agree that the Secretary of State be invited to appoint a suitable person with broad terms of reference and with no pre-judged or predicated objectives or recommendations sought. The position of the Official Members has been discussed quite a lot over the last few weeks in particular but also before that.

The Official Members have a proper interest in this Motion in my view, therefore, and they may take part in the debate which they chose not to do as you saw and they may vote upon it.

against No.

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

AYES AND NOES.

MR. PRESIDENT:

The Ayes have it.
Would you please take a Division, Madam Clerk.

Clerk:

DIVISION NO. 32/90

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. Roy Bodden
Mr. G. Haig Bodden
Mr. John B. McLean

MR. PRESIDENT:

The result of the Division is eight Ayes, and seven Noes.

GOVERNMENT MOTION NO. 9/90 PASSED.

ADJOURNMENT

HON. THOMAS C. JEFFERSON:
o'clock tomorrow morning.

Mr. President, I move the adjournment of this House until 10:00

MR. PRESIDENT:
morning at 10 o'clock.

The question is that the House do now adjourn until tomorrow

against No.

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

AYES.

MR. PRESIDENT:

The Ayes have it.

AT 5:58 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., WEDNESDAY, 25TH JULY, 1990.

**WEDNESDAY
25TH JULY, 1990
11:38 A.M.**

MR. PRESIDENT: Prayer by the Honourable Member responsible for Communications, Works and Agriculture.

PRAYERS

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

Bless our Sovereign Lady Queen Elizabeth, 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.

MR. PRESIDENT: Proceedings of the House are resumed.
Item 2 on the Order Paper, Personal Explanation, the Honourable the Member for Education.

**PERSONAL EXPLANATION
(Standing Order 31)**

HON. BENSON O. EBANKS: Mr. President, I regret to have to advise that my statement is still with the typist and I am therefore unable to commence at this time. I hope to have it before we rise for lunch.

MR. PRESIDENT: It seems reasonable to defer that item on the Order Paper. Shall we go to Item 3, Private Member's Motions. The reply to debate on Private Member's Motion No. 16/90 continuing. The Third Elected Member for George Town.

OTHER BUSINESS

**PRIVATE MEMBER'S MOTION NO. 16/90
LIMITATION OF GOVERNMENT LOANS**

CONTINUATION OF DEBATE ON PRIVATE MEMBERS' MOTIONS

MR. TRUMAN M. BODDEN: Mr. President, I was developing the argument in relation to this motion which seeks to restrict Government's borrowing to 10 per cent of the annual revenue, and to limit Government from entering into contracts, unless all the money for the contract has been appropriated by the Finance Committee.

In dealing with that I had reached the stage where I was developing the argument that the Government, with all of its planning and vast sums of money spent on experts, have not said what they regard as a prudent limit beyond which Government should borrow. That was one of the things that I would have hoped the Member for Communications and Works (who obviously is the one of the four Members who have knowledge of economics and finance), would have come up with. But so far Government's policy seems to be that it will spend, spend, spend and there will be no limit placed upon their spending.

We know that even though there is the Development Plan (which they have referred to) that is being studied; between now and getting that Plan, it is a very simple matter to spend the money that is there now and to borrow vast sums in between.

The main reason why this was brought in relation to limiting Government's spending was that the number of projects which the Government have approved, if carried out to

their full extent would be in the hundreds of millions of dollars. Of course, Government did not know how much they were going to costs and we took the approach that if we do not know, we are not going to sign a blank cheque for someone to go out and spend, spend, spend. So, as I understand the Government's position now, they want to have no limit on their ability to borrow and naturally they are doing anything they can to have no limit on their ability to spend (which is where the Finance Committee comes in place and we know what has happened with that so far.

A lot of statistics, were given by the Member for Communications and Works who mainly put Government's argument up, he went on to say how bad the country was when it was taken over, not by his Government, but by the Government in late 1984. To do that, he dealt with certain figures that I, too would now like to give and I will be reading from a question that he asked. Before doing that, I can tell you as a fact, that in 1976 the percentage of the debt to the local revenue was 58.8 per cent. Debt exceeded more than half of the recurrent revenue and in 1984, it had been reduced to 18 per cent. Perhaps more significant is when dealing directly with percentage of local revenue to service the country's debt. In 1976 when we took over it cost 12 per cent of the Government's annual revenue to service the debt. When we left in October, 1984, the accounts as I will show the Member for Communications and Works who asked for it, was to the 31st of October, 1984. All it was costing this country to service the debt was 2.29 per cent....

POINT OF ORDER

HON. BENSON O. EBANKS:

Mr. President, on a Point of Order.

The Member has to be misleading the House because under our Constitution, the Elected Members of Executive Council remain Members of Executive Council until the new Elections are held and Members sworn in; that took place on the 20th of November, I think it was, but certainly not earlier than the middle of November. So, the 31st of October is no milestone date.

MR. TRUMAN M. BODDEN:

Mr. President, if the Member had been listening to what I was saying he would have heard me say that I used the 31st of October because it was the time that the Member for Communications and Works used as a relevant time for the ending of the accounts. I will show that from the Hansard.

Let me recap on this. In 1976, it took 12 per cent of the recurrent local revenue of the country to service the debts that were left which then were over half the amount of the equivalent of the local revenue. In 1984, that was reduced to where the debt was only 18 per cent of the annual revenue and it was only costing 2.29 per cent of the annual revenue to service the debt. If anybody can tell me how that was not a very serious improvement in the position during the eight years we were in Government, then I would like to know.

In 1990, we know it is now six per cent of the annual revenue to pay for the debt as against 2.29 per cent in 1984. Those are hard facts and there is no one that can dispute that. The servicing of the debt, and this is borne out very clearly, had dropped to 2 1/4 per cent of the annual revenue. Now it is six per cent. Along with this, is the fact that during that period, there was practically no public debt increase of any concern. That is the reason why we were where we were in 1984.

This is clearly borne out by a question asked by the then Backbencher, but now the Member for Communications and Works, when he was not as friendly with the Government as he seems to appear at present, asked question No. 6 which is found at page 14 of the draft *Hansard* report of Monday 4th March, 1985.

"In view of the conflicting versions given of the financial position of Government as at the 31st October, 1984, would the Member state the current balances at that date?".

And the Financial Secretary stated:

The current balances of Government's Financial position as at the 31st of October, 1984 were as follows:

General Reserves	\$10,032,644
Surplus Balance	891,510
Public Debt	8,587,922
Self Financing Debt	2,760,444
Loans Due to Government	10,000,920
Bank Overdraft	3,555,372
Amount due from Caribbean Development Bank	3,148,840.

Now, much was said about the bank overdraft, but that was offset by the amount that was due for a draw-down from Caribbean Development Bank. The relevant time and what was accepted by the Member, are these figures. He asked for them, he got them and there is no way that there can be any denial that there were General Reserves of \$10 million, with a Surplus of nearly \$1 million and the Public Debt of \$8.5 million. When you add that to the self-financing debt, it was about \$11.5 million. This is something he instigated, he got the answer from the Financial Secretary and he accepted it. So, in my view, that puts beyond any doubt anything that has been alleged about this country being left strapped for cash or otherwise. The cash in

hand and the debts were about equal. And what is significant is that...

POINT OF ORDER

- HON. BENSON O. EBANKS:** Mr. President, on a Point of Order.
- MR. TRUMAN M. BODDEN:** I hope this is a Point of Order.
- HON. BENSON O. EBANKS:** I am just wondering if the Member would answer a question if I asked it?
- MR. PRESIDENT:** You know that is not a Point of Order. If you want the Member to give way you must stand, and if he does not give way, he does not. Unless your question is designed to show that it is a Point of Order. In other words, you are questioning the accuracy of a statement. If that is the case, it is a Point of Order.
- HON. BENSON O. EBANKS:** I just wanted to get clarification on one point that he raised.
- MR. TRUMAN M. BODDEN:** I am not sitting down so he cannot raise it. I would like to see...
- MR. PRESIDENT:** That is right, please continue.
- MR. TRUMAN M. BODDEN:** I would like to see the House finish its Business so the least interruptions - unless they are Points of Order...
- MR. PRESIDENT:** Please, please, the Chair does not need to be lectured about this. I am trying to keep order....
- MR. TRUMAN M. BODDEN:** I am not lecturing you, Sir...
- MR. PRESIDENT:** Please continue with your speech.
- MR. TRUMAN M. BODDEN:** All right, Sir, but with respect...
- MR. PRESIDENT:** No, I am sorry. The Chair has ruled that it is not a Point of Order and as strongly as you may feel that you should be able to comment upon the interruption, I really would ask you not to.
- MR. TRUMAN M. BODDEN:** All right, I will move on because my aim is to finish the business of the House.
- What is significant is that in 1976 the public debt was \$6,994,985. When we left, the accounts that I am using, at the end of October, 1984 (and I can assure you we did nothing between the 31st October 1984 and the Elections), we left a public debt of \$8.5 million and a self-financing debt of \$2.7 million. The difference being approximately only a \$3 million increase in the public debt between 1976, and when we left in 1984 we increased the reserves during that period from \$826,000 in 1976 to the \$10 million. And those are figures that I submit, cannot be refuted. Having cleared that area of allegations, the other one that was thrown out when the Member dealt with self-financing loans was the fact about the large amount that was out in relation to Cayman Airways. I am happy to say that history has at least shown here that that loan (the guarantee for it) has now been paid off and we made a profit of \$12.5 million; that is all I will say on that. But that cannot be leveled, at this stage, as being a problem; that money arose from the sale of the two 727s as the House knows.
- A lot was said about the good, reliable Financial Secretary whom we now have this week, versus the one we had last week. To be frank, if the Financial Secretary had total control of the funds of this country, I could rest fairly well assured that we would not get into imprudent spending limits. We know that that is not the case and that as far as his control goes, that may or may not be substantially on the way out. What is significant is that this country and we in Finance Committee during part of this time, approved \$15 million in Supplementary Expenditure (or extra spending money for Government) without taxes or without loans. Yet, we are now hearing the cries in relation to less amounts where loans, taxes or some other form have to be brought in to raise it.
- The Member for Communications, Works and Agriculture had difficulty with the figures that six per cent of the country is unemployed while he said there is a lot of people here on work permits. All I can say to that is as the good saying goes in the finance world; that figures do not lie, same as the figures which are used in relation to the public debt and the cash reserves.
- A lot was said about having \$17.7 million in surplus and how good the position of the country was along with another \$18 million in reserves. And yes, that is a good position at the present time. But we had the Accountant General sat here and told us that they have projected that at the end of the year, the surplus is going to be reduced substantially (and I do not remember what the projected surplus was, I think it was near to \$1 million).
- The country gets a lot of its taxes early in the year and spends later on in the year. That was the reason given for another purpose when dealing with the taxes. On the other hand,

it is now being used as an asset, which presumably goes towards prudence of the Government. It is good to have it, but I would just comment that the Auditor General has said that is going to be reduced to the estimated amount if there is \$1 million surplus at the end of the year.

The other area that was dealt with was sections 27(1) and (2) of the Public Finance and Audit Law, and, reference was made to the Loans (Caribbean Development Bank) Law. The Member for Communications and Works read this so I will not, but in the Law there is one thing that is significant and that nowhere in it does it place any limit upon to the extent to which Government can go with borrowings or its authorisation of funds. Reference was also made regarding the Financial and Stores Regulations; that we know that there have been in the past, times when these were not followed. As I understood it, speaking specifically in relation to the Member for Communications and Works, it is the appropriate authorised officer who I understand to be the Principal Secretary in Portfolios who normally sign contracts and deal with the authorisation of funds under that Law.

There is a sanction, I should say, in relation to Civil Servants, but nothing in relation to Members, and whether this was within the Financial and Stores Regulations or not, I think not. I did know that for example. The Member for Communications and Works did sign the Motorola contract. I am sure it binds the Government, however, what I am saying is, I do not think that...

HON. LINFORD A. PIERSON:

Mr. President, on a Point of Order.

I think that statement, if not clarified, could be misleading to the House. If the Member would give way, I would like to clarify that statement....

MR. TRUMAN M. BODDEN:

I do not want to do that, but if he will clarify it, Sir.

HON. LINFORD A. PIERSON:

Mr. President, the signing of the Motorola contract was done after seeking legal advise; it was proper, and correct for the Member responsible for the Portfolio, who is myself, to sign the contract.

MR. PRESIDENT:

I think I would like to ask the Attorney General to speak on this. There may be two questions as to who may be authorised to sign any undertaking on behalf of the Government and, separately, who is the responsible officer in terms of the Public Finance and Audit Law to safeguard and to control expenditure. Would you care to, if you can, as it were, 'off the cuff'?

HON. RICHARD W. GROUND:

I think 'off the cuff' I can say that the Financial and Stores Regulations - I could not give you the exact quotation - but the Regulations do say that it should be the controlling officer who signs contracts on behalf of Government. It is also fair to say that the Member for Communications and Works did seek advise on this and was given the advice that he could sign the contract; that advice may have been wrong, but as far as his *bona fide* concerned, he did come for advise.

MR. TRUMAN M. BODDEN:

I accept that. The only point I am making is that to use the Financial and Stores Regulations or that Law when there are no sanctions built in, in relation to persons who are not Civil Servants, the Regulations are very clear and they state, in fact they go quite far in paragraph 2.65 and says:

"A controlling Officer is required so to control the expenditure in respect of any service provided in the Estimates which he is responsible, but the provision for that service is not exceeded and he will be held personally responsible for any excess expenditure which is incurred without proper authority."

There is another section which says he could be disciplined, and that is why I made it clear that it is very important that these [provisions] are followed fairly strictly. In fact, it would be good. And one of the things I would suggest should perhaps be looked at is, that no contract of Government which does not comply with the Financial and Stores Regulations be valid and that would then put the onus on the Controlling Officer to give his certification that the Financial and Stores Regulations are being complied with.

We know there had been breaches and fortunately, these breaches had not come from civil servants because there is a sanction on them. So the next best way I would think, is to say that a condition of the proper enforcement of Government contracts is to ensure that at least the specific areas of the Financial and Stores Regulations which are important [for contracts], say over \$100,000 go to tender, and that they must seek legal advise; that I am sure would be. There is no sanction in the Law or the Regulations for breaches outside of the Civil Service; it is only my suggestion.

MR. PRESIDENT:

Could I just make a couple of observations?

MR. TRUMAN M. BODDEN:

Sure.

MR. PRESIDENT:

I think, in regards to the privileges of this House, there can be no question that this House can hold responsible, if it so decides (and the Public Accounts Committee clearly has a function in this regard) any Member of the Government or the Government as a whole regarding any matter which is proven to be financially incorrect.

The second point I want to make is that I do not think there can be any doubt that it is proper in Law for a person authorised by the Government to sign any contract and then that contract is binding. I think we might be on dangerous ground to suggest that it is not.

MR. TRUMAN M. BODDEN:
motion...

Mr. President, therein lies the worry of why I brought this

MR. PRESIDENT:
am sorry.

I should have started by saying you have made a fair point. I

MR. TRUMAN M. BODDEN: ...because it is not that which is done properly in accordance with the Regulations and the usual practices that worry me...and by the way, I notice very little was said on this part of the motion by the Government. In fact, it was hardly addressed. Let me just say that I do not contribute to it beyond that, but something needs to be done if we are going to have the Regulations, that we see that they are followed. I am just finishing on that because we have seen that they have not been in instances in the past, and in the recent future.

Now, one other point that was raised which I would like to clear up, is that raised by the Member for Health. A lot has been said about a loan that was taken out for the Airport (the Airport Improvement Loan), a part of which was issued in Japanese Yen. The Member said words to the effect that we still owe about \$6 million after paying US\$1.3 million back. I think I am correct in [paraphrasing] him on that. Firstly, let me say that the amount in the last published Audited Accounts in the Estimates document that I have, showed that the value of that loan stood at \$3,370,504, far away from the \$6 million. If that was deemed not prudent, when we look at subsequent loans from Caribbean Development Bank taken out by this Government and its predecessor, for example, the Water and Sewage contract was partly taken out in US Dollars, Sterling, Bolivars, Canadian dollars, and part in what is in here as U.A, which I understand is a unit of account that is worked out by Caribbean Development Bank of what is referred to as a basket of currencies. I have still to be supplied with what currencies are specifically in them because the area of the department that I was speaking to has not been able to get back to me; the telephones are down.

In the unit of account, the value of the loan for the Water and Sewage project is \$4,226,000. What I understand the unit of account to be is that all of the contributing countries (which could be the Yen), depending on which year we are dealing with and the countries that are lending the money into the Caribbean Development Bank, put this all in a basket and they do a valuation once a year. So if anything could ever fluctuate, it would be that, because we know that until this unit of account came into effect, it seems to me, as was shown here, we have borrowed in currencies even from places like Latin American countries.

I am not saying that there is anything wrong. I am just saying that to say that a part of the borrowing was made for the Airport improvement project (which obviously the previous Government did not really like, but was good for the country), then their recent borrowings which go far beyond the Japanese Yen (and getting into Latin America and this unit of account which has got to be one of the biggest unknown around the place), is one that far exceeds the one single currency that we use here. In fact, there are some loans in the Estimate, I notice here dealing with the Economic Development Community Unit. So it has gone far and wide. Hopefully, I will not hear anymore about Japanese Yen.

Finally these loans, as were the loans that have been subsequently dealt with were used. The Member for Communications and Works dealt with this; things like that Airport Loan was used to build the airport. We had loans that dealt with Civic Centres (some of this was paid out of local money), playfields, hospital, schools Middle School.

So we have done our part in providing money, but what was significant is that we only added about \$5 million of loans to the nearly \$6 million we found in 1976, when we left in 1984. Compared to some \$16 million or \$18 million that have been added since 1984, and up to the present time; that is not what really worries me because that is at least still within the 10 per cent of the annual revenue. What worries me is what is to come. The Master Ground Transportation Plan has been approved by Executive Council. We know that approval of all sorts was given for the split-site hospital. We know that approval had been given in relation to substantial sums for consultants and these are things that we put a break on. We know that in the pipeline could well be a new or an extended port and a post office and office building. All of this at a time, when if we borrow probably in excess of 20 million to 30 million dollars more, we are going to be at a stage where we cannot repay the loans. We may be able to deal with the interest, but repayment of loans, some of which are new ones, are 10 years not 15 or 20 or 25 years that we got in the past.

Further on this, as I explained earlier, not only had the Financial Secretary stated that the 10 per cent was a good guideline, but when we look at the way the country's money is divided up with nearly 60 per cent for Civil Servants' salaries and benefits; nearly 20 per cent is spent annually on capital; we have up to 10 per cent going to service loans, it only leaves another 10 per cent to deal with other matters which are recurrent and capital. So how we can get beyond 10 per cent out of this situation it is beyond me, because the figures do not lie when it comes to this.

So this motion calling for limitations on the borrowing of Government, limiting it to 10 per cent of the annual recurrent revenue and asks that contracts not be entered into unless all of the money for them are appropriated, is one which has to be a prudent approach to be taken. What I cannot accept, and I believe the Backbenchers do not, is that Government must have an unlimited right to spend and to borrow money; to execute contracts which may commit the country, whether it is in the form of contracts that are not fixed, but which have fluctuating amounts over future years where the children and perhaps grandchildren of this country will spend time repaying what has been spent by others.

The Government has put no limit on their right to borrow loans. They have not said within what they intend to limit themselves, therefore it is an obvious presumption when you look at the projects they approved, that it will probably take this country into interest payments four or five times of the percentage of which I think is prudent, that is, the 10 per cent.

They have set no limit on their borrowing and we, as Backbenchers and protectors of the public's money, have to ensure that we, at least understand the limits where Government should not to go beyond. We believe that with certain events recently they are getting ready to spend, spend, spend. I know what is going to happen then is that the public is going to have to pay, pay, pay and it means more taxes and more from the public.

MR. PRESIDENT: Before putting the question on this motion, I believe that the Government is considering whether to ask for the two propositions to be put separately, I think it is essential to know what is on the Members' minds on this.

HON. W. NORMAN BODDEN: Mr. President, I do not recall this being discussed by the Government bench.

MR. PRESIDENT: No, I think it is now being, this is my point. I have been notified that it is now being looked at. Perhaps you could...is the Honorable Member for Education ready with his personal statement yet?

HON. BENSON O. EBANKS: No Sir, it is being copied.

MR. PRESIDENT: Perhaps we may take a short suspension. Proceedings are suspended for a few minutes.

PROCEEDINGS WERE SUSPENDED AT 12:27 P.M.

PROCEEDINGS RESUMED AT 12:42 P.M

MR. PRESIDENT: Proceedings are resumed.
Thank you for that, I thought it was important that the question of putting the propositions separately should be dealt with. I understand that before asking for this, the Government wish to elucidate some matter.

The Honorable Second Official Member.

HON. RICHARD W. GROUND: Mr. President, that is right.
Before deciding finally whether to ask that the two questions be put separately, Government needs an elucidation of what is meant by one very important word in the second part of the Resolve section and it is the word "appropriated" at the end.

Part 2 of the Resolution reads in essence that 'Government should not enter into any contract or any commitment, unless the obligation is first being properly authorised and appropriated'. Now, appropriations happen annually and the money that is appropriated under the Appropriation Law is appropriated by Finance Committee, then by a vote in this House only for the year in question. Any money that is not spent during the year falls back into Reserve. Finance Committee and the House in other words, cannot appropriate money for future years.

Now some contracts (indeed many contracts, particularly construction contracts), will extend for more than one year and payments will fall due under the contract in future years. Now as payments cannot be said to be appropriated because, as I just explained, the House cannot appropriate money to future years. What happens however, is that those payments are considered by the Finance Committee before the contract is entered into and the Finance Committee will acknowledge that payment in future years will be due is an implied undertaking that when the time comes to appropriate that money it will be so appropriated.

It is a long statement, but the question for elucidation is: Is the Member intending by this Resolution to exclude and roll out that practice of money being paid over years once it is being authorised by Finance Committee or is he intending to permit that to continue and not using appropriation in its straight legal sense? I hope I made the point clear so that he can answer.

MR. TRUMAN M. BODDEN: Mr. President this is indeed strange and unusual. What I find strange is that this has been debated in total depth and it seems to me that I am not certain whether the Government understood the motion they debated. Anyhow, to try to get on with the business of the House I would see, talking of me personally...

MR. PRESIDENT: Sorry, I must interrupt. You are the mover to the motion, I think we have to rely on you to say what you meant by the motion.

MR. TRUMAN M. BODDEN: That is true, I know and that is what I am going to try to do. As you appreciate, the other seven had some time to think about this.
All right, what I meant by this is that the Finance Committee

should have looked at [the contract] and at least appropriated the money in the year that it was going to execute the contract. Now, if some of that falls away and has to be revoted the following year, then so be it. Do I make myself clear there.

MR. PRESIDENT: I think it is necessary that I should understand this too before the question is put. I think that answers to the Second Official Member's question. Just the use of that word funds falling away and being revoted, was not precisely what was in issue. The question was, whether in accepting a given commitment or contract, Finance Committee would accept that it would mean voting further funds, perhaps in further separate years? I think this is the point at issue.

"Appropriation" strictly means appropriating money within the budget of a given year. If a contract runs over two, three or five years the money has to be voted for the amount required for each year. Now I think the question is, were you intending to stop that existing practice; that is the real crux of this. I think you have answered it, but I do want to be sure.

MR. TRUMAN M. BODDEN: Mr. President the question of appropriation is that the Finance Committee would have considered the contract as a whole (and I do appreciate some of those would run over) and would have considered the full amount and undertaken either through supplementary, revotes or extra votes, to have to appropriate whatever Government is legally committed to.

What I did not want was to have them appropriating an amount this year not knowing how much is coming up next year. For example with the MGTP, and suddenly getting stuck with subsequent years that we may not know about and actually may bind future Legislators. But if the contract goes over a period, I know and I agree with what he said.

HON. RICHARD W. GROUND: Perhaps to make sure that I understand. The Member is saying that he was using the word appropriated really to mean approved by Finance Committee? He nods, I think that is clear now.

MR. PRESIDENT: That appeared to have met the point.

HON. RICHARD W. GROUND: On that basis after that helpful explanation by the Third Elected Member for George Town which was done at short notice, on behalf of Government, I would like to ask that the two questions be put separately.

MR. PRESIDENT: In that case the question will now be put on Private Member's Motion No. 16/90 in two parts and the first question is in regard to the first resolution in the text of the Motion. I shall put the question. Those in favour please say Aye...Those against No.

AYES AND NOES.

MR. PRESIDENT: Would you take a division please, Clerk?

DIVISION NO. 33/90

AYES: 7

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

NOES: 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

MR. PRESIDENT: The result of the Divisions is seven Ayes and eight Noes. The first proposition fails.

is paragraph two of the second Resolution. The Question now will be put on the second proposition, which I shall put the question. Those in favour please say Aye...Those against No.

AYES AND NOES.

The Ayes have it.
Private Member's Motion No. 16/90 unanimously passed.

AGREED UNANIMOUSLY: THAT THE SECOND RESOLUTION OF PRIVATE MEMBER'S MOTION NO. 16/90 PASSED.

MR. PRESIDENT: Just before we suspend for lunch, I should mention that the

matter of privilege was raised by the Honourable Member for Health yesterday. The subject of the statement has being preceded and I hope that we shall be able to conclude it during the day.

Proceedings are suspended until a quarter past two.

PROCEEDINGS WERE SUSPENDED AT 12:52 P.M.

PROCEEDINGS RESUMED AT 2:40 P.M.

MR. PRESIDENT:

Proceedings of the House are resumed.

The House will take first, the Personal Explanation. On the Standing Order 31 the third Item from this morning, the Honourable Member for Education.

PERSONAL STATEMENT

Standing Order 31

(By: Hon. Benson O. Ebanks)

HON. BENSON O. EBANKS:

Thank you, Mr. President.

This personal statement is made in response to and in refutation of certain allegations and innuendoes made by the First Elected Member for West Bay during his contribution to the debate on Government Motion No. 14/90 on Thursday the 19th July, and on Monday 23rd July, 1990 in this honourable Legislative Assembly.

At the outset, I wish to express my regret that this honourable House has been distracted from its business by exchanges which I am aware, have disturbed and disappointed Members of the public who have listened to them on the radio and read reports in the press. However, I feel I owe it to my honour and reputation as a public servant to respond when false charges are made that attack my character. The records will show that it was not I, who first made innuendoes about 'ten percenters' and talked about corruption in Government. I value my record in the public service of the Cayman Islands and I am human enough to respond with vigor when it is maligned. I can only hope that after this statement, which I believe gives a complete answer to the charges which have been made or implied, this honourable House will be allowed to return to dealing with the important business which it should be concentrating on.

During this statement, for the sake of simplicity, I have numbered each paragraph, and in the case where there are documents to be tabled, I have given those documents a number corresponding to the relevant paragraph.

Paragraph 1: I did not make reference to the Chamber of Commerce's letter which was read in this Honourable House and which was alleged to have indicated their support for the legalisation of illegal drugs.

Paragraph 2: I have never said that I would destroy the Honourable Financial Secretary, the Honourable Administrative Secretary or anyone else. I have said that "I helped to put the First Elected Member for West Bay in this honourable House and that it was a mistake, and that I would take him out".

I emphatically deny ever telling him about any documents relating to any account or accounts at Cayman National Bank or ever discussing with him any matters, peculiarly known to Cayman National Bank. In fact, the records of this House will show that this Member has constantly and consistently complained that I would not tell him anything; that I was too secretive.

During 1988, I showed that Member two documents relating to the sale of a duplex to Government by the Honourable Financial Secretary, the Honourable Administrative Secretary and the Third Elected Member for West Bay, property more correctly described as Registration Section Savannah Block 28B, Parcel 46. Those documents were: the Transfer of Land Form RL1 and a valuation of that property prepared by Government's Land Officer dated the 14th of January, 1983, which two documents were given to me by a fellow Member of Executive Council at that time. Neither of the documents, which are appended hereto and marked Exhibits 2A and 2B, bear the stamp of Cayman National Bank.

It will be recalled that at no time during my reference to this transaction in this honourable House have I ever referred to the amount paid by the three Members for this property. The price they paid was, and remains, immaterial to my argument in respect of the transaction.

I have stated in this honourable House that my attention was first drawn to this transaction by the Auditor General's Report on the Accounts of the Cayman Islands' Government for the year 1983, wherein he stated: "In one transaction in 1983 the price paid by Government exceeded by a considerable margin the assessment of market value prepared by the Lands Officer at the time of purchase by Government.". A copy of that extract is attached hereto as Exhibit 2C.

At that time I tabled a question in this honourable House for the purpose of seeking details on that transaction. After discussion with the Honourable Financial Secretary and the Honourable Administrative Secretary, and forming the personal opinion that the disclosure of those details could prove embarrassing to them, if not the country, I withdrew the question. Had it been my intention or desire to damage either, or both of them, I would have pursued the matter at that time.

Since early 1989, and more specifically during the current meeting of the Legislative Assembly and at public meetings, some Members of the Backbench have been making unfounded accusations and innuendoes against Government Members, namely references to 'ten percenters' and to irresponsibility regarding Government's expenditure. Early in this meeting of the Legislative Assembly, I appealed to Backbench Members to desist from such behaviour, and issued the warning that if it did not stop I

would produce documentary proof of improper actions which would result in red faces.

During later proceedings in this honourable House, I was told by the First Elected Member for Bodden Town that unless I was prepared to table these documents (which he had doubts I had), it was improper for me to mention them. The Third Elected Member for West Bay also challenged me to produce the documents or else, to use his own words, I should do as is said in the wedding ceremony, 'forever after, hold my speech'.

On searching my files, I discovered that my copies of the two documents, Exhibit 2A and Exhibit 2B were missing. I, thereupon sent a member of staff of my Portfolio to the Lands Registry to get copies of those documents and she returned with a complete file on that piece of property. All documents filed at the Lands Registry are public documents and are available to any member of the public upon payment of a fee, included in that file the member of staff brought for me were:

- (a) A copy of the Land Register in respect of the property in question, that is, Savannah Registration Section, Block 28B, Parcel 46/
- (b) A copy of the Transfer of Land form dated the 6th of March, 1981, from Crighton Properties Ltd., to Thomas Jefferson, John Jefferson Jr. and Lemuel Hurlston showing a consideration of US\$140,000 paid.
- (c) A Charge Form RL9 dated the 6th of March, 1981, signed by the three above named as chargors and on behalf of Cayman National Bank as Chargee in the amount of US\$100,000 to which is attached a form of mortgage consisting of eight pages, six of which bear the name of Truman Bodden & Co., imprinted on them and which said form of mortgage appears to me to be undated.

This was the first time at which I had sight of these additional documents. As a Director and Chairman of the Board of Cayman National Bank, I do not see the bank's documentation for loans. None of these documents bear the stamp of Cayman National Bank, but only the stamp of the Lands and Survey Department with the date of the 27th of June, 1990. I attach these documents as Appendix 2D, 2E and 2F.

As I said earlier, the question of the amount paid by these Members was never raised by me or the Auditor General. My contention was, and remains, that the land was sold to Government at a price some 40.74 per cent above the valuation made by Government's Land Officer at the time of purchase by Government. Therefore, what the three Members paid for the land was not material. I emphatically deny ever showing the First Elected Member for West Bay any document from Cayman National Bank relative to these Member's loan from that institution. What they paid for the land had no connection with my contention or with the exception made in the Auditor General's Report for 1983. The question of purchase price and the loan from Cayman National Bank was first mentioned by the Third Elected Member for West Bay in his attempt to show that no profit was made on the transaction.

As I said in my statement made in this House on the 5th of July, 1990, the issue here is not whether a profit was made on the transaction. As always, the issue must be, did Government received value for money when the property was sold to them? Now I trust that with this explanation, I have put to rest forever, these baseless allegations [trying to] damage my reputation as a banking official.

Paragraph 3: The First Elected Member for West Bay also said that the loan for which I pledged property in security for him was for him and his wife and that transaction was arranged between my wife and his, whom he said is my wife's niece. This statement is not correct. It is not the truth. At my request, the Lands and Survey Department forwarded to the Clerk of this honourable House on July the 20th, 1990, (five days ago) copies of the complete file on property described as West Bay South, Block 5B, Parcel 72 which is the property in question. I chose this method of receiving these documents to refute any accusation of me having tampered with them. In connection to this I attach hereto:

- (a) A copy of the relative Land Register showing that the property is owned as joint proprietors by my wife and me, which document is marked Exhibit 3A.
- (b) A Charge Form RL9 dated October 30th, 1979, signed by my wife and I as chargors and Cayman National Bank as chargee to secure facilities for loans and/or overdraft to McKeeva Bush and/or McKels Ltd., in the amount of CI\$8,500, and to which is attached a form of mortgage without limit. This form is marked Exhibit 3B.
- (c) A similar Charge Form RL9 dated December 19th, 1979, to secure further loans and/or overdrafts in the name of McKeeva Bush and/or McKels Ltd., in the amount of \$3,500. This form is marked Exhibit 3C.

Here it should be noted that nowhere on these Exhibits does the name of the wife of the First Elected Member for West Bay appears. McKels Ltd., I was told, was a company formed to operate a scooter rental business in West Bay from the premises known as 'The Nook'.

- (d) A Discharge RL10 dated the 31st July, 1989, relative to this parcel of land showing that it took some 10 years for me to recover the property and I had to do so at my own expense in order to have it released. This Form is marked Exhibit 3D.

It is significant to note that nowhere in these Exhibits does the stamp of Cayman National Bank appear. These Exhibits, I submit, prove beyond doubt that the statement of the Third Elected Member for West Bay on this subject was totally unfounded and intended to damage my character.

MR. PRESIDENT: You may ask a question [addressing the Third Elected Member for West Bay].

HON. BENSON O. EBANKS: First Elected Member, Sir.
I am sorry about that [correcting his reference to the Third Elected Member for West Bay].

Paragraph 4: I now deal with an allegation regarding the Cayman Islands Football Association. I emphatically deny that I ever discussed with the First Elected Member for West Bay and/or the First Elected Member for Bodden Town anything about a bank account of the Cayman Islands Football Association. The shoe is on the other foot.

The First Elected Member for Bodden Town was an officer of the Football Association and it seems, he knew all about their financial problems. He came to the Finance Committee and in addition, to saying that the Football Association had an overdraft of some \$30,000 at Cayman National Bank, said that he had pledged the balance of \$7,000 in a savings account; the property of a scholarship fund belonging to the Nissan Football Club, and that he needed to free up that account. Therefore he said, Government should assist.

I attach hereto a copy of the relevant section of that Finance Committee Meeting which proved that the First Elected Member for Bodden Town moved that motion and that I had nothing to say on it. That document appears as Exhibit 4A. This incident is also remembered by at least four other Members present in Finance Committee.

Paragraph 5: I wish to deal with what is perhaps the most imaginative charge of all those brought by the First Elected Member for West Bay, that is, the dealings with his association with one Mr. Garant and the Caballero brothers - drug barons. With respect to the bus given to the John A. Cumber Primary School, there are people in West Bay who were PTA Members at the time and who will testify that the First Elected Member came to their home and volunteered that I, Benson Ebanks, did not know anything about where that bus came from nor would I ever know. I had one such phone call to that effect only on Tuesday morning, and have not had time to have a sworn statement made by that husband and wife. But what I did get since yesterday morning, is a clipping from the *Caymanian Compass* dated Tuesday the 24th of February, 1987, with a story and a picture showing the First Elected Member with the keys for that school bus and the picture of Mr. Garant handing it over. I could not have given him any assurances about Mr. Garant because until this moment, I do not know whether he has, or has ever had, any banking relationship with Cayman National Bank. But permit me to refer to the unedited version of the *Hansard* of this honourable House, Tape 217 of the 19th July, which when confirmed, will become a public document. The first significant point I wish to call attention to is the frequent references by the First Elected Member for West Bay to his constant unflinching support of me from 1972 until early last year, 1989.

Not once did he mentioned the period between September 1986 and March 1988, when he castigated me and said all manner of things about me and the lady Member for West Bay at that time, Mrs. Daphne Orrett, both on the floor of this honourable House and at public meetings. These dates are very, significant (that is, September, 1986 and March 1988), because that is the period during which I and the world know of his dealings with Mr. Garant and the Caballero Brothers.

He said that I told him he would be getting a call from a certain reputable Law Firm about a donation for 'a' district and that he did get such a call which resulted in him being given a school bus for the John A. Cumber Primary School, and that I told him that he should accept it because it would not look right for me to do so since I was in Executive Council'. Oh what webs he weaves when he practises to deceive, Mr. President.

I have here a note which I wrote to Mrs. Orrett in this honourable House on the 19th of February, 1987 which reads:

"Daphne,

At a very early date I wish to discuss with you the procedure we should follow to disassociate ourselves from McKeeva.

My present view is that you and I should call our committee together and discuss that matter with them. If they agree, as I am sure they will, you and I should call McKeeva or have the committee call him and tell him of our decision.

You and I should then call a public meeting and tell the West Bay public of our decision. We campaigned on a slogan: "A better say for West Bay" which included saying that if the three of us were elected, it would be a good chance for my name to be elected to be on Executive Council and not McKeeva, and I had enough of him."

This note which was handed by Mrs. Orrett to...

POINT OF ORDER

MR. TRUMAN M. BODDEN:

Mr. President, on a Point of Order. Section 31 of our Standing Order says that 'with your leave he can make a personal explanation, but no controversial matter may be included in the explanation nor may debate arise thereupon'. It seems to me that the Member is getting into an extremely controversial area and going into it in detail.

MR. PRESIDENT:

Thank you for bringing up the point.

It is not an easy matter. You will know of course, from *Erskine May*, simply because of the question that there is no debate on such statements, the contents of the statement is submitted in advance to the Speaker and that was done in this case. The Member may not therefore, depart from the agreed text and so far, according to my recollection, he has not.

What this whole business illustrates is the difficulty the House has got itself into because of personal attacks and unparliamentary behaviour. My conclusion on this is that it is best [way] we get this business settled and in order to do that, it is unavoidable for the Member in defending himself may appear to be controversial. I see no other alternative.

I just hope that after this meeting when we have settled these various personal explanations and possibly matters of privilege too, we can go back to being (I was going to say), a more orderly House, and I do say that, with all respect to the House.

Would you continue.

PERSONAL STATEMENT

(continuing)

HON. BENSON O. EBANKS:

Thank you Mr. President.

This note which was handed by Mrs. Orrett to my wife and preserved by her, is attached hereto, with a copy of the minutes of the Legislature for the 19th February, 1987, attached to show why I would have written such a note. The note and minutes are marked Exhibit 5A. He had been rude and disrespectful to both Mrs. Orrett and myself (as is his custom) in that meeting.

I also have here a copy of a news report from the *Caymanian Compass* of Friday, October 2nd 1987, in which he is reported to confirm among other things, his intention not to run in the 1988 Election with myself or Mrs. Orrett, explaining that he was disappointed with our performance and with our treatment of him since 1984.

This document is of the kind generosity of the Cayman Islands Action Committee to elect the Third Elected Member for West Bay. It appeared as a paid political announcement in the *Caymanian Compass* of Friday, October 11th, 1988. If this article should be required reading for anyone interested in the study of devious people, it is attached hereto as Exhibit 5B.

It should be remembered that these two documents, establish beyond doubt, that there was very serious rift between the First Elected Member for West Bay and myself, at least from February 19th, 1987 to October 2nd, 1987. It should also be noted that he said firstly that he did get a call, and here I quote him [and someone from a certain reputable Law Firm and was introduced to that person who said "he would like to do something for 'a' district in the Islands." Not the West Bay district, for 'a' district in the Islands, using the Member's own words. He said, "the Member for Education name was not mentioned at the Law Firm". About two paragraphs later he said, "the Member for Education said he could assure me, [that is McKeeva Bush] that everyone was above board, the Law Firm and the company." He followed that with, and again I will quote him, "shortly after that I was invited by the Law Firm to be a Director of the company. Again, as I talk over a lot of problems with the Member, a lot of situations with the Member for Education over 18 years, I went back to him again and talked about the offer. I told him about the offer of fees for being a Director...." I will repeat that Mr. President, "I told him about the offer of fees for being a Director." He continued, "...at that point we then made a deal, him and I, [meaning me Mr. President]. I am quoting the First Member for West Bay that 'the Member for Education would get half the fees paid to me as a Director and that I would hold the five per cent shares for him and whenever he [meaning me Benson Ebanks] got the dividend, he (Benson Ebanks) would share with me as that development was a long term investment.

I believe that they were involved in house building. I will get to the other things that he said this morning because I do not know anything about that, but I know I was told that they were in middle and low-income housing [bracket]. So we made that agreement, he said, since he had set it up for me. That was the reason we made the agreement for him to get half the Director's fees and the five per cent shares. I [meaning McKeeva Bush] would hold it for him in my name for him. He goes on to say, "I had no qualms, Mr. President, as I trusted the Member for Education. I was his colleague since 1972, so I trusted him."

Now, let us examine his remarks above. He says that he was contacted by a certain reputable Law Firm, yet he says in his next breath that he relied on my assurance that everything was above board - the Law Firm and the company. The question arises, if he knew the Law Firm as he said to be, reputable, why did he need my assurance? He said he was contacted by the Law Firm and invited by the Law Firm to be a Director of the company. He then said that he came back to me and told me about the offer of fees as a director.

It is significant that he says that my name was never mentioned by the Law Firm and that he told me about the offer of fees for being a director. These statements clearly contradict his claim that I set him up and made the arrangements for him depending on which of his alternative

stories one wishes to accept.

He continues, that "we then made a deal and later it was an agreement that I would get half of his director's fees and that he, [McKeeva], would hold five per cent of the company's shares in his name for me and that when I, [Benson Ebanks received the dividends, I would share with him.". It is inconceivable that the First Elected Member for West Bay would give me half of his fees for his directorship that he was invited to accept by a Law Firm (where my name was not even mentioned), and for the alleged agreement between us where he would get a share of any dividend I received, he appears not to know even how his share would be.

Surely, if such an agreement existed a reasonable person would expect two things, some form of nominee agreement covering the arrangement, and at least some notation or reference on the company's share register that the dividends should be paid to me, Benson Ebanks. It is significant, I submit, that the First Elected Member for West Bay has not produced any documentary evidence of this alleged agreement and the reason for that is simple. It is because there is not, nor was there ever any such agreement. But, I have some documentary evidence on that transaction and it proves beyond the shadow of a doubt that this whole rigmarole by the First Elected Member for West Bay, is a deliberate fabrication in an attempt to smear my good name by asserting that his association with Dexco Ltd., John Garant and the Caballero brothers was set up by me.

Firstly, I wish to recall my note and the minutes of this honourable House dated February 19, 1987, and the *Caymanian Compass* report of his, the Third Elected Member for West Bay's meeting of Wednesday, September 30th, 1987, all of which establish beyond doubt that there was a serious rift between the Member and myself during that period (that is, February 19th - September 30, 1987).

Secondly, I wish to refer to two documents which I have procured through a Court Order. One is the Register of Shareholders of Dexco Ltd., and the other is the Register of Directors of Dexco Ltd. These documents are marked as Exhibits 5C and 5D respectively. They show that the First Elected Member for West Bay became both a shareholder and a director of that company in May 1987, right in the middle of the period during which it is clear that we were quarrelling (just as we are doing now), except that on this occasion, there is no committee so strong or influential to effect any reconciliation between us. I would be an idiot to associate myself again with one so devious and such a stranger to the truth. It is beyond belief that anyone of sound mind would have entered into any agreement of the sort described by that Member with someone shown to be his political enemy.

Exhibit 5C also shows the share register, that there is absolutely no reference to my name on that register of shareholders. It is quite clear from whom that Member got his shares, and to whom they were transferred, and who would have received the dividends. It is certainly not Benson Ebanks. I have also a series of letters from my lawyers and the law firm holding the registered office of Dexco Ltd., which show that my lawyers had to resort to threats of citing for contempt of Court, the firm holding the registered office in order to get the copy of the Register of Shareholders. These letters are marked Exhibit 5E.

There is no question in my mind and I believe that no reasonable mind could question that these documents prove beyond reasonable doubt that the First Elected Member for West Bay was guilty of a malicious form of distortion in his version of the above facts. I do not intend to go much further into this sordid affair, but I must point out one further inconsistency in that Member's rumblings on this subject. At one point he said that he knew absolutely nothing about the Caballero brothers until I mentioned their names in this honourable House. I wish to quote him further on as follows. He said, "I know nothing of any equipment...I know nothing of any Caballero brothers, but the Member for Education seems to know a lot about it." Then he goes on to say, "I, McKeeva Bush, knew that they were doing some development which was a long term development some inland dredging or offshore-hum-shore line dredging or whatever to that extent.". How inconsistent and devious can anyone get?

Paragraph 6: I address now the matter of allegations made by the First Elected Member for West Bay regarding my trading in cement. I attach hereto, letters from the Director of the Port Authority and the Collector of Customs which establish quite clearly that B.O. Ebanks & Son, of which I am the managing partner, imported its last consignment of cement on September 10th, 1981. So, Mr. President, it is patently clear that the Order made by Executive Council, of which the Third Elected Member for George Town was a Member, banning cement imports from Columbia from the 18th day of October, 1983, over two years after we had voluntarily gave up importing from anywhere could not have affected me in any way. Therefore, the claim by the First Elected Member for West Bay that I told him that I would get rid of Truman Bodden because his Executive Council had stopped cement coming from Columbia is just another creation of his imagination and malice.

I suggest to him that if he seeks enlightenment on the subject of cement he should ask his informants on whose behalf was the order made on July 26th 1983, adding Mexico to the list of countries from which cement imports are allowed. If B. O. Ebanks & Son had wanted to import cement the Mexican franchise was first offered to us, but we were out of the business. We handed it to another dealer in town on a handshake and got short-changed. This was the same person, in my opinion, who supplied the First Elected Member for West Bay with what he claimed was a confidential Executive Council Memorandum and extracts from Executive Council's Minutes.

If the Member, that is, the First Elected Member for West Bay, was rational, he would recognise that memorandum as being the one he claimed to have been shown by that same man; when he wrote his famous letter for which he was sued by the four Elected Members of a previous Executive Council, and which memorandum could not be located when, he, McKeeva Bush, needed to use it in his defence.

B. O. Ebanks & Son, did not import cement specifically for Raul Gonzales, and any sale of cement to him or his company would have been in the normal course of business, and any cheque from him would have been received in the same manner.

Paragraph 7: I categorically deny having purchased any land from Cordis Rivers in 1988, or telling the First Elected Member for West Bay anything about the Master Ground Transportation Plan road going through my property. The only time my brother and I ever purchased land from Cordis Rivers was in 1986, and this was the piece for which the Member produced a copy of the Land Register. It is significant that this is the only document he produced to support his whole web of fabrication about me.

Paragraph 8: The First Elected Member for West Bay is again being untruthful when he says that I told him that I had an investment in Safehaven. A letter from the company's attorneys, which is Exhibit A, reads as follows:

"This is to confirm that we have been the Attorneys-at-Law for Safehaven Ltd., from its incorporation to the present date and that we maintain the registered office of the Corporation.

Mr. Benson Ebanks, MLA, has at no time at all, made any investment in Safehaven Ltd. and at no time at all has Mr. Ebanks been offered any lots in the land owned by the company or any shares of the company, or been a director or officer of the company."

I also attach, hereto, a copy of the Land Register marked as Exhibit 8B which clearly demonstrates that there is no charge or caution filed by me against the company's land. This, of course, would be necessary if I had been promised any lot as the Member wildly alleged.

Paragraph 9: All attempts to locate Government's records in respect of major renovations at the George Town Hospital in the mid-1970's by Project Management Ltd., have so far been unsuccessful. But I emphatically deny that I have, or ever had, any shares in that company.

Paragraph 10: I emphatically deny also, that I ever told the First Elected Member for West Bay that I was going to put a golf course and/or the Government Hospital on my property. Any knowledgeable person would know that it would be impossible to do so on less than 80 acres of land which was my total land holdings at the time in question.

Paragraph 11: The First Elected Member for West Bay said that my children were getting scholarships from Government when other poor people who were qualified could not get scholarships, and it was because this was the way the Education System was run why I got booted out of the Assembly in 1976. What a joke! I attach hereto as Exhibits 11A, 11B and 11C, statements from the Secretary of the Education Council which demonstrate:

- (a) that my eldest daughter received a 4/5 scholarship on May 15th, 1980, when I was not even in the Assembly, much less the Executive Council;
- (b) that my second daughter received her half scholarship on the 5th of August, 1982 when I was not on Executive Council and that she is now repaying the half loan portion; and
- (c) that my third daughter received her half scholarship on the 20th November, 1985 and that she is now repaying her half loan portion.

It should be noted that all these scholarships were granted since 1980, that they are part-scholarships in the usual way and that they could therefore, not have contributed to my electoral defeat in 1976, exposing another one of the Member's fabrications.

Paragraph 12: Mr. President, the old Co-op Hall which was on leased land was purchased for the asking price from the West Bay Cooperative Society in the early 1960's. The land was later purchased by my brother and I, in 1974. I attach, hereto, the relative copy of the Land Register which shows a charge dated July 3rd, 1974 of \$80,000 in favour of Barclays Bank International Ltd., against it, which funds were used to finance the construction of the building now on the property. This document is marked Exhibit 12A and shows further the untruthfulness of the Member.

Paragraph 13: The same Member said that permission was sought and received from the Executive Council, of which I was a Member, to bring a 10 or 12 foot trailer-house into the Island to be placed on land in North Side for farming purposes, but that instead, a 40 foot trailer was imported and placed at West Bay on land prepared for a trailer park and that Government stopped the importation of additional trailers after receiving a delegation from the public. If the matter came to Executive Council and I was present, I am sure the records will show that I either left the meeting or declared my interest as I always do when such a need arises. But again I attach, hereto, marked as Exhibit 13A, copy of a letter from my brother Owen G. Ebanks which clearly demonstrates the untruthfulness of the allegations. The letter reads:

Mr. Vassell Johnson, OBE
Financial Secretary
Cayman Islands Government
George Town
Grand Cayman

Dear Mr. Johnson,

Further to our conversation of April 4th and in accordance with your instructions, I hereby make application for permission to import one mobile home trailer as is required by Law.

As mentioned in our conversation, the trailer/mobile home will be used by myself on an agricultural programme which I am undertaking on two tracks of land each a minimum of 50 acres. This will enable me to reside personally on either of these tracks of land as is necessary in order to supervise the projects.

In this connection, I wish to mention that even though I will no doubt be forced to build accommodation for hired help, it would not be feasible for me to build accommodation for my wife and I on the lands in question.

I also wish to place on record that it is not my intention to ask Government for any relief in this project, that is duties etc., however, because of the economics involved in agriculture in this Island, I respectfully request favourable consideration of this request.

Finally, if my request is granted, I shall be grateful if said permission could be valid for a period of say six to 12 months to enable me to shop for a bargain and make shipping arrangements etc.

Anticipating an early favourable reply.

I remain,

Respectfully yours,

Owen G. Ebanks."

You will see that the letter indicates that the trailer was to be used on two tracks of land, that is, one in North Side and one in West Bay, since he only owns one track of land of approximately 50 acres in West Bay and another 50 acres or more in North Side. Another piece in the Member's picture of untruth about me.

I could fill this Honorable Chamber with documents to prove the unfounded charges of the First Elected Member for West Bay, but this statement would then become intolerably long and in truth, it would not be justified to answer the charges of one who has not produced a shred of real evidence to substantiate his wild claims. That Member habitually relies on statements, allegedly made on a one to one basis making use of the adage as the First Elected Member for Bodden Town verified in his interjection, "it is your word against his". Another despicable habit is to refer to the alleged words of deceased persons, knowing full well that dead men tell no tales. But, it is not just his words against mine. I have brought what I believe is a convincing array of documentation to show that his words are not to be trusted. I am satisfied that I have completely exonerated myself from the wild array of charges made by the First Elected Member for West Bay and have shown what he really is. I suggest that if he has any decency at all he would gather up his belongings and crawl out of this Hallowed Chamber.

POINT OF ORDER

MR. W. McKEEVA BUSH:

Mr. President, on a Point of Order.

The Member is going quite beyond the bounds that he is permitted in *Erskine May*. I hope that you are taking note because I intend to use my prerogative under *Erskine May* as well.

MR. PRESIDENT:

I think you were not in the House when I replied to a similar Point of Order from the Third Elected Member for George Town.

Perhaps I should repeat the substance of what I said. It was this, that I did indeed see this statement before it was passed and I appreciate that the language in it is perhaps strong. But the Member is defending his reputation and I think what I also said was to the effect that this illustrates what happens when the House generally (and I am not talking about any particular Member), descend into personal attacks and unparliamentary behaviour. I further said that I trust that once this sequence of exchanges is over, the House will revert to proper conduct.

MR. W. McKEEVA BUSH:

I agree, Mr. President.

I know the rules that he had to show you the manuscript of what he is reading but it is, as far as I am concerned, and as far as *Erskine May* is concerned, out of bounds because he is...

MR. PRESIDENT:

I have passed the statement, I would ask you not to challenge my ruling. I have ruled and you may quote *Erskine May*....

MR. W. McKEEVA BUSH:

All right, Sir, I will bow to your ruling.

MR. PRESIDENT:

I have also made it clear that this exchange is not yet finished and I will not therefore, be any less lenient regarding any other personal explanation put before me as President.

**PERSONAL STATEMENT
(continuing)**

HON. BENSON O. EBANKS: I also challenge that Member to shed his cloak of privilege which he enjoys in here, and repeat his slander of my character outside these walls where I can deal with him through the Courts.

I again appeal to Members to raise the standard of debate and decorum to a level befitting this Honourable House. I do not enjoy this type of debate and behaviour but when my honour and integrity, which I cherish dearly are impugned, I will defend myself as vigorously as is demanded.

I will finish my statement by repeating the words of two poems which my father, who is now 87 years old, gave me as a boy and which I have tried to follow all my life. The first is Rudyard Kipling's "If":

If you can keep your head when all about you
Are losing theirs and blaming it on you,
If you can trust yourself when all men doubt you,
But make allowance for the doubting too,
If you can wait and not be tired of waiting,
Or, being lied about, don't deal in lies
Or, being hated, don't give way to hating,
And yet don't look too good, nor talk too wise;
If you can dream and not make dreams your master,
If you can think - and not make thoughts your aim,
If you can meet with triumph and disaster
And treat those two imposters just the same;
If you can bear to hear the truth you have spoken,
Twisted by knaves to make a trap for fools,
Or watch the things you gave your life to broken,
And stoop and build them up with worn-out tools;
If you can make one heap of all your winnings
And risk it in one turn of pitch and toss,
And lose, and start again at your beginnings
And never breathe a word about your loss;
If you can force your heart and nerve and sinew
To serve your turn long after they are gone,
And so hold on when there is nothing in you
Except the will which says to them, "Hold on";
If you can talk with crowds and keep your virtue
Or walk with kings - nor lose the common touch,
If neither foes nor loving friends can hurt you,
If all men count with you, but none too much,
If you can fill the unforgiving minute
With sixty seconds' worth of distance run---
Yours is the earth and everything that's in it,
And -- what is more -- You'll be a man, my son."

The second poem goes like this:

Be Strong!
We are not here to play, to dream, to drift,
We have hard work to do and loads to lift.
Shun not the struggle -- face it, 'tis God's gift.

Be Strong!
Say not, "The days are evil. Who's to blame?"
And fold the hands and acquiesce --Oh shame!
Stand up, speak out, and bravely, in God's name.

Be Strong!
It matters not how deep entrenched the wrong,
How hard the battle goes, the day how long;
Faint not -- fight on! Tomorrow comes the song."

country. Let us get on with the job.

I stand ready to get on with the job of retrieving and building this

Thank you, Mr. President.

MR. PRESIDENT: Before we suspend for the tea break, I think I really should say a little more on this whole question of personal explanations.

I do not know what has been the practice of this House, I only know that in the two other Houses in which I have been a Member, I have never come across the situation where personal explanations of this type appeared necessary or even requested. But my deliberate judgement on what has happened in the House in the last few weeks, in particular, has been, and was, that it would be best to have these personal statements made and made fully and with language which I would not normally permit, in order that the matter can be put behind us; the bad blood can be eliminated and that after that, I hope, the House can resume on a proper basis.

Do I have to say again what I have said several times before? This is a matter in the hands of the House and I, as President, do not relish being put in the position of having in effect, to treat you sometimes as if you were not grown up parliamentarians. It is a matter of great distress to me. Proceedings are suspended for fifteen minutes.

PROCEEDINGS WERE SUSPENDED AT 3:44 P.M.

PROCEEDINGS RESUMED AT 4:35 P.M.

MR. PRESIDENT:

seem to be quite time consuming.

I am sorry to have been so long, but Matters of Privilege do

Proceedings of the House are resumed.

in regard to the statement made by the Honourable Member for Education before we suspended.

Is there any Member who would like to make a short statement
The First Elected Member for Bodden Town.

MR. ROY BODDEN:

Thank you Mr. President.

I would like to draw this honourable House's attention to page 5 of the statement made by the Honourable Member for Education, Recreation and Culture and that I take issue with his statement because it is patently inaccurate. The Nissan Football Club, of which I am the founder, does not have any account at the Cayman National Bank. So, I could not have told him that, Sir.

HON. BENSON O. EBANKS:

Mr. President, maybe he could inform the House the name of the Club. He is not denying the fact that we were told that there was money involved.

MR. PRESIDENT:

I think this is in danger of developing into a debate. As I remember the statement made, it did refer to the Nissan Football Club and he is dealing with that point specifically. Private Member's Motion No. 17/90.

The Second Elected Member for Cayman Brac and Little

Cayman.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

*PRIVATE MEMBER'S MOTION NO. 17/90

AMENDMENT TO THE CONSTITUTION AND PROVISION FOR REFERENDUM

MR. GILBERT A. McLEAN:

Mr. President, I beg to move Private Member's Motion No. 17/90, Amendment to the Constitution and Provision for a Referendum which reads:

WHEREAS seven Elected Members can vote four Elected Members into Executive Council, but the Constitution requires the vote of eight Elected Members to remove any or all Executive Council Members;

AND WHEREAS, subject to the results of a proposed voter's referendum on this issue, it is considered necessary that the Constitution be amended only in Section 6(2)(f) so that A MAJORITY (that is 7 out of 12) of the Elected Members of this Assembly may, by their vote, effect the removal of any or all of the Elected Members of Executive Council.

BE IT THEREFORE RESOLVED THAT –

(1) through the Governor of the Cayman Islands, the Secretary of State for Foreign and Commonwealth Affairs be advised forthwith that the Legislative Assembly of the Cayman Islands requests that subject to the wishes of the people as expressed in a special referendum, Her Majesty's Privy Council do exercise the powers conferred pursuant to Section 5 of the West Indies Act 1962 by Order in Council to amend only Section 6(2)(f) of the 1972 Constitution by deleting the words "not less than two thirds" and replacing them with the words "a majority"; and

(2) (a) a short bill for a law to make provision for a voters' referendum on the matter of the amendment to the 1972 Constitution proposed herein be introduced during the present meeting of this honourable House, with all Elected Members of this

honourable House to meet informally at the earliest possible time to settle the provisions of such referendum law and with the present voters' list being used for determining the voters who are eligible to vote on the referendum question; and

- (b) failing the passage of such referendum law during the present Meeting of this Assembly, Her Majesty's Government be advised that the Legislative Assembly of the Cayman Islands requests it, by statutory instrument or otherwise, to make and implement the necessary arrangements for a referendum on this matter as early as possible."

MR. JOHN D. JEFFERSON, JR.:

Mr. President, I second the motion.

MR. PRESIDENT:
seconded.

Private Member's Motion No. 17/90 has been duly moved and

Would the Mover wish to speak to it?

MR. GILBERT A. McLEAN:

Mr. President, this motion is inspired by the belief that majority should rule and that there is now a question in this Assembly, whether indeed a majority of Elected Members now are in control of Government. It is my contention that at this time the four Elected Members of the Executive Council who were elected to Executive Council on the 23rd of November, 1988, do not command a majority in this House. In that, they do not have the support of a constant Backbench majority as they did on the 23rd of November and for a time thereafter, and thus, at this time a situation which challenges the concept of democracy is now in place and is not good or proper for the Government of the Cayman Islands.

Though this is, in my opinion, the case, the present Members continue to sit as, and within the Government Executive, and to govern the day-to-day activities of the Cayman Islands. For the removal of the persons elected to the Executive Council, it presently requires eight persons to do so which was not required when those Members were appointed. A simple majority placed them on the Executive Council and it is right and reasonable, fair and democratic, that in any instance in this House (and whenever it is necessary) Members be appointed to or removed from the Executive Council, should be decided by a majority and not two-thirds as is presently set down in the Constitution.

It is also quite factual to say that this has become evident, due to what has happened over the past weeks in this Legislative Assembly, particularly where the Government moved two motions, Motion No. 3/90 and No. 6/90, which proposed to change the situation with the composition of the Finance Committee which further proves that what is presently happening is indeed a situation where the four Elected Members have lost a majority, and thus, the mandate which was originally given to them to be Members of Executive Council.

For the continuance of things as they are, it is, in my opinion, a challenge to the whole concept that in a democracy (and certainly ours, over all of these years) a majority should rule the country. It is not sufficient for one to argue the very technical position which obtains whenever there is a meeting of this House such as now, where there are all together on the Government Bench, seven persons who does not signify in truth and in reality, the position of the four Elected Members in their own right, morally and practically being placed there by the majority of Elected Members of this Legislative Assembly.

It has been pointed out in a letter to the Governor of these Islands the concerns of the Backbench Members in this particular respect and is the basic premise that has been argued, and why I believe the public at large is aware that things are no longer as they were and that the way they are, is not conducive to good and satisfactory government.

Very briefly, I would like to refer to a few sentences from a letter which recently appeared in the *Caymanian Compass* of the Monday 23rd under the caption, 'Time to Reflect' when Mr. Orman Panton, a well known citizen and a former representative of this country, wrote about the situation as he saw it. I think that it expresses quite well, similar sentiments that I hold on the particular subject. He refers to the Governor's reply to the Backbenchers released in the *Caymanian Compass* of the 12th of July, 1990, and he said, "I will not deal with it in full detail except to refer to the statement therein to the effect that the three Official Members are constitutionally full members of the Legislative Assembly, a statement which I must subscribe to." [As I have said, it is not a question in this House in the particular circumstances whether that is indeed the case.] "However, in the moral sense and in keeping with democratic practices (that we in Cayman subscribe to), no agreement put forward can convince me that a simple majority of seven out of 12 should not prevail whether it be a game, a business, a system of Government, or any institution or operation involving, and run by, rational and fair-minded human beings." I also quote from the letter to say, "in a democracy the Members of Government are determined by electoral decree. What we have before us is a Government which has chosen to extend its power and ability to govern by legislative decree." I think that states the situation now at hand of this Government and in this country very factually.

It all comes down to the fact that seven Elected Members of this Assembly are the majority out of 12 that are elected in any given election year. Various arguments about this have been advanced both publicly and otherwise, and it has not just been confined to the opinions of other Elected Members of this Legislature. There has, in very recent times, been meetings held here in the Capital of George Town where persons have commented on this question of democracy and majority rule. I most surely support in every way the rights of people to hold meetings and to disagree with the opinions of Backbenchers and the opinions of Government, of such I am very tolerant, and what it appears to me to be is the sentiments of at least some Elected Members of Government.

There is a statement in today's newspaper which reports what was alleged to have been said by one David Bodden, that they should not have been there tonight, but when asked what was in it for him, he had replied, "This is our country and we have a right to stand up for what we think is right."

This motion is before this House because that is what I am doing. The seconder of this motion, and I am sure all those who will support it, are standing up for what they think is right.

He went on to talk about the move by the Backbenchers and I quote, "Which would allow the removal of Executive Council Members on a simple majority of seven instead of the two-thirds majority of eight." He asked, "Can you imagine the instability that would create?". Mr. President, a lot of people say many things about a lot of things and often they say things which they truly know nothing about or know a little about. In any country where a majority rules, for all practical intent and purposes, that country has a democracy and where it is otherwise, then it is in serious question. The Backbenchers have taken a position that what is presently the state of affairs in this country is not right; it is not good, and that position has been taken to the point where we have recommended that the present state of affairs should be determined by going back to the polls for the people to decide on what is right, proper, and acceptable in this country. That is hardly a case of attempting to keep ourselves secured as representatives because the same risks that are open to one would be open to all. In doing all that can legally be done, as a result of the passage of Motion No. 6/90, we had, proposed a motion (which was not allowed at the time), this motion is proposed at this time which would give a proper degree of a majority in this House. It became necessary that a majority in the House could act in a manner conducive with the decision of a majority to ensure the continuity of majority rule.

In this motion, it is clearly set down that it calls for the wishes of the people be expressed in a special referendum, a special call on the people: Would you wish this motion be passed or not? Would you agree with this amendment to change the words in section 6(2)(f) of the Constitution from "not less than two-thirds", to replace it with the words "a majority"? I would just like to quote that brief section of the Constitution which says: "The seat of an Elected Member of the Executive Council shall become vacant if his election to the Executive Council is revoked by a resolution of the Assembly in favour of which there are cast the votes of not less than two-thirds of all the Elected Members of the Assembly."

I do not believe that it was envisaged by the people who dealt with the Constitution back in 1972 that conditions which presently prevail in this country would come about, and where the Executive Council (that is the Elected Council Members), would resort to the co-opting of Official Members to guarantee their survival as a Government, as a Government Executive, and in particular reference to where it allowed them a majority in the House and certainly in the Finance Committee, if the particular motion is allowed.

The motion also asks that a short Bill (which would be decided by all Elected Members in the House who would meet to determine) that a referendum could be taken and this could be done during the Meeting that is presently in progress; and, that the people who are called upon to decide on this would be the people who are presently on the Voters List, that is the 1988 Voters List. Should that not be agreed by the House, the motion further asks that Her Majesty's Government be advised and requested by statutory instrument or otherwise, a referendum be taken to determine this particular request for an amendment to the Constitution.

Time and events bring about changes and events. This time seems to signify that in this particular respect, it is wise, it is prudent, and it is fundamental to the democratic process that our Constitution recognise a rule by a majority and so this motion seeks to do just that. As such, I recommend it to this House.

MR. PRESIDENT:
Motion?

Does any Member wish to speak on this Private Member's

The Honourable the Member for Health.

HON. D. EZZARD MILLER:

Mr. President, I wish to speak in opposition to this Private Member's Motion No. 17/90, Amendment to the Constitution and Provision for a Referendum.

I would start out by congratulating the mover on a fine argument, except that he should have given that speech on the motion that was passed yesterday, because it was a very considerable and brilliant argument to support the need for a study of the whole Constitution, not just to change one specific section of the Constitution which would simply serve to facilitate a desire by the seven Members of the Backbench to do what they have promised to do as early as August or September of last year; but which they have so far, been unable to do because it does in fact, require eight votes which is a two-thirds majority.

We were lectured during this long session of this Assembly on the lack of public consultation on anything that we were going to do. Yesterday Government moved a motion which invited Constitutional Advisors or Commissioners to study the present Constitution, its application to present day Cayman, its acceptance to the populace and whether the people of this country want any changes in the Constitution.

We were told that the Government should have put it on Open Line, it should have been put in the press, we should have gone around to every crossroad in the country and hold political meetings to get the feel of the people. Today, we are faced with a Private Member's Motion that changes, in my opinion, the most fundamental provision in our whole Constitution, that is, to change section 6(2)(f) from its two-thirds majority to a simple majority - and they know they have the seven votes.

I believe if one reviews the reasons for that two-thirds majority, as provided in the report of Lord Asquith, there is a very good reason for that because in our small parliament one

vote can mean a great difference. The way the parliament is presently structured with eight Members on the Backbench, if the Government was so incompetent that all eight Members of the Backbench voted to revoke their appointment, then it would be possible. But to change that where any combination of seven can effectively change the Government, I believe would be introducing musical chairs and every time there is a disagreement in here we would have a change of Government and change the stability; that two-thirds majority means that the three Official Members who are an integral part of this parliament, along with one vote from the Backbench and the four Elected Members can retain a stable Government.

I have heard so much about majority and minority Government that sometimes I have to look very carefully to my left, to ensure that there are, in fact, three people sitting in those three seats and that they are a part of this parliament. Democracy is founded on a majority; democracy does not say we have to have a majority of 500 or a majority of one. It is accepted that one more of whatever [sum] is on the other side represents a majority. They cannot for their own convenience, give all the praise of the administration of Government to the Official Members and say that the four Elected Members are not really contributing anything, they are just there warming the seats. But when it comes to such an important provision in the conduct of business in this parliament, they simply ignore them; every motion, won or lost in this Parliament is a majority. Eight is a majority of fifteen.

We have heard a lot about electoral mandates and where does the Government have the mandate for a study. The motion before this House, one wonders where the mandate for this motion comes from because a Mover and a Seconder have decided that there needs to be changes to section 6(2)(f) of the Constitution. They have put the motion on the floor of this Assembly. I believe it is safe to say that they will get at least seven votes because they constantly refer, when one person is speaking, to "we" and what "we" are going to do. So I believe it is safe for me to assume that the Mover and the Seconder of this motion have the blessings of the other five Members of their coalition, and I respect that; that is to be expected. But that certainly does not represent any great majority of the public.

For them to veil this change that they are seeking, into the idea that we are going to put out a Referendum, and I was disappointed that the Mover did not identify what question would be asked in the Referendum, whether it would be a multiple choice question or how many people would you like to be able to remove Executive Council? Should it be seven, eight, nine or ten? Are they going to ask one question in the Referendum? Then when they get the answer to that they are going to address that answer which inevitably is going to turn up other questions. Are they going to go back to another Referendum to find out whether we want the drafting to say "may" or if it should say "shall"?

I am no great believer in Referendum. I believe it only serves to remove accountability from serving politicians who can ask undefined, innocuous questions of the uninformed (in most instances), members of the population who simply tick a box that is counted by some computer in some backroom and no one really knows what the programmes on the computer say; how many it canceled to come up with the answer, and if things go belly-up after that, they simply will say, 'we held a referendum on that and you the people decided'.

I believe that this matter can be raised with the Constitutional Commissioners by the Mover and the Seconder, and whatever support that they can get. The Mover quoted from a letter which obviously supports their idea. I think the style of that letter, in my opinion, was leaning towards the advocacy of independence. I do not subscribe to the contents of that letter.

I think that this is too serious a matter to be done in this way. In my opinion, it is simply an attempt by the Backbenchers to put in place a facility that will allow them to remove a Government which is not operating in any minority position. We have to have eight votes to pass any Bill, Resolution or Motion in this parliament and eight is a clear majority of fifteen.

The motion goes on to make provision that even if they lose the Referendum Bill to a majority in parliament, the Secretary of State, or somebody, must intervene on behalf of Her Majesty's Government and put the Law in place, irrespective of the majority of parliament in order to hold this Referendum. Is that what their definition of democracy includes and majority rule? here are 15 Members in here and if the majority say we do not want a Referendum Bill, and it is defeated, they are not going to accept that. They have not accepted anything that the majority of this parliament has decided since November 1988.

In their opinion it has all been wrong and bad for the country. They are entitled to their opinion, but they must not try to substantiate those opinions by saying that what we are doing is undemocratic, but them not accepting a decision by the majority, is what democracy is all about. I believe that to change section 6(2)(f) of the Constitution (as it was read by the Mover of this motion) to a simple majority would be a very serious mistake to be made by the Members of this parliament.

Mr. President, I cannot support the motion.

MR. PRESIDENT:

Does any Member wish to speak?

I am very much aware that I have been urging Members to keep debates short, but I think this is a particularly important debate. Perhaps we are suffering from battle fatigue and should adjourn until tomorrow morning.

MR. W. McKEEVA BUSH:

Good idea, Sir.

MR. PRESIDENT:

I think, I read somewhere in *Erskine May* that the leave of the House is taken, but everybody has to agree on it. If one Member dissents on it is not with the will of the House. I can see at least one Member not agreeing.

MR. GILBERT A. McLEAN:

Mr. President, I have no problem if the House wishes to adjourn at this point in time, but as you have noted, it is the will of everyone.

MR. PRESIDENT:

Well, there appear to be two Members who want to battle on. So I have to ask again, does any other Member wish to speak?

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN:

Mr. President, this motion deals with a single point in the Constitution and it is a point that has been debated, I noted the Member for Health mentioned, for some considerable time.

The motion, unlike the one that was referred to by the Member for Health which was passed in the House earlier, is one which is conditioned upon there being a referendum and thus having the decision of the people; that is the one significant difference between this and the previous motion. The will of the people is a condition before it can be brought to the request of the United Kingdom to make this alteration.

The motion simply deals with the reduction of eight Elected Members to seven for purposes of removing the four Executive Council Members or any one of them. The approach that Government has taken seems to me to be a wrong approach because it must be a condition of any major change, not just in the Constitution. But I submit, major changes of policy are either taken back to the people in a referendum or alternatively, that they are taken back in a General Election. This issue has been batted around for a long time, debated here, at public meetings and everywhere else. I do not think that it is good enough (as the Member for Health has mentioned), to ask the question: Who does the mandate come from for the motion? The mandate ultimately comes from the people, because this motion is conditioned on a referendum. One of the things that I would ask that the Governor rule on - if you could indicate, prior to my completion if you have ruled that the Official Members would probably not speak and vote on this motion.

My question would be this: After the motion would they be speaking or voting on the Referendum Bill relating to the constitutional matter? That is important because if they are, then I would like the right to address the Governor on that aspect to it. I know that takes it a bit further, but I must say in fairness, I am finding it difficult to anticipate the rulings and the rulings are very important; that we get them earlier rather than later.

The difference here again, is that the amendment is on a specific matter. We have not left the issues totally open to a Constitutional Commissioner who could come here and in the end, we are not certain what would be recommended. But, in any event, whatever arises from this motion, if there is not a referendum or if that process is stopped or frustrated by the House, then the motion itself in practise would fail.

The question, I think, in a Bill for a referendum could be a simple one, probably words to the effect, "do you feel that seven rather than eight Elected Members should be able to remove the four Elected Executive Council Members?" Yes/No. The simpler the question is, then I think, the more effective ultimately the results are. This approach has to be the better course because as one learned author puts it, a referendum stops hasty actions. So, whatever is done here, I want it made abundantly clear that this motion says that the people have to be consulted and they have to express their views.

I cannot believe that representatives of the people would attempt to take away their rights to speak. When it gets to that stage, then I submit, those who try to stop a referendum on important matters are afraid to go to the public who it represents because they believe that they are going to get instructions from the public which they do not want to hear and more than that, they do not want to carry out. Nobody is talking about having a Government by Referendum, but surely, it is an inherent democratic right of the people to know that on major issues their representatives are not afraid of coming back to them, or do not feel that they are too big to ask them for guidance.

The Member mentioned the seriousness of this motion. That is true. However, let me just say this, what has been said in this House by two or three Members - I have another paper here and I am not going to get too far into it - about what they would like to see with advances to the Constitution, including those relating to ministerial government. There is reference about removing Official Members; those are very serious indications. What is even more serious is that they are made and those people are not prepared to go back to the public and ask for guidance. Nobody in their right senses would be talking about independence, as the Member for Health mentioned or implied from the reading of the letter by the Second Member for Cayman Brac and Little Cayman.

Further to his statement that we have not accepted anything that the majority of members in parliament decided since November 1988, look or listen to the Finance Committee [proceedings], for example, where we must have voted, I do not know, 12 - 20 times we approved some \$2.5 million in a very calm and reasoned way. We sat here, we approved six out of seven Laws (or something like that) and most of their motions. We objected a few, but the vast majority of what Government has brought, if we felt it was good for the country, we passed it; if we felt it was not good for the country, then we objected to it and we gave our reasons. That is the way I think we must deal with matters in this House.

In my view, the Government has not put forward a good argument for what could be a very substantial revision review of the Constitution, because it is obvious Members in this House have different views and some of them, as I have said, have expressed theirs. For example, the Member for Tourism recently stated something about ministerial government. Believe me, that would move us a lot further than reducing eight members to seven, in my opinion. All I would say is this, where we would have to get a unanimous eight, it is very much like a jury case where you have to get a unanimous verdict. It is near impossible

in most instances and it is normally reserved for that rare instance where maximum penalties are mandatory.

I do not believe that what is being raised here is one which this House or the public has to worry about, especially not the public, because if the public does not want it, then they can say so. But one of the things I want to caution all of us about is that we have to face facts and it is no good saying that the public does not understand matters. We have a generation of well-educated and politically alert young people out there and no longer can we live in a world where we believe that they are going to permit things to go on against their wishes. That is a fact of life we have to face up to and it is on that issue, as with the Member for Tourism where he mentioned words to the effect that he objected to a referendum, because in the past they would find out what the public wants. It is the only way that it has been done in the past.

I think there are times with constitutions, with our views, with approaches, one has to face up to facts. One of those facts, unfortunately, is that we have seen that a minority at times, or putting it another way, a Government has been defeated at times on major issues and can continue in power because they have very advanced powers in one way. For example, they advise the Governor whether to call an Election or not. They advise on collective responsibility, subject to the Governor's right, naturally, to say no. So this motion, I would submit, if the people want it, then it would be one way of dealing with one area of the Constitution that I think at the present time needs to be submitted to the public for their views.

I am just about to finish on this motion, but I would perhaps ask for the right in relation to (I know, I asked you a bit late), the ruling on the question of the Law for the Referendum. Perhaps at such time that you may or may not have to make a ruling on that, I will be permitted to address you on it. So, in finalising this, the motion seems to me to be a simple one, a very important one. A simple question is that it is conditioned on what the public wants through a referendum vote. If there cannot be a referendum then this motion cannot go into effect on our wishes.

I would like to end by saying that I will fight to the bitter end to ensure that there is going to be no constitutional change in this country as it appears to be shaping up, which either is not put back to a full referendum in this country or which is made an issue in a General Election. It is not going to be a repeat of the past where Members and a Commissioner for Constitutional matters or anyone else would deal with major issues and subsequently some time afterward, there was a General Election. Perhaps the difference with the motion today and the one before was that, and the Member did raise this, in 1972 the issues had been before the public in depth for a long time and the public was quite aware. So when the Commissioner came he was in a position to deal with an informed public. Whereas, at this stage except for very limited issues, this and the Finance Committee issue, the question of no confidence votes, these sort of things, have not been raised in a General Election.

It is obvious that the House did, not in the past, want a referendum. I would just caution Members here, and the country, that before there is going to be any constitutional change along the lines of what we are now talking about in-depth, as in the motion before or this motion, it must go back to the people one way or another; and there is no short cut to that. It is either going to be an issue in a General Election, which is what apparently the Government is going to do, because they do not seem to want or seems afraid of a referendum.

HON. LINFORD A. PIERSON:
Standing Orders, tedious repetition.

Mr. President, on a Point of Order, under Section 41 of the

MR. PRESIDENT:
you summing up?

I think in fact, the Member was summing up. Am I correct, were

MR. TRUMAN M. BODDEN:
finished, Sir...

Mr. President, I was just about

MR. PRESIDENT:
repetition.

Well, I think you were summing up so there will be a degree of

MR. TRUMAN M. BODDEN:
me.

I have about a half of a minute left if the Member will just spare

What I am saying is, that unless the procedure of a referendum, or that the constitutional changes are specifically put to a General Election, then I will fight tooth and nail to stop any type of constitutional change that may be contemplated, unless the wishes of the people of the Cayman Islands are given in the General Election or in a referendum.

Thank you, Sir.

MR. PRESIDENT:

The First Elected Member for Bodden Town.

MR. ROY BODDEN:

Thank you, Mr. President,

In rising to support this motion, I have to say that the history of debates, and of attempts to bring constitutional reviews and by inference, constitutional changes, into our country, has been plagued by a basic mistrust among politicians, themselves and certainly, between politicians and the electorate. Indeed, I would go as far as to say that justifiably or not, the attitude towards constitutional reviews and constitutional changes could accurately be described as schizophrenic. I believe that in itself is logical reason enough for us to take the route which is proposed in this motion.

I have to say that I do not consider an abnegation of the

responsibilities of the people elected to represent the populous of the parliament when they return to their electorate to find what steps to take in an issue such as this. Indeed, I would suggest that on the contrary, it is a demonstration of that responsibility and the seriousness with which they take it. And, if the Government believes that there is not popular opinion regarding the move for a referendum on an issue such as this, then they need only to walk and talk among the people.

Any notion of constitutional change in the Cayman Islands evokes nightmares of what happened, has happened and is happening to countries all around us which have advanced into independence. I have to say at this early stage that I have noted the contentiousness with which the Government has referred to piecemeal changes in the Constitution. I have noted that the attempt by the Member who replied on behalf of the Government, try to suggest that this is another attempt to veil the move into independence. This is an age-old trick and this is what I referred to when I talked about a basic mistrust; and this is what I referred to when I talked about schizophrenic. I firmly believe that when we talk of constitutional reviews, amendments and changes, we have to be frank, indeed we have to be brutally frank, and the reason why we have not made more progress than we have made is because we play games; the Government play games and the Backbenchers play games. Now, I am saying it is time for us to cease playing those games, because if we are wise and true to ourselves, we will realise that a lot of things which have happened here recently has perhaps happened because it is time for us to take a look at our constitution.

In order to be effective we have to bear our souls and put our hands on the table and stop shuffling the deck below the table. I am saying, a good way to start if we are unsure is to go to the people and say, "listen, this is what we are asking you to do, we are your representatives and we are quite capable of making the decision, but we would like your input at this time and at this stage."

My contention is that there is nothing wrong with that and we need not degenerate to a position where we have to continuously be seeking the people's advice, support, and mandates through referendum; that is far from reality and certainly this motion, as I understand it, is innocuous enough and it is not suggesting that. Therefore, I support the motion.

I am calling upon the Elected Members of Executive Council to do the same. I am also challenging them to stop playing games, and stop trying to be one up, by saying that the Backbenchers are just trying to use this motion to get independence. All of us are sound, sane and sensible Caymanians and our concern is not with political independence, but rather with the maintenance of the economic independence that we now have. Far be it from any of the ambitions of the Backbenchers that we are seeking political independence.

In closing, let me say that we are not stupid, we know where we should go and at this stage we say we should go back to the people to find out where they think we should hit.

Thank you, Sir.

MR. PRESIDENT:

The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN:

Mr. President, the motion before the House seeks to make a change in the majority required to remove a Member or Members from Executive Council. The motion is qualified by the fact that such a change would not be sought without the input from the public by way of a referendum. This motion has been overtaken by the one which we concluded yesterday.

As Members know this motion had been tabled on a certain date, shortly after that the Government in saying that the Backbenchers were bold enough to put forward a motion seeking an amendment to one section in the Constitution, quickly placed on the Business Paper their motion for a full review. A review which has not been conditioned by a referendum, nor any other device that could elicit or solicit a reply from the public.

This motion has not only been caught up in time by the Government's motion, but in a sense, has been devoured by it and has been embraced within that motion. Of course, there is a wide difference; the changes sought can be dealt with quite speedily perhaps within six months or so. The matter requested here could be finally resolved, while the motion to review the entire Constitution cannot be dealt with speedily, and in fact, I believe there could be no resolution until the time of the next General Election in 1992.

The remedy sought by this amendment is an urgent one needed to cure a malady which exists. Our contention is that a minority of Elected Members continue to outvote the majority of Elected Members through a device which has been and will be strengthened when Motion No. 6/90 has been concluded. One Member seemed to find fault with our criticism that their request had not been subject to public input, yet we have this motion which we have not taken to the public. He knows full well that we do not have the facilities of Open Line to air our questions, while the Government could simply make a direction that the question of a Constitutional Review could be aired on Open Line. Also he knows that we do not have the support of specialist speech writers, to put forward our amendment in a paid-for advertisement in the local press. But the advantage we have is that we are saying in this motion, no change without a referendum which would give every registered voter an opportunity to speak.

I do not view this change from a two-thirds majority to a simple majority, as a fundamental change as subscribed by the Member for Health. What would be a fundamental change would be changes that could flow from a general review of the sections which deal with advancement of the Constitution. The specific section in which we deal, 6(2)(f), is simply one of the procedural sections of the Constitution and it is not a section that could move us into a ministerial system nor could it give us an Elected Member of Finance. The area this motion is dealing with would not give us any constitutional evolution or advancement, it would simply change the number of votes required for a specific action in the House.

MR. PRESIDENT: Would it be convenient for you to break there?

MR. G. HAIG BODDEN: Yes, Mr. President.

MR. PRESIDENT: Before we do adjourn, I think there is a point that needs to be cleared up. It appears to me, and I may be wrong, that from what some Members have been saying there is some anxiety that if there is a constitutional review and that if as a result of the Report, for instance, the United Kingdom Government thought that changes were necessary, such changes could not, in my opinion (and I think I can say this quite clearly) be brought forward and implemented before a General Election. Perhaps I should repeat that: If there is a constitutional commission and a report, and if as a result of that report, the United Kingdom Government believed that there were some changes that were necessary, I am absolutely certain that these changes would not be proposed by the United Kingdom Government or implemented without them being the subject of a campaign and a general election. I hope, that I have made this clear. I think it does need to be made clear, this is not an anxiety which I think any of us should feel.

MR. G. HAIG BODDEN: Yes, Mr. President, I agree with you that is the proper way, but I know that in 1972 the new Constitution was actually written, it had been ratified in London before the General Election which was held a couple of months afterwards. The suggestions you have made are quite perfect and proper.

MR. PRESIDENT: I think though there is a different situation as is being made clear in this House. In the period of 1969 to 1972, the Members of the House had arrived at certain definite views both by a Majority and the Minority Select Committee Report. They had come to very definite views about what changes they felt were necessary. I think it is a slightly different situation but I go back to what I said earlier. I do not see in the present circumstances that any significant changes could be put forward for implementation without them being the subject of a campaign and a General Election.

MR. TRUMAN M. BODDEN: Mr. President, it was actually me who pressed that point hardest, but it would have been good if in the motion to deal with the general review, that had been made a condition of it, the same as we are making it now and that is the point I put forward. It would be good having total acceptance of that point.

MR. PRESIDENT: I do not think the point was addressed fully enough to be taken up but I have now raised it because it has now become apparent during today that it was a matter of anxiety.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this Honourable House until 10 o'clock tomorrow morning.

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

AYES.

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

AT 6:04 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., THURSDAY, 26TH JULY, 1990.

**THURSDAY
26TH JULY, 1990
11:27 A.M.**

MR. PRESIDENT: Prayer by the First Elected Member for Bodden Town.

PRAYERS

MR. ROY BODDEN:

Let us Pray.

Almighty God, from whom all wisdom and power are derived: We beseech Thee so to direct and prosper the deliberations of the Legislative Assembly now assembled, that all things may be ordered upon the best and surest foundations for the glory of Thy Name and for the safety, honour and welfare of the people of these Islands. Bless our Sovereign Lady Queen Elizabeth, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess of Wales and all the Royal family. Give grace to all who exercise authority in our Commonwealth that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the 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.

MR. PRESIDENT:

Proceedings of the House are resumed.
Papers. The Honourable the First Official Member.

PRESENTATION OF PAPERS AND OF REPORTS

**REPORT OF THE STANDING FINANCE COMMITTEE
(Meetings held 23rd, 24th and 25th July, 1990)**

HON. THOMAS C. JEFFERSON: Mr. President, I beg to lay on the table of this honourable House the Report of the Standing Finance Committee held on 23rd, 24th and 25th July, 1990.

MR. PRESIDENT:

So ordered.

HON. THOMAS C. JEFFERSON: Mr. President, although the proceedings of Finance Committee were aired on Radio Cayman, I believe it is in the interests of the public to go through the Report and to summarise exactly what approvals were given in those meetings.

At the meeting on Monday the 23rd of July, Finance Committee approved for:

(1) HEAD 04 - FINANCE & DEVELOPMENT

(i)	SUB-HEAD 02-003 T & OSAS OFFICERS	APPROVED:	\$200,000
(ii)	SUB-HEAD 07-014 FEES CONSULTANCY	APPROVED:	\$120,000

(to supplement the Fees Consultancy vote mainly to deal with the Manpower Demand Survey)

(2) HEAD 17 - IMMIGRATION
SUB-HEAD 07-030
JANITORIAL SERVICES

APPROVED: \$6,003

(to deal principally with the janitorial services at the Port Authority facility of the Immigration Department)

(3) HEAD 18 - POLICE

(i)	SUB-HEAD 03-045 UNIFORMS	APPROVED:	\$7,500
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(ii)	SUB-HEAD 07-015 FREIGHT & SHIPPING	APPROVED:	\$3,500
(iii)	SUB-HEAD 08-038 WELFARE FUND/SOCIAL SECURITY	APPROVED:	\$7,000

The Committee considered and approved the following supplementary expenditure on Tuesday, 24th July, 1990:

(4)	HEAD 26 - EDUCATION, ENVIRONMENT, RECREATION AND CULTURE		
(i)	SUB-HEAD 41-023 SPORTS/PLAY CENTRES & PARKS	APPROVED:	\$3,300
(ii)	SUB-HEAD 01-001 BASIC SALARY	APPROVED:	\$30,750
	(to cover staffing for the Museum which will be opened shortly)		
(5)	HEAD 26 - EDUCATION, ENVIRONMENT, RECREATION AND CULTURE SUB-HEAD 08-050 - COMMUNITY COLLEGE	APPROVED:	\$128,373
(6)	HEAD 29 - MEDICAL HEALTH SERVICES SUB-HEAD 40-009 - MEDICAL EQUIPMENT	APPROVED:	\$51,300
	(principally for an X-Ray machine)		
(7)	HEAD 31 - COMMUNICATION, WORKS AND AGRICULTURE		
(i)	SUB-HEAD 07-014 FEES CONSULTANCY	APPROVED:	\$73,750
	(which were actually a revote of the funds approved in 1989)		
(ii)	SUB-HEAD 41-020 PURCHASE OF LAND	APPROVED:	\$180,660
(8)	HEAD 37 - PUBLIC WORKS DEPARTMENT SUB-HEAD 07-058 MAINTENANCE SCHOOL BUILDINGS	APPROVED:	\$126,000
(9)	HEAD 04 - FINANCE & DEVELOPMENT		
(i)	SUB-HEAD 04-001 08-021 P.A.H.O.	APPROVED:	\$19,699
(ii)	SUB-HEAD 04-001 08-037 - U.W.I	APPROVED:	\$27,123

(This approval refers specifically to the Law students attending the Law School of the University of the West Indies)

The Committee considered and approved the following supplementary expenditure on Wednesday, 25th July, 1990:

(10)	HEAD 04 - FINANCE & DEVELOPMENT SUB-HEAD 08-042 - CDB - UNIFIED SPECIAL DEVELOPMENT FUND (US\$12,000)	APPROVED:	\$10,080
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(11)	HEAD 20 - PERSONNEL SUB-HEAD 04-001 - LEASE OF SITES OR BUILDINGS	APPROVED:	\$287,500
	(this principally refers to the rental of office accommodation at the Ansbacher House, Fort Street)		
(12)	HEAD 04 - FINANCE & DEVELOPMENT SUB-HEAD 19 (REF: LOAN TO WATER AUTHORITY FOR CAYMAN BRAC PIPED WATER SUPPLY)	APPROVED:	\$1,053,000
	(See conditions set out under Item 6 (2)(c) below)		
(13)	HEAD 41 - CAPITAL SUB-HEAD 41-007 - DISASTER PREPAREDNESS (REF: PLEDGE FOR RED CROSS BUILDING)	APPROVED:	\$100,000
(14)	HEAD 41 - CAPITAL SUB-HEAD 41-020 - PURCHASE OF LANDS	APPROVED:	\$50,000
(15)	HEAD 01 - HIS EXCELLENCY THE GOVERNOR SUB-HEAD 07-045 - MISC. VISITS AND ENTERTAINMENT	APPROVED:	\$6,500
(16)	HEAD 08 - LEGISLATIVE		
	(i) SUB-HEAD 03-011 DIETARY/FOOD SUPPLIES	APPROVED:	\$5,500
	(ii) SUB-HEAD 02-015 SUBSISTENCE	APPROVED:	\$8,000

TOTAL SUPPLEMENTARY EXPENDITURE APPROVED: \$2,505,538
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(TWO MILLION, FIVE HUNDRED AND FIVE THOUSAND,
FIVE HUNDRED AND THIRTY-EIGHT CAYMAN ISLANDS'
DOLLARS)

OTHER MATTERS

The Committee considered and agreed on Tuesday, 24th July, 1990 the following:

- (1) VARIATION OF FUNDS UNDER
HEAD 04 - FINANCE & DEVELOPMENT
- TO VARY A SUM FROM SUB-HEAD 41-006
TO SUB-HEAD 41-007

Agreed that the sum of CI\$131,754.00 under Sub-Head 41-006 - Construction of Roads, be placed under Sub-Head 41-007 - Disaster preparedness, in order to enable the Public Works Department to complete the upgrading of all hurricane shelters during 1990.

We also moved a motion in the Committee and the Committee agreed to recommend that Standing Orders 72(5) be suspended to enable the Report of the Committee to be Tabled and reported on without the verbatim minutes of the proceedings.

Thank you, Mr. President.

MR. PRESIDENT: May I take it that the House agrees to the suspension of Standing Orders 72(5) to enable the

Report to be presented without the verbatim minutes?

Thank you.

Under Standing Order 67(4), the House is deemed to have agreed the supplementary expenditures which have been presented. Papers continuing, the Honourable First Official Member.

REPORT OF THE STANDING BUSINESS COMMITTEE

HON. THOMAS C. JEFFERSON:Mr. President, I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee.

MR. PRESIDENT:

So ordered.

HON. THOMAS C. JEFFERSON:Mr. President, the Committee met twice during this meeting, on the 7th of June and on the 13th of June. Having dealt with all the papers available to it at that time, the Committee then agreed that the Clerk, in consultation with the Chairman, should set down the other business as it came forward. There were 11 Business Papers dealt with and the Committee agrees that this Report be laid on the Table of this Honourable House.

PERSONAL EXPLANATION

(Standing Order 31)

MR. PRESIDENT:

Thank you.

There are two items not on the Order Paper which are not yet completed; (1) the response of the First Elected Member for West Bay to a statement in regard to privilege from the Honourable Member for Health and (2) the intention stated by the First Elected Member for West Bay to make a Personal Explanation following on that made by the Honourable Member for Education two days ago. I do not yet have in my hands the intended texts of both of those items, so we cannot yet proceed with them.

So, we move to Item 3, Private Member's Motion No. 17/90, continuation of the debate, the Second Elected Member for Bodden Town, continuing.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS:

PRIVATE MEMBER'S MOTION NO. 17/90

AMENDMENT TO THE CONSTITUTION AND PROVISION FOR REFERENDUM

[Continuation of debate thereon]

MR. G. HAIG BODDEN:Mr. President, yesterday evening I had closed by making the point that the change sought by this amendment is a simple one, reducing by one, the majority required to remove an Elected Member from Executive Council. It is not a change that should cause any misapprehensions or make anyone uneasy.

If this change is made, seven out of 12 Members, or I imagine the majority voting in the House, that is Elected Members, would be required to change the membership. It is not easy to get seven members from the Backbench united against a Government. In fact, I believe this is the first time since 1972 that such a situation has arisen. If this change is made it will be good for the Government; it will not only improve their image, it should improve their performance because they will now know that their position must be such that it meets with the approval of the majority of the Members. I do not want to use the language that had been used here by one Member some time ago, but in common language, it would mean that the Elected Members of Executive Council would have to keep their house in order.

Ever since 1972, minor amendments have been made to the Constitution, these amendments did not cause any unrest. They were things like changing the definition of a British subject, when the United Kingdom changed its Immigration Laws. But this motion today, would not cause any ripples. We have chosen the referendum route instead of the path followed by Motion No. 9/90, as we know of some of the inherent faults which surface when the route which they chose, was followed. While I do not want to go into the details of the public meetings or the public discussions which were held in the districts in 1971, we find that in Bodden Town, only 12 people were interviewed by the Constitutional Commissioner.

The Report also showed that limited number of people (at least three of them), took it upon themselves to say that the statements they made were what a majority of people were thinking. Some of those statements were far out and in my opinion, never entered into the minds of the majority of the public. So this is one reason why we believe that type of consultation does not convey to the Constitutional Commissioner an accurate picture of the desires of the public. I am not saying that system cannot supplement the referendum.

The motion recently passed has made provision for a full constitutional review and it is quite possible that the matter which this motion deals with, may eventually be caught up in that review. In fact, I could add my opinion that Motion 6/90 may also be caught up in it. It is my desire that the Governor, although I cannot tell him what to do, will refrain from signing Government Motion 6/90 until such time as the Constitutional Commissioner has made his recommendations regarding Finance Committee.

The amendment which is suggested by this motion will improve the checks and balances which are held by the

Elected Members and would be fair compensation for the loss of the checks and balances which would go away if Motion 6/90 is signed. I believe the public would accept this amendment to have better control over the Elected Members of Council in lieu of any control they may have lost by any other action.

In conclusion, I would ask all Members to deal with this motion on its merits and that, subject to a referendum, the amendment be allowed. I would just like to emphasise that, as I said earlier, this motion had been tabled before Government's Motion 9/90. One reading the newspaper today may not understand that, but I think the mix-up was simply caused by the fact that Government's Business takes precedence over the Private Member's Motion on all days of the week, except Thursday.

As I believe this will be my last speech during this Meeting, if one can believe that, I would like to say that I think it is time that Members follow the advice given by Cervantes in his book, Don Quixote, when it was said by the pot to the kettle, "get away black face", or as Caymanians put it, "it is time for the pot to stop calling the kettle black", because we all have faults.

MR. PRESIDENT: I would point out, that if any amendments are successfully moved you would have the right to speak again.

The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL: Thank you, Mr. President.

I rise to make my contribution to Private Member's Motion No. 17/90, which I consider one of the most important motions that I have risen to speak on during the decade that I have been in this House.

I contend that this concerns a fundamental principle of Constitutional Government. Much has been said that this is minor (and when we look at it in numbers, seven as opposed to eight, that is minor) but, when we consider the principle of two-thirds majority as opposed to simple majority it has a much different meaning. During the many weeks that we have been in this honourable Chamber since this meeting and the many speeches that have been made, much debate had been given here concerning constitution; what we should or should not do with constitutions, and much was said that we should not change the composition of the Finance Committee, because it is not in the constitution. But the Constitutional Commissioner mentioned it, therefore, it is very close to our constitution; it is important and it should not be touched. This is specifically very important and as I said before, a fundamental part of our constitution.

I, too would like to refer to the proposal for constitutional advancement and report of the Constitutional Commissioner, the Rt. Honourable Earl of Oxford and Asquith on the Review of the Cayman Islands' Constitution. When he made the proposal of what was required to remove a Member of the Executive Council, he felt that it was important that a two-thirds majority was not sufficient; it should be replaced by three-quarters. This shows the importance the learned Constitutional Commissioner placed on the ability of a minority - I do not want to use the word minority - but seven Elected Members being able to remove the duly Elected Executive Council. If three-quarters had been instituted, it would have made it so that one Member of the Executive Council would have to vote for the removal.

The idea the Constitutional Commissioner was giving to us, is something that we should not consider. We elect an Executive Council; the people elect us and we in turn, at least seven of us, elect the Members of Executive Council for a term of four years. They are then charged with the responsibility of governing this country with a four year plan. Nothing can be done without time going by and, I feel that unless they have security in office; that every time our national airline chooses to change equipment or does something that dissatisfies us on this side of the House, seven of us can get together and say 'lets remove them'. The stability of our country and our Government will be in jeopardy. I ask all Honourable Members to think of the future of our nation when we are thinking of this amendment. I consider it (and I do not often repeat myself on the floor of this House), but I must repeat that this is a fundamental change to the principles of constitutions. I do not feel that we should be attempting to make this change.

To go back to September of 1988, I at one time had the opportunity of going the other way of contributing to the removal of our Government. I said "no" then, because as I said earlier in my debate today, I felt they were elected for four years and we should allow them to complete that elected period and judge them at the conclusion of that elected period on what has been accomplished.

Going beyond that, history and the press have recorded that I had become a target because I had been that eighth vote. There have been many attempts and petitions to tell me what to do in this honourable House. I would like to say from this Chamber, that I conclude that when I was elected, I was elected by the Third Electoral District of this nation which comprises Cayman Brac and Little Cayman and I am proud today, that I have represented them to the best of my ability. I have not neglected my constituency, but I also realise that when I took the Oath of Office, I assumed responsibility to help maintain good Government for the Cayman Islands. In so doing, I felt that it was my responsibility to help to maintain our stability. Not only to say that, I planned that, but to show by my actions that I want to preserve stability. Beyond that, I received a copy of a petition literally demanding that I resign in order that the eighth vote be eliminated. What is being sought today by this constitutional amendment could be achieved in this Chamber in this meeting; that would have been done without a constitutional amendment, but I sense that my responsibilities to this nation are too high to resign. I made that statement very clear that was not my intention. Therefore, I say again to Honourable Members, let us realise that a Constitutional Commissioner of his calibre who made the amendments to our Constitution which has served us well for 18 years proves that it was well done.

I may also say that the two-thirds majority to remove the Members of Executive Council has been in our Constitution since 1959, that is 31 years. I do not see why today it should be necessary to change it if it has worked for 31 years. I feel that we would be eroding the effects and the benefits that we have in the Constitution. If we are not going to keep these safeguards in our Constitution, then the Constitution cannot be an effective

document.

I believe in our Constitution. I realise that during the last 18 years this country has been blessed with great economic progress, and I feel as I said before, that we need to review our Constitution, but I do not feel that we can allow the fundamental principles of preserving stability and preventing the removal of our Government because of unfavorable publicity.

I think of what has happened in Italy since World War II. They are having today (I think) their 52nd Government because whenever a problem arises they bring down the Prime Minister and a new gentlemen attempts to form a Government, sometimes he is brought down even before he can form his Cabinet formed. So, in order for us to truly preserve stability within this nation, I feel that we must endeavour not to take these safeguards out, but to put in more if that is possible.

When we were here debating previous motions, much was said of the sanctity of this Constitution; much was said earlier about referendums, but, I also remember that there was an attempt to bring a request for a constitutional amendment concerning the Finance Committee to this honourable House without notice. I want to say to the people of this country and to all the listening audience, that had we been asked to vote; if that had been accepted by the President of this House, I would not have had the opportunity to read the amendment before voting on it, let alone, consult my constituents. So let us be consistent; if we are going to go to our people let us say, and mean it what we say, but let us not talk one thing today and another thing tomorrow. I caution Members, the future of the Cayman Islands is in our hands and I ask each and every one of you to think carefully of what you do.

Mr. President, I think this amendment is not in the best interest of the Cayman Islands.
Thank you.

MR. PRESIDENT: The Honourable the Member for Tourism.

HON. W. NORMAN BODDEN: Thank you, Mr. President.

I rise to speak to Private Member's Motion No. 17/90. I assure you, as the Second Elected Member from Bodden Town said - which I agree with - I will not be calling the kettle black and I agree fully with his closing remarks. However, I have to disagree with most of what he said in other parts of his presentation, and in doing so, I shall call 'a spade a spade', which is also another expression well understood by Caymanians. I am pleased to note that short speeches are now in style, for this motion at least. This suits me fine as I have never been a long speaker. So, as usual, I too will be short and to the point.

I oppose Private Member's Motion No. 17/90 which is brought by the Second Elected Member for Cayman Brac and Little Cayman and the Third Elected Member for West Bay. This motion is asking that an amendment be made to section 6(2)(f) of the Cayman Islands Constitution, this is one of three requests; so that seven Backbenchers instead of eight, will be empowered to remove any or all of the four Elected Members from Executive Council (that is, instead of the two-thirds majority which is presently necessary under our constitution.

In thinking about this motion and when I first read it, I thought to myself, it would be funny if it were not so serious, quite frankly, I have never heard of the general manager of any organisation assisting the assistant manager in getting him fired from the job. Surely, these Backbenchers cannot really be serious. Surely they could not expect the Elected Members of Government to help them realise their lofty ambition in this regard.

The Second Elected Member for Bodden Town claims that the remedy is urgent, but I am here to say that the medicine they are prescribing is worse than the disease they claim exists. In fact, the medicine they are recommending could be fatal. I really hope that no member of the listening public will believe that this motion is as harmless as the Backbenchers are trying to make them believe it is.

When I, like other Members, sat and listened over the past several weeks to so much rhetoric about democracy, the Westminster system, and the democratic process; I just cannot comprehend how such a diversion, such a major change from what has been established and accepted as normal practice can be expected to be made, simply to enable seven Backbenchers to achieve their determine goal of removing the Elected Members of Executive Council. I know the motion speaks of a Referendum Law, and a few days ago I stated my position on a referendum on any matter and, in the interest of time, I will not repeat it again. But suffice it to say, I believe that the results can be highly suspect and therefore I do not support this type of information gathering exercise in our country. One does not need to be a constitutional expert to be able to understand that a document so complex and important as the Constitution of any country is not changed, simply to be used as the remedy for one specific situation whether it is liked or not.

One has to wonder if the next group that gets in here will not want further changes too, maybe from seven to nine, or perhaps even changed back to eight. I think in all honesty, this would be setting a poor precedent in this country. Certainly, changes in Constitution are not made to suit the whims and fancies of any group, especially one which originally styled themselves as 'the independent opposition', but who later on, decided to join forces to defeat Government; to remove the four Elected Members of Executive Council.

The public will remember the constant calls by the seven Backbenchers for Government to step down. The speaker before me, the First Elected Member for Cayman Brac and Little Cayman, made it clear that he had been approached some time ago and that if he had agreed the amendment could have been carried out at that time. The removal of the four Elected Members of Council, is what I am referring to.

Based on the repeated attempts by those Members to get rid of the Elected Members of Council, I can only conclude that had the Backbenchers been successful in mustering the eight votes (which it now take to remove the Elected Members of Government); had they been able to gather the required support to successfully pass a Censor Motion in this House, obviously this ridiculous motion would not now be before this honourable House.

It is most significant to note that under our Constitution it is easier to elect Council Members than to remove them as acknowledged in the first 'WHEREAS' of the motion. And I read:

"WHEREAS seven Elected Members can vote four Elected Members into Executive Council, but the Constitution requires the vote of eight Elected Members to remove any or all Executive Council Members;"

This is acknowledged by the motion itself. This, in my opinion, was not arrived at by accident, but rather by design; this two-third majority forms the strength of our Constitution. It is the fundamental basis of the Cayman Island's Constitution which was well thought out and, in a Parliament as small as ours that balance is most critical. I am sure that these are the valid reasons the two-thirds majority provision is made there. It has been enshrined in our Constitution because I maintain that the untimely removal of any duly democratically elected Government is a very serious matter; this strikes at the very heart and soul of the stability of any country. It is even far more critical in our particular case because the industries of Tourism and Finance (investor confidence on which our country depend on for economic survival) thrive and succeed mainly on stability - political stability.

To say that this motion is reckless, is putting it mildly. If this section of the Constitution were to be changed we may as well scrap the whole thing and start all over again, in my opinion. Now, I know that those who spoke in favour of this motion have repeatedly placed much emphasis on the section of the motion which says that they intend to ask the people of this country what they want. I hope too, that no one is being misguided by this because as far as I am concerned, the magnitude of the change requested overshadows and dominates any other section of this motion. The rest, in my humble opinion, is only cosmetic; claims of asking the people [for input] before acting has not always been practiced, because even in this meeting an attempt was made to change other sections of the constitution. No where did I see, nor did I witness the people in this country being consulted on any of the proposed changes. The motion that I refer to was disallowed. So is the public consultation process performed only when it suits them; and, who are they consulting with? Who are they asking? Are they asking only those who will tell them what they want to hear?

What seems peculiar to me and causes me to be suspicious of the good intentions of this motion is, the fact that a few days ago, Government brought a motion requesting that a study of the Constitution be done with a view of establishing whether any changes should be made, if so, what changes, or whether the Constitution should be left as it is? Government's position was made quite clear to this honourable House, that the widest possible public consultation would take place for as long a period as was necessary to ensure that all the people in this country would be given the opportunity to have their say and to explain their views. In my opinion, the method by which the public input would be achieved is the preferred and most reliable method and procedure, not by a referendum.

I foresee an advisor who is experienced in this field, who would visit the Cayman Islands, visit all districts and that his team would gather all pertinent information which would be seriously considered. I foresee public meetings and a long term process before any major decision is taken regarding to the Constitution of the Cayman Islands. But in spite of all that was said, this Government Motion received no support from the seven Backbenchers. They must have their way in all things, because they hold seven votes. They want such far-reaching piecemeal changes made to the Constitution in the fashion that they see fit, and that is the way they think it should be.

One Member spoke about 'minority rule' and that majority must rule. Well as far as I can see, Government in most instances and in dealing with some of the more important matters affecting the country, still command the majority, admittedly it is a narrow margin, but this can only be expected in a small parliament such as ours.

The problem as I see it, is with the seven Backbenchers refusing to recognise the full membership of this Legislative Assembly as provided for under our Constitution, which shows that they are at variance with the Constitution in any event. No wonder they want to change it to suit a particular set of circumstances.

Now unlike some Members, I have made my position clear, I have said and I repeat again, independence for the Cayman Islands is out of the question and need not even enter the discussions at all. Secondly, sometime ago I predicted that regarding future political development, this country would eventually advance to a ministerial form of Government; a stage where elected representatives are referred to as Ministers and not Members as at present, and perhaps some other necessary changes as well. But changes in my opinion, would be suitable to a developing country like the Cayman Islands. I did not foresee, nor do I agree, that in such an advancement there would be no Official Members in the Legislative Assembly.

It was very ably demonstrated during the debate on Government Motion 3/90, that in many Islands like ours (the British Virgin Islands and Turks and Caicos Islands were given as examples), which do not have a ministerial form of Government, there are still Official Members in parliament. I imagine that there are different stages of ministerial systems and that such a system can, in fact, be tailored to suit the needs and wishes of a particular country that it is intended to serve. Then of course, it can be improved as the country develops and have the adequate human resources and other abilities available. So let no one try to imply, that I am advocating anything unusual, or wanting to push this country farther or faster than it can go. This is not my position.

Furthermore, in any event I want to state that I approached this important matter with a totally open mind and if I am advised and convinced by authorities more knowledgeable that none of this is [feasible] for the Cayman Islands at this time, or even in the very near future, I would have no problem with that. As they say in Cayman "that's no big thing". What I want is only what is best for the country and only that I will support.

The Second Elected Member for Bodden Town claimed that this is a simple change that would improve the image of the Elected Members of Executive Council. I cannot agree with him that there is anything simple about this, nor do I agree that we need change any image either. At the end of the day our record will speak for itself and the people of this country can decide.

In conclusion, it is my understanding that the two-thirds majority is found in the Constitution of most countries. I believe that this is also true in the United States, which is always held in this Hemisphere as being such a democratic model. In my opinion it is there for a tested and tried purpose and it should not be changed in the Constitution of the Cayman Islands. So with those brief remarks I do not support the motion.

Thank you.

MR. PRESIDENT: Does any other Member wish to speak?
Perhaps while we are waiting, I might just remind Members what has already been pointed out, that the Official Members will not be speaking or voting on this particular motion.
The Honourable the Member for Education.

HON. BENSON O. EBANKS: Thank you, Mr. President.
Private Member's Motion No. 17/90, in my opinion is not only flawed in purpose, but it is flawed in substance. The Resolve section of this motion, (2)(a) envisage, as I see it, the drafting of a bill and the passing into law, during this meeting of this Legislative Assembly; this proposed method and approach would (in my opinion), omit any opportunity for public input or consultation to that very important piece of legislation. Therefore it cuts across the grain of what is contended to be the centre piece of the entire motion, (that is, the motion as written and as propounded by its supporters), seems to say that they wish to have changes to the Constitution, but before they do, they want to have consultation with the people through a referendum. The country not having a Referendum Bill, they seek to short circuit the consultation process to draft and pass this Referendum Bill.
I would have thought that in view of the desire to have such a bill presented and passed into law at this meeting, this motion would have had attached to it a bill standing on its own which would have purported to be the referendum bill being sought. I am not saying this to pick holes in the motion, but previous speakers from this side have said, a Referendum Bill is the most important and fundamental piece of legislation; in many respects, almost as fundamental and important as the amendment which this motion seeks to make to the Constitution.
The word 'referendum', is thrown around this country loosely as though it is a panacea for all disagreement. A referendum is only as successful and indicative of the people's wishes as the proponents of the motion sought to be, or of the moot, I would call it, question sought to be answered by it is put to the people.
A referendum in this country at this time would be the most confusing method of obtaining the public's view. It is well established and documented that the whole question for example, of the simple amendment which Government Motions 3/90 and 6/90 accomplished by adding the three Official Members to the Finance Committee, completing the Finance Committee as a Committee of the Whole House, practised as demonstrated in all of the other dependent territories in the Caribbean. That issue was the most clouded issue and it was deliberately clouded in the public's mind. I am convinced that if a referendum was proposed on the issue before us now in this motion, that is, to amend the Constitution to permit the removal of Executive Council Members by a vote of a simple majority, it would be even more clouded and convoluting because we have been having this type of issue, spread in the country for the last several months (that is, that the four elected Members plus the First Elected Member from Cayman Brac and Little Cayman is demonstrably a minority Government.
I have done some mathematics on the 1988 Election results. I wish to use that to prove that the four Elected Members of Executive Council, plus the First Elected Member from Cayman Brac and Little Cayman, represent a very substantial number, if not the majority of people, who voted in the 1988 Elections. Now, lest I be accused of cooking figures, I want to give some background to how I arrived at the figures for the Member from East End.

MR. PRESIDENT: It sounds to me as if you are embarking on a section of your speech which may take several minutes. In that case I think we should suspend for lunch.
Proceedings are suspended until 2:15 P.M.

PROCEEDINGS WERE SUSPENDED AT 12:46 P.M.

PROCEEDINGS RESUMED AT 2:35 P.M.

MR. PRESIDENT: Proceedings are resumed.
I think for the sake of neatness, it might be best for the Member who is speaking on Private Members's Motion No. 17/90 to finish, before we go into the various matters of privilege which have been raised.
The Honourable the Member for Education, continuing.

HON. BENSON O. EBANKS: Thank you, Mr. President.
When we took the break, I was about to show that the four Elected Members of Executive Council, plus the First Elected Member from Cayman Brac and Little Cayman hold just as great a mandate, if not greater, as the seven Backbenchers when it comes to the percentage of votes cast in 1988, represented by the three of us. I was saying so that I would not be accused of, for the want of a better word, of "cooking the books". I want to say that in the case of East End where there was not an election, what I did was to use the actual number of persons registered at the time of the registration which is 570. I applied the national average turnout of 81.6 per cent, getting 465 votes that would likely have been cast in that district. So, I have been generous. I have given the Member from East End the average percentage of votes received by each Unity Team Member in the 1988 Election.
What these figures show is that the four Elected Members of Government, plus the First Elected Member from Cayman Brac and Little Cayman, represent 28.79 per cent of the votes cast while the seven Backbenchers together, represent 29.82 per cent; a difference of 1.03 per cent.
Now, if it is taken into consideration that the First Elected Member for West Bay ran on the Dignity Team's ticket and received 20.7 per cent of the votes cast in that district, whereas the third member who ran as a Unity Team Member, received only 16.11 per cent, then if that factor is considered there is no clear proof that the Backbenchers together, now represent 1.03 per cent greater. But before I finish, I would just like to say that bit of

mathematics is not a bit more fanciful than the Third Elected Member from George Town paying off Government's overdraft the other day with a loan amounting to \$3.8 million. I believe it was with a loan from Caribbean Development Bank, without increasing the national debt. I hope, that I have not lost the House on that; that was the question I wanted to ask: How could you borrow money to pay off an overdraft, without increasing the national debt? The overdraft is not included in the national debt.

POINT OF ORDER

MR. TRUMAN M. BODDEN: Mr. President, on a Point of Order.

If the Member can show the relevance of this in a previous motion to this, I would be grateful.

HON. BENSON O. EBANKS: Yes, Mr. President, I can show him, Sir; that figures are basically what people say they are.

MR. PRESIDENT: I think that point was made on both sides of the House earlier.

HON. BENSON O. EBANKS: But to be specific, lets get back to the real meat of this issue, the two-thirds majority that is now in our Constitution. I believe that the reason for this is clear, when we look at Chapter 29 of the recommendations of Lord Oxford and Asquith, to our present Constitution - and this is what he had to say about it:

"TENURE OF OFFICE OF EXECUTIVE COUNCIL

In all modern systems of Government, other than the wholly autocratic forms, the principle of collective responsibility is an important one. The need to establish this principle in the Cayman Islands has been mentioned in paragraph 25 (iii) of Chapter 3. If, in the Legislature, Government could count on the collective support of all members of Executive Council for a measure decided in that Council, it would still not be assured of a majority unless the Administrator, when presiding, had both an original and a casting vote -- which I am reluctant to recommend. It could, however, be sure of seven votes out of a total of 15 and one might hope that in these circumstances the use of the Administrator's reserved power would hardly ever be necessary. If the convention of collective responsibility were established, an elected member of the Executive Council who felt unable to support the Council's decisions would no doubt feel obliged to resign; but if he failed to do so, the sanction of dismissal by the Administrator (analogous to a Prime Minister's power to dismiss his Ministers) would seem a logical one. It is reasonable, at the same time, that an elected member of the Executive Council who adhered to the convention and supported his Council's decision should not be liable to dismissal by the vote (exclusively) of persons who were not members of the Council.

Section 8 (e) of the present Constitution provides that the seat of an elected member of the Executive Council shall become vacant if his election is revoked by a two-thirds majority of the Assembly. I recommend that in this sub-section the phrase "two-thirds" should be replaced by "three-quarters" but that provision should also be made that the tenure of office of an elected member of the Council should be subject to termination by the Administrator at his discretion. It would be understood that such discretion would normally be exercised only in cases where a member (without special leave from the Administrator) had failed to support the Government on an issue already decided in the Executive Council and had failed to resign. It would be necessary to provide that a member who had been dismissed or had resigned should not be eligible for re-election during the Assembly's current term of office.

So strong did Lord Oxford and Asquith feel about that, that he thought it should be that the 1969 provision be increased from two-thirds to three-quarters. And, here now, we have a proposal to reduce it from two-thirds to a simple majority.

The section, that was referred to in the chapter which I just read, in that reference was made to paragraph 25 (iii) of Chapter 3. In that chapter, Lord Oxford and Asquith pointed out that "under the present system there were no political parties which guaranteed support for measures having to be adopted by Executive Council", and he pointed out that "in an emerging society in a developing country, Governments of necessity, often had to do things that were not always popular and that is the reason why he sought to preserve with some degree of certainty, the appointment to Executive Council of Elected Members who joined with Official Members in introducing and supporting, sometimes, unpopular legislation or unpopular decisions.

I think it was the Secretary of State for the Colonies who suggested that the two-thirds majority remain, because he felt that Government would always be able to count on at least one solid person on the Backbench (just as we have been doing for the last several weeks). Now, what this motion seeks to do, is to deprive Government of the benefit of the good judgement of that solid Member; that cannot be reasonable. In the two-thirds majority in democratic process is a well established figure; it is of international significance. It is my understanding, that it takes two-thirds of the votes of shareholders of a company in general meeting to change the Articles and Memorandum of Association, at least of most public companies. It requires two-thirds of the votes of the Senate in the United State to over-ride the Presidential veto, and, it takes two-thirds of the votes of the House in Senate to impeach a President in the United States.

I believe even a vote to add or change anything to the United States' Constitution requires at least a majority of

two-thirds. Not, that I am advocating following everything they do in the United States, because if we did that, we would probably be supporting this referendum motion. We are not a territory of the United States, so we do not necessarily have to follow them.

The argument used by the supporters and purveyors of this motion, is that the two-thirds vote required allows four Members to remain in Executive Council against the wishes of seven of the Backbenchers and that for some reason, we should have so cuddled the three Members on the Backbench who at one time said that they supported us so that we would not have lose their support - however they put it from time to time. As I said before, one cannot lose what he did not have. It is my information that from as early as February 1989, two to three months after being sworn in, this palace revolution was planned and at that time we were meeting constantly and consistently with those Members, at least the second Wednesday in every month.

The charge is as I understand, is that we did not tell them anything, we did not tell them enough. From what I have heard in here, it appears to me that it is a good thing we did not say more, otherwise all Members' characters would probably have been assassinated as tattletales. You know in that regard, I have seen it recorded that the Third Elected Member for West Bay, said in a public meeting that I did not know what was going on because every time he asked me a question I told him I did not know. Whenever anybody asked me anything that they should not know, that is my answer, "I do not know".

POINT OF ORDER

(Standing Order 36(1))

MR. W. McKEEVA BUSH:Mr. President, on a Point of Order under Order 36(1).

We have been saying that we would try to stick to the debate. I cannot see these matters as relevant to the motion before us and he has been going on with several things for a couple of minutes that is not relevant to the House. I would ask you to rule that he stop and get back to the motion.

MR. PRESIDENT:I think he is probably replying to the argument about minority and majority etcetera, and may have strayed a bit far in explaining how the majority became the minority. I think this is what you might call, historical background, but I think perhaps he is almost finished on this and could proceed.

HON. BENSON O. EBANKS:Yes, Sir, merely to say, that that is one reason why nobody will sell the proposition that I am a tattletale, because when they ask me something they should not know, I say I do not know. I can only appear stupid, but nobody gets information they should not have. You are quite correct in your assessment that what I was doing was establishing one of the charges that was laid which is why the three Members deserted us? My argument is that they did not desert because we did not have them.

MR. PRESIDENT: If I may intervene for a moment.

This motion is about changing the means by which Executive Councillors may be removed, one or several. The Government Bench (or at least the people who have spoken so far) is making the point that if the motion were carried and implemented, then the seven of the Elected Members could remove the four. It does seem to me that a certain amount of attention can reasonably be given. The circumstances of arriving at the point, where the four Elected Members of Council cease to hold majority support among the Elected Members...but I do not think that we should go over ground which has been well covered.

HON. BENSON O. EBANKS:Yes, Sir, I am going to break some more ground now, but it is making more or less the same point because, I think it is significant to show how the four suddenly became seven.

What I am going to refer to is what I call the problem, Mr. President; that problem was very succinctly stated by the First Elected Member for Cayman Brac and Little Cayman in this Legislative Assembly earlier during this meeting when he pointed out that there was confusion as to who was the Legislative Assembly and who was the Executive Council.

The other factor that is not very well known (but certainly known in great detail to myself) is that what has emerged is the remnants of the third political grouping was in existence until November 1987. That was the time when that group decided they had better disband and get back into the camps of the two generally accepted groups in this Island.

Now back to the law. I said that to draft this law was not an easy task; it should not be rushed and that it was difficult for me to see how a draft so detailed without even publication would entail the suspension of Standing Orders to do it. It amazes me how it could even be proposed that such a thing could be done, because that law would have to have a lot of detail. It would have to be very precise as to how a referendum would be administered. It would have to give guarantee to the public, as to how the pros and cons for these issue would be fairly and impartially put to the populace.

It should show how much the referendum will cost, because I hope Members have not lost sight of the fact that it will be a costly exercise; persons will have to be paid to administer it. The process is almost identical to the holding of National Elections and I have to wonder whether provision will be made in the Law to say that friends who are unable to mark their ballots could have them marked by friends. It has been said that referenda are used sparingly in the British Commonwealth and it is for good reason because referenda have seldom been conclusive on any issue where they have been used. In the final analysis, it is still always up to Parliament to decide whether it accepts the decision of the electorate as given in a referendum. That has been the effect of referendum wherever they have been held in the Commonwealth.

In Jamaica, there was a referendum as to whether Jamaica should stay in the Federation. Before the final decision was taken as to whether they would come out they had to have an election. When the party that

opposed Federation won the election, then they pulled Jamaica out. The referendum did not settle the matter. The Third Member for George Town has admitted that referenda are not used a lot in the Commonwealth. He said that it is well understood in the United States and Switzerland.

My view is that we should follow the Commonwealth and I believe that Government has given a good alternative. An excellent alternative, a superior alternative to a referendum by its Motion No. 9/90 calling for a study of our constitution by experts on constitutional matters who would come out and canvas the views of the public.

It was said by the Second Member for Cayman Brac and Little Cayman that he did not know why we had to go to England to look for someone to do this, because there are eminent lawyers in the Caribbean who could do the exercise. I agree with him, but nobody has precluded the Secretary of State from appointing a person in the Caribbean or in the Cayman Islands or where ever.

I would remind the Honourable Members that it was Sir Roy Marshall, Barbadian born who did the review in the Turks and Caicos Islands. Sir Roy Marshall, an eminent barrister and educationalist, a former Vice-Chancellor of the University of the West Indies, who quit that job out of principle when, as I understand it, he could not get backing to discipline one of his lecturers, the renowned doctor, Dr. Monroe.

I believe that this gentleman is known to some of the Members in here. I certainly know Sir Roy Marshall well and I know of Dr. Monroe. So, I have only given one example. There are many other eminent and illustrious barristers who either now reside or certainly emanated from the Caribbean area and who could be used if the Secretary of State thought they were the persons to be appointed. But Government could not use any other language than to ask the Secretary of State to make the appointment because we know our place. We know that we are not the Secretary of State for Colonies. And, if we want something done, we request it. We are not going to get into the position of the Backbenchers with Executive Council.

This motion before us, in my opinion, in all fairness to this country and to this House, should be withdrawn and committed to the trash heap. I honestly believe that should be the fate, Sir. I believe that the Government Members who have spoken so far have shown that it is unnecessary and has been overtaken by events of Government Motion 9/90 which gives to the people all of the opportunity which they need to review this constitution of ours.

The 1972 Constitution was done in that fashion. It has served us well for 18 years and I look forward after the study proposed by us, has been completed to 20 to 30 years of calm, peaceful sailing politically in this country.

Thank you very much, Sir.

MR. PRESIDENT: Before I call on the First Elected Member for West Bay to speak on the matter of privilege, I think I would just like to take up one point which came up in that speech.

I am as sure as I can be that the Secretary of State would consult this Government about any persons to be on this proposed commission. And equally I would be very happy to pass on any suggestions from anybody, from any Member of the House about possible Members of the proposed commission. You notice I am choosing my adjectives very carefully.

Now we revert to the matter that was raised a couple of days ago and that was the matter raised by the Honourable the Member for Health under the Standing Order 28. I would now ask the First Elected Member for West Bay to comment as I have asked him to.

MR. W. McKEEVA BUSH: Mr. President, the Member for Health has complained about questions I raised with him or to him in regarding pharmaceuticals imported into Cayman and reshipped into the United States.

The following is a front page lead article in the *Caymanian Compass* of Monday 25th of August, 1986, captioned 'Cayman Placed Fourth in Medicine Shipping Fraud', and I now quote the article:

"Grand Cayman has been cited as one of the ports being used in a scheme to reimport illegally "discount" pharmaceuticals into the United States. Heading the list of countries involved in the investigation is Hong Kong with 33 shipments, followed by Singapore with 17 and Grand Cayman with nine shipments.

A U.S. House of Representatives Report dated July 1986, for the Sub-committee on Over-site and Investigations, outlines an investigation of shipments of medicines between September 1985 and March 1986. In this period more than \$10,000,000 worth of pharmaceuticals had re-entered the United States.

The practice under investigation is known as diverting. It involves obtaining medicines from manufacturers on the false premise that they are for overseas relief work diverting the drugs to a foreign organisation which then reships them to a U.S. importer for resale at the current market price.

Marvin Sandler who operated a pharmaceutical import/export business in New York City testified that between 1980 and 1984 he handled two or three shipments a month of "diverted" transactions ranging from \$20,000 to \$200,000 for transaction with his gross profit averaging 15 per cent on each shipment.

One of the sub-committee investigator, David Nelson, said in an *Associated Press* story on July 16, 1986, that 'the volume of drugs being shipped through Grand Cayman (back to the United States) would have kept that country awash in medicines for the rest of the century'.

Ezzard Miller of Miller's Pharmacy, Grand Cayman, whose company is listed in the

Sub-committee Report as the major re-exporter from Grand Cayman for the six months the report cover says that "such statements are just typical American blarney. The transactions I made are all perfectly legitimate. Miller's Pharmacy is not involved in any diversion scheme. The medicines we re-exported to the United States were either over stocked items or items whose expiry date was approaching", he said. "...that is how the Americans operate. They make these implications without any solid basis," said Mr. Miller.

The 210 page report lists seven shipments from Miller's Pharmacy, or from Carimed in care of Miller's Pharmacy between September 1985 and March 1986. They amounted to a total value of \$183,283 with the largest shipment being for US\$52,945 and the smallest for US\$10,900.

"The Sub-committee does not make any judgements about any of the companies cited in the report", said Stephen Simms, an investigator who contributed to the document. "Our concern is not with any buyer or seller, but with a policy that allows medicines to re-enter this country that may be defective or sub-standard. In fact, this inquiry was triggered by the discovery that counterfeit birth control pills had entered the United States in the American Goods Returned classification", said Mr. Simms.

As a result of the Sub-committee's Report, legislation is now being introduced to prevent the practice of "diversion" in the United States pharmaceutical industry."

The other questions raised by me, arose from my knowledge of matters in conversation between myself and the Member for Health regardless of them being social or not.

The Member for Health and Social Services said that the meaning of my question was that they implied corruption, that is his interpretation. I did not accuse him of corruption as he said, there is no corruption. I will accept his explanation and withdraw any questions.

MR. PRESIDENT:The Honourable the Member for Health, do you want time to consider your response or are you prepared?

HON. D. EZZARD MILLER: No, Sir, I do not need any time to consider that.

If the Chair accepts that the statement just made by the First Elected Member from West Bay is an unconditional withdrawal of the four statements to which I drew the attention of this honourable House... and because that was so many days ago, I think it is important to draw the House's attention to those four statements again. The first statement and I quote: "Now the Member for Health should explain his connection with out-of-date pharmaceuticals imported into these Islands through Miller's Pharmacy and to be reshipped back to the United States."

I do not consider the article to which he just refers, deals in anyway with the importation of out-of-date pharmaceuticals into the Cayman Islands. I have a copy of the whole *Congressional Report*; that article was written by a local reporter for his own reasons and he failed to mention the fact that the Cayman Islands' Government is also quoted in that investigation and to the best of my recollection, at least two other local pharmacies.

It is common practice in the industry that when you buy pharmaceuticals from any company, they give credit for out-of-date stock to be returned to them so that you do not sell it to the public. All companies that import pharmaceuticals which are not imported out-of-date, as suggested and charged by this Member, if left on the shelf will all carry expiry dates and can be returned. They have to be returned to the company from which they were bought in order for the company to receive credit on a re-shipment of good dated pharmaceuticals.

The second statement regarding: "whether his brand new car, \$56,000.00 or as he said it was, was driven from Ohio to Miami." The other two statements: "In 1988, after the General Election when he told me that he needed to be in Executive Council because he was broke."; and "How in the run of two years he got into Executive Council broke, as he told me in 1988, whether he can now own a condominium from a certain developer?"

Now, I will accept his withdrawal of questions and accept that they meet the terms of the motion which I would have moved save for his withdrawal. The resolve section reads:

"BE IT THEREFORE RESOLVED that this Honourable House require the First Elected Member for West Bay to produce satisfactory evidence of these allegations or to withdraw the statements and apologise."

I, therefore, accept if the Chair accepts, that the matter of the Breach of Privilege by the First Elected Member from West Bay in relation to these four statements have been satisfactorily resolved by the withdrawal speech. However, I would just like to indulge the Chair and state publicly that I intend to raise the matter of privilege allowed to Members in this honourable House under the Privilege Law, 1965, with the Constitutional Commissioners whenever they arrive, and try to find a way to introduce greater accountability to this parliament for statements by all Members, in particular those of a malicious or slanderous nature, whether made by fellow Members of Parliament or private citizens under that cloak of privilege.

Mr. President, I believe this matter is of grave concern to all Members and to members of the public. Thank you, Sir.

MR. PRESIDENT:It seems to me in regards to the substantive matter, that it has been satisfactorily disposed of by the withdrawal statement; that is closed. But I observe what the Honourable Member says regarding privileges. I

think the Privileges and Immunities Act, is the proper title. It is a matter of some concern. It does not relate to the present matter; it is a matter which has come up several times in the last few weeks and I am sure it is a matter which could suitably be brought up with the proposed Commissioner.

MR. W. McKEEVA BUSH: Mr. President, I can assure the Member that we, on this side, will cooperate with any such matter, bearing in mind that it will be within the context of political democracy along the Westminster model; and to remind the other side of the House that it was Members on this side of the House, who put forward the motion for a Code of Conduct.

I thank you, Sir.

MR. PRESIDENT: I think I recognise that quotation from a letter I wrote to a certain legal firm.

MR. W. McKEEVA BUSH: I was quoting directly from your words, Sir.

MR. PRESIDENT: I think we might take the break.
Proceedings are suspended for 15 minutes.

PROCEEDINGS WERE SUSPENDED AT 3:20 P.M.

PROCEEDINGS WERE RESUMED AT 3:46 P.M.

MR. PRESIDENT: Proceedings are resumed.
The House will now take the other remaining personal explanation matter. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, in accordance with our agreement, I make this explanation in reply to matters raised by the Honourable Member for Education at yesterday's sitting of the House. What I said about the Bank's document is correct. The Member showed it to me in 1988, it had Cayman National Bank's stamp on it. I do not know where he got it. I never used it.

The Member for Education referred to the transaction with the Honourable Financial Secretary, the Honourable Administrative Secretary, and the Third Elected Member for West Bay, stating that the market value of the property by the independent valuation was irrelevant and that Government's valuation should be accepted. It is important to note that yesterday, Executive Council recommended to Finance Committee (which unanimously approved) the purchase of land for a sum significantly higher than Government's valuation. There is no difference between yesterday's purchase and the purchase from the three Members he referred to.

The Member for Education said, that between the 19th of February 1987, and the 30th of September 1987, there were serious rifts between us. There was a rift off and on, but the rift was not so deep that we did not have the conversations which I spoke about. We did have the conversations.

Further, he did tell me about the call I would get and I got the call and saw the man at the law firm and the story is as I related it to the House; no Caballero brothers were mentioned; I never met anyone by that name; their names were not a part of the company. The Member for Education tried to say that I was inconsistent because I had said that I did not know of the name "Caballero", which he mentioned, nor anything about equipment which he also mentioned. He said that my inconsistency was brought out by the fact that I later said that I knew that they were doing some long term development. I clarified this with the *Caymanian Compass* and I clarified it in my speech on Monday the 23rd of July, 1990, that when I said "they were doing some kind of long term development", I meant the company, Dexco. To show that this sort of thing can happen in a speech, I referred to an article entitled, 'Mole Correction', published in the *Caymanian Compass* on Monday 23rd of July, 1990. I quote:

"The story in Friday's *Caymanian Compass*, 'Exco Member Seeks Mole', incorrectly quoted Mr. Benson Ebanks as saying that he received his copy of the draft Auditor General's Report from a Member of the Public Accounts Committee. This should have read, "from a Member". We regret the error."

This is a clear indication that the Member for Education did not clarify which Member he was referring to, although he clarified it afterwards. So, you see these things do happen.

The Member for Education would not read the present shareholders or directors names from the register and neither the previous names, which left doubt that the shareholders might have been these Caballero brothers whom he mentioned, when they are not the shareholders. The shareholders were, Mr. Garant and honest Caymanians like myself. He would not say that it is a fact that I resigned in February, 1988, as I said I had. He did this to create further doubt on the company and myself.

As for our association, if the *Hansard* is checked we will see that in November, 1987, I was very favourable of him; only two months from the September date he gave as a serious split, and just one month after my publicised meeting in the *Caymanian Compass* that he mentioned. So it is not inconceivable that we were on speaking terms even though we had a split. Also, to show that our split was off and on, the *Hansard* will show that in November 1986, we were bickering; they had insulted me often in that meeting, and in that same month I wrote a letter to Governor Lloyd and recommended the Member for Education for an honour. The note that he claimed he passed

to Daphne Orrett meant nothing. It holds no water because while we had quarrels, they were off and on. In fact, he was at my house on several occasions during the period, February to December, 1987. The Member for Education produced a letter marked Exhibit 13A, written to the previous Financial Secretary, Mr. Vassell Johnson from his brother Owen Graham Ebanks. He did this to substantiate what he said in his explanation. He said that it clearly shows that a 40 foot trailer was applied for.

The letter he produced...

HON. BENSON O. EBANKS:Mr. President, I did not say that. I said that a house-trailer was applied for. Check the copy of my statement on the table.

MR. PRESIDENT: I will have that checked. I do not have the copy with me.

HON. BENSON O. EBANKS:He is probably reading from the unedited copy, Sir. My copy which is with the Clerk says, a house trailer, corrected in ink and that is what I read.

MR. W. McKEEVA BUSH:Mr. President, I think it is important enough that I get what he said and read it. The copy that we have is...well we got it from the Clerk.

MR. PRESIDENT:I would like to just settle this point. I want to hear what the Member reads. Then I will get the Clerk's copy because he may find that he...it appears that while the Member was actually making the statement the Clerk tells me he did make some changes to the statement and these will not be in the typed version which any Member has. I will have the transcription from the tape in order to check this. So meanwhile will you go on with the statement, with your explanation.

MR. W. McKEEVA BUSH:Mr. President, I will re-read that then. The Member for Education produced a letter marked exhibit 13A.

MR. PRESIDENT:No, leave that paragraph until we get the transcript. Until I get the transcript of the piece that you are referring to. Would you leave that paragraph and go onto the next one? We will come back to that.

MR. W. McKEEVA BUSH: I will go to the next paragraph then, Mr. President.

I said that his children had gotten scholarships from Government when many less fortunate students who were qualified could not get a scholarship and it was because this was the way the Education system was run why he got booted out of the Assembly in 1976. It is significant to note that I did not say when his children got the scholarships. What I was showing was his mentality that while his children got scholarships from Government, there were many less fortunate ones who did not get any in the years 1972 to 1976. The years when he was in Executive Council and in charge of Education.

The confidential memorandum and the extracts from the Executive Council's Minutes were given to me by the Member for Education and I did use the confidential memorandum for purposes of my case in Court.

The Member for Education stated that he did not get his land release from the charge which secured my loan until 31st July, 1989. The loan was paid a long time before 1989 and he knew this. The Member did not make any payment on my loan. It was up to the bank, upon his request, to discharge the mortgage as apparently it did on 31st July, 1989, when the Registered Land Records show that a charge was put on the land for himself.

The bitter personal attacks were made on me and other Members of the Backbench when he opened his speech on the motion for the suspension of contracts with International Healthcare Corporation (IHC). Within minutes of the beginning of his speech he attacked me and other Backbench Members and threatened that he would be making the personal attacks, which he subsequently made. Prior to this, on many occasions he has personally attacked me and other Members of the Backbench. However, on this last occasion I felt that I had to respond in a similar way to the many attacks that he had made on me which had reached an extreme stage.

One lesson I have learned from this is that I must never [judge] a book by its cover and always demand a copy of all letters and documents and retain them. I trust that this is now the end of the bitter personal attacks, now that we have both stated our case and that the House and the country can get on with the business.

MR. PRESIDENT:I am just checking this point on the letter from Mr. Owen Graham Ebanks, if you will just wait for a minute.

I have identified the letter, and although it is not signed, I take it it is a file copy, it does refer to one mobile home trailer. The question is what was actually said when the Honourable Member spoke and until I have the transcript, I cannot determine that. So I think we should leave that alone for the moment. I have not disposed of it, I just have to leave it until I have this other piece of paper.

MR. W. McKEEVA BUSH: When will you get that, Mr. President?

MR. PRESIDENT: I have asked for it already.

MR. W. McKEEVA BUSH: Thank you very much.

MR. PRESIDENT:I have the news that the computers are down, so it may take a little time.
The Honourable the Member for Education.

HON. BENSON O. EBANKS: Thank you, Mr. President.
I do not intend to go into a lot of detail, because my statement was documented. I just wish to state that I still emphatically deny having...

MR. W. McKEEVA BUSH: Mr. President, ..

MR. PRESIDENT: Just hold a minute, I am going to deal with this matter, strictly in accordance with the book you have in your hand.

MR. W. McKEEVA BUSH: We made an agreement how this was to go, though.

MR. PRESIDENT: No, I ..sorry it has to be done according to the book. I said there would be no debate. I stand by that, but, *Erskine May* says, as you know, no debate should ensue, but if another Member is involved in the personal statement he is generally allowed to give his own view of the matter and to say whether he accepts it or not and that is as far as it may go and no further.

MR. W. McKEEVA BUSH: Mr. President, what are you reading from?

MR. PRESIDENT: The top of page 305 of the 21st Edition.

MR. W. McKEEVA BUSH: 300...

MR. PRESIDENT: ...and five, fifth or sixth line.

MR. W. McKEEVA BUSH:...305....Mr. President, would this not refer to the Member for Education who made the statement in the first instance?

MR. PRESIDENT: I think it must apply equally to any personal explanation.

MR. W. McKEEVA BUSH:It goes on further to say that the way this has gone was exactly as he made his statement. I, according to *Erskine May*, could come along and clear up any matter that I would not accept in his statement. That is what I have done. I cannot see the route from here on according to *Erskine May*.

MR. PRESIDENT:No, I am sorry. I think you are not taking the full meaning; there is a personal explanation given (that was the statement made by the Member for Education a day or two ago). You have made a personal statement and *Erskine May* refers to personal statements: Any person who is involved in such a personal statement may be allowed generally to give his own view of the matter and to say whether he accepts it or not. But no debate. In other words, it is a short statement of a point to be made. An example is what happened when the First Elected Member for Bodden Town made a point on the statement regarding a football club, I think; that is all that it amounts to. This is not a question of long statements back and forth.

MR. W. McKEEVA BUSH:Well, that means that I would have the same right, then.

MR. PRESIDENT:You will have the same right when he made his personal explanation the day before yesterday.

MR. W. McKEEVA BUSH: If the right...

MR. PRESIDENT:No, he is not making a personal explanation. He is simply making this short comment which *Erskine May* provides for - you have made the personal explanation - any Member who is involved in the personal statement (that is, your personal explanation) may make a short comment here provided

MR. W. McKEEVA BUSH:Well, I am not quite catching the line you are reading from. Sorry, Mr. President, I should have...

MR. PRESIDENT: Well let me give it to you again.
The top of page 305, the third sentence beginning, "such statements are made in the order indicated on page 274, before the commencement of public business"; that deals with where a personal explanation is placed in the Order Paper: "No debate should ensue thereon, but if another Member is involved in the personal statement, he is generally allowed to give his own view of the matter and to say whether he accepts it or not". That is what is happening at the moment and that is what happened yesterday with the First Elected Member from Bodden Town. This is not a statement of details saying, I disagree with this, I agree with the other, I have the following to say. It is a short statement only and if he goes beyond that, I shall stop him.

MR. W. McKEEVA BUSH:I understand. All I am questioning here, according to that, is that I then would have the same right.

MR. PRESIDENT:No, I am sorry. I have not made myself entirely clear. Please let me try again.

MR. W. McKEEVA BUSH: I am not going to have this back and forth with the Chair. I just said that I want to read from what I understand in *Erskine May* here. The Member for Education made a statement after he made his speech and I made my speech; he made a statement. Now, according to *Erskine May*, such statements are made in the order indicated on page 274, before the commencement of public business. No debate should ensue thereon. All right. That is what happened. But, if another Member....

MR. PRESIDENT: No, no, no, that is not what happened. There has not been any debate on a personal statement.

MR. W. McKEEVA BUSH: That is what I said; that is what happened. No debate took place.

MR. PRESIDENT: I see, yes, right.

MR. W. McKEEVA BUSH: But if another Member is involved in the personal statement he is generally allowed to give his own view of the matter and to say whether he accepts it or not. Now, he made his statement; I got up and made a statement which this said I could make. I cannot see where the rule would come in that he would follow with something else, because then I could be doing the same thing as well.

MR. PRESIDENT: No, I am sorry. There is two different things. There is making a comment on the personal explanation which you could have done had you wished, when he made his. Instead you chose to make a full personal explanation which you have now made. He can now make a short comment and I will keep it within the proper bounds, have no fear about that.

MR. W. McKEEVA BUSH: Well, Mr. President, ...

MR. PRESIDENT: This is not a question of going back and forward, back and forward.

MR. W. McKEEVA BUSH: Well, that is what I thought. And if we went that way, I am not going to challenge your ruling, Sir, but according to what is read here, that is what it would seem to me.

MR. PRESIDENT: You may make your short, and I hope it is short, statement.

HON. BENSON O. EBANKS: Yes, Sir, I have nothing prepared. I started by saying I do not intend to make any long story out of this. I stick by what I have said, but there are a few points I want to say that I do not accept. I refute all statements about bank's papers having any bank stamp on it. The private valuation was not at the public records office, so I had no way of knowing about it. My first knowledge was when the Third Elected Member produced it in his defense.

MR. PRESIDENT: I think I must interrupt you because we are getting into a detailed refutation. I think that the way to deal with this is for you to say that you, if I may suggest, I think the proper way would be for you to say that you stand by your statement on these matters as supported by your documents. I think that is the best and only way to deal with it.

HON. BENSON O. EBANKS: Well, Sir, if that will make the House happy, I stand by every word I said in my statement which was substantiated by documents and it is significant that the Member has not produced any documents to substantiate his statement.

MR. W. McKEEVA BUSH: No, Mr. President, that is not true. His documents are not fully substantiated as his brother's letter was not even signed, it was not even dated,...

MR. PRESIDENT: You have made that point already. I think we shall stop here. Both sides have stated what they have to say. I will deal with the question of the letter when I get the transcript, because that is an outstanding point. I will say what I said yesterday that this does indicate what happens when we let ourselves get beyond normal Parliamentary language and I do hope that we should not have any more of it.

We will go back now to the debate on the Private Member's Motion No.
The First Elected Member for West Bay.

**PRIVATE MEMBER'S MOTION NO. 17/90
AMENDMENT TO THE CONSTITUTION AND
PROVISION FOR REFERENDUM**

(Continuation of Debate)

MR. W. McKEEVA BUSH: Mr. President, I rise to debate briefly this resolution before the House. There has been much said on constitutional change and how we should get it, how it should not be got. For the sake of proper workings in Government, I believe that we need to look at certain areas in our Constitution. I said a long time ago in this House, that if we do not get it, we are going to continue to see retardation in Government. I speak in reference to the number of Executive Council Members and the amount of work that the country has to deal with. That is not a new thing with me, I have said that over and often in this House. Now the First Member for Cayman Brac has said that he was approached in 1989 to cooperate to change

Executive Council. He refused because Members of Executive Council were elected for four years. He said that he supported that position. The Member refused to cooperate when he could not be guaranteed a seat on a new Executive Council and that is the position. He seems to have forgotten that but that is a fact. We held the discussion with him and...

POINT OF ORDER

CAPT. MABRY S. KIRKCONNELL: Mr. President, on a Point of Order.

The Member is misinforming the House and I would like him to give documentary proof of that.

MR. W. McKEEVA BUSH: Mr. President, the Member knows that when we sat in the Common Room and discussed this matter there was nobody taking notes or anything that could be produced as a document. It was him and I talking and there could have been someone else, but I certainly know that we talked about the matter of Executive Council, the matter of removing the eight of them, rather than going to a General Election. He did say to me what would be his position as far as the new Executive Council was concerned. I said, I could not guarantee him a seat on a new Executive Council.

The First Elected Member for Cayman Brac and Little Cayman said, that this is a fundamental change. That is true. This change would come about when the proposed review takes place, if it does. It is as fundamental as changing Finance Committee. As the people's elected representatives for 775 years, it has been their right to vote funds. This Government has attempted to change this position. If that is not fundamental, then I do not know what is.

The United States' system has been used as an example. It is significant to note that this country chose to go the route of the United Kingdom and Colonies, since 1832 as far as the style of Government is concerned. We are a Crown Colony.

The Member for Education said that we are not a colony of the United States. Therein lies the crux of the matter. We are a United Kingdom colony and I believe that all of us in this House wish to remain a colony, even if we do make some changes. But, what is all this fuss and talk about independence? I do not believe that there is one Member in this honourable House who desires is to see this country go independent. All of us believe that there can be changes, although people like the Member for Education preached in the past that if we take a step from the present Constitution we would be going independent. That is a bunch of rubbish, and even he now is convinced that is not so because he has asked for a review.

In a review we know that we do not know what we would get had we asked for specifics we could understand what we were asking for and what perhaps we would get.

MR. PRESIDENT: I had not realised, you may think I am intervening, but this is the subject I think I had tried to address just at the close yesterday. But I do not for one moment imagine that there would be no question of the United Kingdom Government (which is responsible for the constitution in the ultimate word), forcing any change or recommended change upon the people of this country. No question at all.

MR. W. McKEEVA BUSH: I think you are right, Sir. I will probably agree, but when that reviewer comes here, from the United Kingdom or from the West Indies, he would make recommendations and as I understand it, Government intends to follow what was done in 1970 or 1971.

MR. PRESIDENT: Again it seems as if I am engaging in a debate, I am not. I think, as I understand those terms of reference, firstly, they do not say to make recommendations and secondly I think that as a matter of sound practical relationships, the United Kingdom Government would at least expect public consultation on any thoughts which may come out of that Report; public consultation and debate by this House, at the very least.

MR. W. McKEEVA BUSH: Mr. President, I realise that this is close to your heart as it is close to mine. I will say that I would hope that the consultation will be as far-reaching as possible, because I know that it was perhaps a dozen people in West Bay (if I remember correctly), who went to see Lord Oxford and Asquith, when he came here. What was generally pushed was what the order of the day as far as the Members of Executive Council were concerned. I ought to know because I was a supporter of the Government.

MR. PRESIDENT: Perhaps I might just reply.

The Terms of Reference say, the widest possible consultation. I think it is very much a matter for the Members of this House to ensure that their constituents on whichever side of the political fence they may happen to be, do make their views known. It is part of your duty to make sure your constituents do make their views known. For my part if this commission does come here, I shall make it very clear to him, them, she, or whomever it happens to be, that it is vital that they make every effort to get the widest possible public view.

I am sorry, I will try not to interrupt you again.

MR. W. McKEEVA BUSH: Mr. President, I wish to thank you for your assurance. The other assurance you have given is that no changes will be made until a General Election takes place.

MR. PRESIDENT: Significant changes and I say that deliberately. Significant, because as some Members have said, there may be no changes to speak of coming out of the review, in which case, you know...

MR. W. McKEEVA BUSH: Mr. President, let us not drag you into it, but let us say that the only purpose he could be

coming here for is to see that changes are made. Now I can understand that he will have a look at the situation and make recommendations. But we all know that there are going to be changes from all the things that have been said on both sides.

MR. PRESIDENT: Could I just say one thing? I used the words "significant changes" deliberately as I explained, because it has been said by some Members that there may be nothing much come out of it. Perhaps I could put it this way. If there are changes which this House regards as significant, in other words, it is the decision of this House, of the Assembly, whether or not the changes which might be proposed are significant enough to be held before a General Election or not. I do not suggest it is my judgement or the Secretary of State's; all of these things as we have tried to say, I have said in the Throne Speech, is a matter for the people of this country to decide.

MR. W. McKEEVA BUSH: Mr. President, just a question.
You are saying that he would make recommendations to the whole House?

MR. PRESIDENT: If any recommendations come out of it. I thought I had...

MR. W. McKEEVA BUSH: I was just seeking clarification, Sir.
The point that I would make is that we are talking about the whole House and that was what I was getting to just now, that the four Members of Executive Council with the three Official Members and the First Elected Member for Cayman Brac could make any change regardless of what the seven of us say.

MR. PRESIDENT: No, I would like your fears to be thoroughly put at rest. There is no questions at all that the proper procedure in anything like this is for the Assembly as a whole to consider it. As indeed on the previous occasion. There can be no suggestion that any changes can be made simply by reference to the Government or to the Government and one other Member or anything like that. It must be a matter for the Legislature and the people of the country. Does that not make it clear?

MR. W. McKEEVA BUSH: No, no, Sir, we are...this is a very important matter, a significant point and I would like to get it clear. After the reviewer has done his work, the House is going to sit down and look at the situation. When I say the House, I mean all Members of the House.

MR. PRESIDENT: I foresee this sort of procedure, but indeed the House itself may decide on a different form of procedure. I do not know. They may choose a Select Committee procedure. I want to make it quite clear, that any proposals for change will arise in two ways at least. They will arise from the House itself or they may arise from the comments made in a Constitutional Report which will be for the House to consider, together with any advice from the Secretary of State, perhaps. I can not forecast precisely. But the critical point about all this that it comes back to this House as a whole.

MR. W. McKEEVA BUSH: That is it. So the House will have the last say.

MR. PRESIDENT: I think that is probably correct to put it that way, but following what we have been talking about, the last say may be a General Election.

MR. W. McKEEVA BUSH: All right, Sir, but the point I was making that the House means the full House.

MR. PRESIDENT: I have never seen it to mean anything else, the House means to me the Legislative Assembly which is set out in the Constitution.

MR. W. McKEEVA BUSH: Yes, I am following you, Sir.
I still get back to the point that the House then means that the Government with their majority will be able to get what they want.

MR. PRESIDENT: No, I think again, I am sorry to keep interrupting you, but maybe it will be helpful. On the last occasion there was a report done following a Select Committee of the House which had two views, the Majority and the Minority Report on Constitutional change. They made specific recommendations; the Constitutional Commissioner came and made his report with some recommendations, that report was considered by the Assembly; the Assembly came to certain views on it, and these were sent to the Secretary of State and ultimately the Constitution was amended. We all know how that happened on that occasion. I would see the same situation happening this time, but if you are hypothecating that the Assembly might come to a view on proposals by an eight to seven majority, I think that the Secretary of State will take that very carefully into account and I suspect, and I am hypothecating, I am being very hypothetical, it seems to me that the answer to that would be that the whole matter would have to be the subject of a General Election before the outcome, the decisions were taken on the proposals. Now, that is all very hypothetical, I trust you will not hold me to it if it turns out differently.

MR. W. McKEEVA BUSH: That is what I know, Mr. President, like you were saying, that might not be the case.

MR. PRESIDENT: I cannot forecast what this House will decide or by what majorities or minorities, nor can I tell

you what the Secretary of State will do. I am trying to say to you what I think would be correct.
The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: May I just ask, Sir (because this is very important to me, the speech I made dealt mainly with these areas) as I had understood it, would it only be the elected Members of the House who would vote on constitutional changes. Therefore, it would not be the three Official Members voting on the constitutional changes, if any.

MR. PRESIDENT: I think that is probably so, but again I think that one has to know what the particular issues are. Now, I can see the anxiety of Members. I think we have to make it perfectly clear that the Secretary of State will understand these anxieties. That is one point.
The Second point is that, as I see it at the moment, it would be the Elected Members. I was replying to the First Elected Member for West Bay, because he seemed to be worrying that decisions would be made by only part of the House. That was the point I was replying to there.
I would like to consult with the Attorney-General before I go much further. But, I think it is a fair assumption that constitutional matters when it comes to a debate and a vote in the House on, let us say, some proposals resulting from a review, those matters are dealt with by the Elected Members only. I think that is a fair assumption. Does that answer your point?

MR. W. McKEEVA BUSH: Mr. President, sorry could I suggest that we take a short break so that we can get that fully clarified?

MR. PRESIDENT: I wonder if possibly you could finish your speech and then we will go back to these particular points rather than break it in the middle?

MR. W. McKEEVA BUSH: No, Mr. President, it is a very significant part of my speech and I would like to deal with it.

MR. PRESIDENT: All right, fine, proceedings are suspended for a few minutes.

PROCEEDINGS WERE SUSPENDED AT 4:26 P.M.

PROCEEDINGS RESUMED AT 4:49 P.M.

MR. PRESIDENT: Proceedings are resumed.

Now, I do know that Members are keen to finish by 6 o'clock, as I think several of us have engagements, apart from being slightly worn out on the 32nd day. So I am just going to try to say briefly and as clearly as I can, to clear up the two points which were just being discussed.

The first one is the actual Constitution of the House and that is laid down in the Constitution. It is composed of 15 Members and the Presiding Officer, that is 12 elected, three Official and the Presiding Officer. So whenever the House is in session, those people are entitled, and indeed they should be present. But there are certain matters that when they are discussed in the House, the three Official Members do not take part in debate and do not vote. In fact the motion we are now engaged upon is an example of that, the constitutional matter.

So for clarification, I would say that when the House comes to discuss or debate any Constitutional Report or any proposals or any matter arising from such a report on constitutional matters, the Official Members, although they are entitled to be present, would not take part in the debate and would not vote. With one exception, the Attorney General as our legal advisor the Presiding Officer might call on him to speak on legal aspects of the constitutional matter being discussed.

I would like to say one other thing, which I hope would be helpful. Any proposals, any constitutional proposals which would come before the House would only come here after a Constitutional Commissioner has done his work and carried out the widest possible consultation. I would have thought that the way to proceed once that Report is provided to all Members, made public, that there should be a period for the public to absorb and to digest that report before it is actually debated in the House.

In other words, the Report becomes public, Members go about their constituencies and sound the views of their constituents so they themselves can get a feeling on the public response before it is then debated in the House. Now, I merely throw this out as what seems to me a desirable way of tackling the Report. I hope that has made clear the two points.

The First Elected Member for West Bay, continuing.

MR. W. McKEEVA BUSH: Mr. President, I thank you for your assurance. As I said, we want to be absolutely clear what is going to be the procedure. It is a fact that trust has broken down, that is why the Government does not have the support that they did.

A good example of that trust was when two Members of Council agreed with us to vote on the Speaker's Motion. And, two did vote with us. But what happened was, they got on a public platform and said that that was what caused the split in Government, when we brought the Speaker Motion that Council would not support it.

What they said was that two Members of Council would not support it and two did. And those two who did not support it were the Member for Education (although he said he believed in it), and the Member for Tourism. But that is one point that shows us the distrust. The other time the distrust came about plainly was on the motorcycle issue. Two Members of Government, although they did not vote for it, supported it, yet they put in an article that

we, the Backbenchers, were irresponsible for allowing the Law to be changed when it was well known that two Members, the Member for Health and the Member for Communications and Works supported it and said they would support what we were doing, but they could not vote for it because of collective responsibility. So, that is why we have to get these things absolutely clear, in writing if necessary. We have just gone through a period where we heard accusations and counter-accusations and we heard that you cannot bring a simple document. Some people do not put things in writing, they make agreements and they say that is good enough, you can trust me. What happens is that they are waiting with a dagger to stab you in your back. So I am glad that, you, as Presiding Officer, has explained the whole situation that will help this whole mid-summer madness that we have been going through.

To get back to the United Kingdom Government and the system that these Islands follow. We follow the United Kingdom Government, we have been following them since 1832, and the system of the United Kingdom is that Government is run by a majority. The House of Commons does not work any other way; to remove a Government it is by a majority. It could be 50 majority, or it could be one, but it is just like an election. If you win one vote above the next man, you have been elected. So while we might not have had this system here through some situations that were created back in the 1960's, I am glad that we can look at it and hopefully we will come to a conclusion that is favourable to the country. We have said here that it is the country to decide, not the seven Backbenchers, and in the end it is what is good for they country and what the country wants. Not by the Government in here with one vote as a majority.

To get to that matter, as far as the referendum is concerned, I have said in the past that I will support a referendum when we get a situation that we are asking for something specific. That was on the basis that I rejected the motion as put forward by the Third Member for George Town when he introduced the motion some time back. I said that if he were putting it for a specific purpose, or if he had a specific purpose we could bring a law and I would support it.

There are countries and the United Kingdom is one of them, that have referendums. What is a referendum? A referendum is the same as a General Election. Whether you have 10 votes or whether you have 1,000, it is a majority. Nobody knows when an election is called who is going to win or how many votes a person is going to get. So what is all this talk about a referendum being so bad? It is the same as a General Election. We would put down a specific question and the people would say "yes" or "no". Surely, the people must have the last say. And if you take somebody in, in a General Election and they cannot read or write the requirements are there for that person to say who he or she wants to vote for. In a referendum that person would say what he or she wants to do. So what is all this cloud kicked up, this dust to cloud the whole situation?

The Member for Education talked about the situation that was existing between the three Members (that they lost as their Backbench support), and the four of them. What that Member should have said was that they were supposed to meet with us. As he said, we only did this for about three or four weeks and why we did not meet was because one Member was frequently absent and that did not only happen to us, but it happened as they said it happened to the three of them on their usual Monday morning meetings. They could not get themselves together. So why are they trying to make the world believe that we are the worst people in the world when that was the situation?

We met for three or four weeks and then it kept getting worse, we would go there and some Members were there and some were not. It finally broke down. And as the Member for Education said, they were not frank with information. So we did not know where we were. The trouble is that some things that were told over a period should not have been told, but things which should have been disclosed, were not. Therein too, lay the crux of the matter.

The other point is that the Member for Education said that the Finance Committee situation was clouded. I believe that our people, the people of this country, understood at the beginning the whole situation of what the Government intended and they were against it. I believe that the people still understand and that they still are against that move. I would hope that if there is going to be a review of such a nature that His Excellency the Governor will not sign that motion into Law.

Mr. President, I state again, that there is no move for independence by anyone in this House. There is no move for independence for anyone in this House. It is wrong to our future generations for Members to stand in this House, to make people believe that we have people who are pushing for that. That is not so.

One Member said that he thought that we were making the people believe that the motion is harmless. I do not believe anything done here the last couple of weeks is harmless. I think all of it has hurt this country terribly and will have severe effects on our country in the future. I would hope that all this is going to stop, that we can come back to normalcy, that you would not hear accusations so there would have to be counter-accusations so that we can get back to running the country the way our people want us to run it. Stop trying to make the country believe that the Backbenchers are the worse people, that they are crooks, that they are all sorts of things.

I think two Members have said so far, "the pot must stop calling the kettle black". Let us get back to normalcy and if we are to defeat one another we are to defeat one another on the merits of what we have done. Not by slanderous statements and degrading one another. I believe that the motion before the House has been put, it is proper and we would stand in good stead to accept it. I support it.

Thank you.

MR. PRESIDENT: Does any other Member wish to speak? It appears not, would the mover wish to reply?

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I realise it is getting on in the evening and we have been holding our meeting until 6 o'clock in order to finish my comments by that time, but I will not try to rush through the replies which I feel are necessary to be made on this particular motion.

If I do not finish by 6 o'clock, I hope that the House would not be adverse to giving me a few minutes more, because I will try to complete this evening.

MR. PRESIDENT:You may be facing rather an empty House, if you do not finish by 6 o'clock.

[Members' laughter]

MR. GILBERT A. McLEAN:Mr. President, in May of last year when I had the privilege of sitting in the Gallery of the House of Commons during Prime Minister Question Time on a question posed by the opposition leader, The Right Hon. Neil G. Kinnock, The Rt. Hon. Margaret Thatcher replied with a quote from a play by Shakespeare, King Richard III, and it was: "Now is the winter of our discontent/Made glorious summer by this sun of York." I am hoping that this summer of ours will be a time of contentment and will not persist as it presently does in discontent.

I am glad to see that the Members of Government took opportunity to speak at length on the motion which I brought to this House asking for a specific amendment to the constitution, even though they did not do so to any extent when they brought their own motion which calls for a review of the constitution.

A lot of points came out during the debate, points which I believe expressed their position more clearly, that is unclear up until today and certainly the President has been able to clarify certain points which I think were causing concerns and anxiety to Members here, particularly Members of the Backbench.

In the debate of the Member responsible for Health, he said that it was suggested that Government should have put Motion 6/90 to the public. I say to that, yes, it should have been put to the public and I think that one of the best ways of so doing is through a referendum.

As has been pointed out by my good friend, the First Elected Member for West Bay, a referendum follows along a very similar pattern as does an election. The results are as unpredictable as they are in an election. Everyone takes a chance, but at least we know what is the will of the people as expressed through a vote.

The Member noted that Government has a majority where it commands eight, and that eight is a majority of 15. I agree, but what is very significant is that as our constitution or as our convention now allows Finance to be constituted, indeed the situation changes in Finance Committee and thus the Government there, comprised only of Elected Members do not have the constant majority which it should have in being in control there of the Finances.

That is a very crucial point. It is well known by the Elected Members of Government, it is well known by Backbenchers, and it is well known and understood by the public. That is a very critical condition which has precipitated the present political conditions in this country. Let there be whatever excuse or reason that the Government might have for saying why it does not, the Government, that is the Elected Members very well understands they do not and thus is the need to coop the votes by collective responsibility of the Official Members.

He asked where a mandate comes from for this motion which has been moved by myself and the Third Elected Member for West Bay. I say that it is within the Standing Orders of this House to move this motion and it has to be emphasised that it is clear and it is set down in that motion that we are asking for no change unless it is approved by Members of the public.

It is no question about veiling the change to the constitution by a referendum. How could that be veiling it? If there is anything at all that is exposing it, it would have to be that. Exposing ourselves to the chance, for example, of it being rejected which would hardly be a result that would look very favourably upon ourselves. The public does understand that they have the right to give the mandate and they moreover are prepared, I believe, to respond if requested.

He wondered what question would be asked in the referendum. Well, to my mind the same question that has been put forward in the motion. Would you agree that a majority of Elected Members of the Legislature could remove the Elected Members of Executive Council or do you agree that it should remain that two-thirds do so? In other words, can a simple majority of seven remove Executive Council or do you need eight? That seems very straight-forward to me indeed.

He commented on the points I raised, from a letter by Mr. Orman Panton and he went on to say that he thought that that particular letter advocated independence. Now, everyone is entitled to their opinion and I believe that that is very essential in any democratic society. I support that position always. I would say that there is one thing about Mr. Orman Panton, that over a few decades he has been a most out-spoken politician and any views he has on the constitution have been made clear, time and time again.

The section of his letter which I quoted was specific to the point he made; that while he agreed Government is constituted of 15 Members and eight is a majority in this House on a vote, morally and otherwise, seven has to be a majority out of the 12 elected. I made no other point on that and certainly the Member may imply whatever was his interpretations that was said in that letter.

I refute his statement, however, that no decisions of Executive Council since 1988 have been accepted by the Backbenchers. If that were true then the many laws and motions that have been passed in this country could not have been passed unanimously and the records will show that this was done on many, many occasions.

There is no question that there are differences of opinion between the Backbenchers and the Government. I think there is cause why and certainly I do not make excuses for that, but I think that statement needs to be refuted.

I do not believe nor accept the position about Backbenchers being renegade or irresponsible as has been suggested and certainly, I would declare that I am prepared to stand as firmly as any Member of Government to stand against any action which they may choose to take to rid the country of renegade Backbenchers by the introduction of 11 good men.

I do not agree that to have a simple majority who, just like they can vote the Members, the Elected Members of

Executive Council onto the Council, that there should not be the same authority given for that majority to remove them.

The First Elected Member from West Bay a few minutes ago, referred to the fact that the Westminster system is not built or set up as it is in the Congress of the United States and some other countries where you need a two-thirds majority to remove a Government, it takes a majority. And, it is that fine line or that understanding that a majority can do so that keeps a Government in check; that makes the Government understand you are functioning with the approval of the majority on the other side and that majority can remove you. It only took the majority to put you there, and it takes the majority to remove you, if that is the consensus of opinion. That does not make for instability as it has been suggested here. It is clearly balanced. Seven on, seven off.

Much has been said about stability. It has become a political by-word and all you hear about now is stability. You are affecting stability, but stability does not seem to be affected if you go along with the show that the Government Bench wants you to go along with. The country is stable as long as we do what they would have us do. Now, that might be, but it seems that stability has a lot of meaning in this country at this time. I submit that stability in the democratic process in the Westminster system as best I understand (and I do my best to understand it in its finer areas) is that it is maintained where a Government does not adopt an attitude that we have it all, we know it all, we are in control and you the majority does not really matter.

I would like to refer to the remarks by the First Elected Member for Cayman Brac. He too spoke about this question of stability and the fundamental change to the constitution which is being suggested by this particular motion. I want to point out that the change that is being requested here can have no more destabilizing effect, and in fact, none whatsoever because it is contingent on whether the people would have it or not, than what was done when this Government, for which he gave it his vote and made it pass, passed Motion 6/90 in this House.

I feel it is very important for me to speak a bit personally, perhaps, on some of the comments of the First Elected Member for Cayman Brac, because over the months that I have been elected going now into the second year, there have been various little swipes, jibes and innuendoes from him in my direction.

I think it is important for him not to attempt, as was done by him in some meetings during the Election in 1988, that I am some monster who has been saying for all of my life time that I would take my country into a realm away from its present connection with the United Kingdom Government; that I would advocate some independent state and all the rest of it. Far be it from me. I am a stable person, an intelligent person, a caring person and a worried person about the state of affairs of this country as that Member and I always will be. I did not recommend any changes to the Constitution without referring this matter to the public as he suggested; or that the Backbenchers did, because when we brought the motion here which is asking that the Constitution be amended and have entrenched in it the Finance Committee as it presently exists; that too was based on acceptance by the public through a referendum. Lord Oxford and Asquith, said that it should become a three-quarter majority.

I think if that were the case and it was not accepted, it would be the case that the Members of Executive Council would have to be some of the people to vote whether people on Executive Council would be removed or not. That is extreme. It would appear to me that four persons to be elected to the Council, a minority or a majority could do it but it would take three-quarters to remove them and in that same recommendation the administrator could remove them at this discretion. I find something wrong with that. That strays away from the principle and balance that is provided under the system of Government to which we subscribe or at least we are supposed to.

I do not know about the Member having the opportunity of removing persons from the Executive Council in September 1989, but he did not do so because he thought the Executive Council Members are appointed and should serve four years. Nothing goes on forever, and in a democratic system if a Government is not behaving in a manner that is consistent with the wishes of a majority, then that majority can and should remove it; that is the democratic practice. I do not see simply because an Executive Council is elected that it has to remain in place for four years. I cannot and do not subscribe to that situation. If there is need for a change, then a change should come about. This country or any country handles that in its stride. It happens in lots of countries of the world. Certainly, many in the Caribbean, in England and otherwise.

I want to state also, that the Member may feel he is targeted by petitions or whatever the case may be, because he consistently votes with the Government or provides the Government with the 8th vote that it needs. He chooses his position and he can live with it. He must know why I choose my position and I know why. But I should not be blamed nor should the electorates of the district, if they do not share his view. He follows his view or his wish and he deals with the situation and whatever the consequences. I take no part in that.

On the matter of a petition, I did forward a petition to his Excellency the Governor as I was requested to do, with a covering letter and I have done nothing further in that respect. The Member made his decision and that is his decision. I did what I was requested to do. And, whether this petition was to eliminate him as the 8th vote, so that the change which is being requested here in this motion could come about, that again is his opinion. Because, if that vote was removed then no doubt someone else would replace that particular position.

PERSONAL EXPLANATION

CAPT. MABRY S. KIRKCONNELL:Mr. President, I wonder if the Member would give way? I would like to make an explanation.

He said, that the amendment to the constitution in relation to Finance Committee referred to a referendum, I wonder if he would read that to the Honourable House? It does not say refer for referendum.

MR. GILBERT A. McLEAN:Mr. President, I maintain that if the Member has a point to make, as he has attempted to make, then he can feel free to do so.

MR. PRESIDENT:I think he is inviting you to read the part of the letter to which you are raising as a Point of Order.

If you wish to, you should. No, we cannot have a consultation about it, the Member who raised the Point of Order may wish to read the passage he is referring to.

CAPT. MABRY S. KIRKCONNELL:Mr. President, what the Member speaking said, I referred to a motion which was presented to this honourable House without notice and that it referred to a referendum, would be approved by a referendum to the people. The text of the motion which I have in my hand does not say anything. The resolve section plainly says:

(1) Through the Governor of the Cayman Islands, the Secretary of State for Foreign and Commonwealth Affairs be advised forthwith that the Legislative Assembly of the Cayman Islands requests Her Majesty's Privy Council to exercise the powers conferred pursuant to section 5 and 7 of West Indies Act 1962, by Order in Council to amend the 1972 Constitution by adding immediately after section 43, the following new section.

Finance Committee 43(a)

- (a) There shall be a Standing Select Committee of the Assembly to be styled the Finance Committee for the consideration of estimates and expenditures, financial bills and other business referred to it by the House or by the Governor.
- (2) The Finance Committee shall consist of all Elected Members of the Assembly with the Chairman being the Financial Secretary who shall have a casting vote only.
- (3) The quorum of Finance Committee shall be seven Members including the Chairman.
- (4) The motion or the decision of the Finance Committee on any matter which is properly before it shall be reported to the Assembly and the Assembly shall thereupon be deemed to have agreed to the motion or decision. And that this amendment be brought into effect at the earliest possible date. That this House requests that until this honourable House meets after the said amendment is brought into effect, the Governor not exercise his power in accordance with section 31(1) of the 1972 Constitution to approve the amendment to Standing Orders as proposed by Government Motion 6/90."

Thank you, Mr. President.

MR. GILBERT A. McLEAN:Mr. President, I guess the Members know that we moved a motion here to try to have the question of this change to Finance Committee put to a referendum and that was blown down; whose vote did it, and the fact that the motion was brought requesting a change?

MR. PRESIDENT: No, I do not think that was quite the point he was raising. As I understand it, he thought you had referred to a particular motion or draft motion and said that included a referendum. He has simply pointed out that the document he thinks you referred to, does not refer to that. If you want to go on from there, do.

MR. GILBERT A. McLEAN:Mr. President, the only point that I wish to make is that a referendum was not allowed here and that following that, this motion was brought and that motion reads as he has read it asking that the Finance Committee, as it presently exists, be entrenched into the Constitution. He keeps saying without a referendum, yes, Mr. President, on that particular thing, without a referendum. But again, I want to add to that, that would not be changing one thing with Finance Committee, it would simply be insuring and protecting it as it presently exists. The motion before that for a referendum was defeated by him voting with the Government.

MR. PRESIDENT:Yes, we are still not quite to the point I think he has made his point on the particular issue.

MR. GILBERT A. McLEAN:Mr. President, I would like to move on and say until this moment in time, I have done nothing in this House or this country which, in my opinion, affects the stability of this country. In fact, I have done my best to maintain it since the 11th of June including attempting to have Finance Committee entrenched in the constitution.

Italy perhaps changes governments every week, or even before their parliament has been constructed, but I have not heard that Italy has become a Communist nation because of that. I think they still maintain their position as a very highly industrialised country, it exports around the world and all the rest of it. Therefore, I would not go into shock if there should be an election or a referendum. I and everyone else will take their chances if and when such a thing happens.

The Member for Tourism said that the motion before the House would be funny if it was not so serious. Well, the motion that is before the House is serious and it is asking for something specifically to be done. That is not the way the Government has placed itself when they moved the motion asking for a constitutional review.

It is quite harmless, contrary to what the Member has said, in that it is simply changing the number required to vote people into Executive Council and to vote them off. A simple majority of the people, elected by the people who would have the control in majority of what happened on the Government Executive.

I know of no lofty ideas of Backbenchers who wish to do anything personal to the present Members of the Executive Council. Our position has been stated time and time again, that we believe and we know they do not

have a constant majority anymore of the Elected Members and therefore they are in a minority position and therefore certain actions should be taken. It is not just rhetoric when we talk about the Westminster system and democracy in this House or in this country on political platforms and otherwise. This country is a growing country economically and certainly politically. And, the more we talk about it, the more we delve into the fundamentals of what parliamentary democracy is all about under the British system, as we so subscribe to it, the more we will know and, I trust, the better informed we will become. Right down to the point that some of the scandal that I have heard in this House would not occur because Members would be constrained by understanding that this whole process requires a certain attitude and forbids certain things.

Yes, this question as well.

So, I do not find debate in this House simply being rhetoric. I believe it is good and I believe that one thing that has come out of this session is the fact that the constitution has been looked at so acutely like never before, that all of us, I hope, are better informed about the constitution under which we operate and will see more clearly and make sensible suggestions to the country and the people by understanding it better than we did when we came here on the 11th of June.

I do not know how much any change of Government would want to remove the Members of Executive Council, but what is certainly sure if the constitution in that particular area was amended as this motion asks for anyone, not just the four Members over there, any Members after them would be subjected to the very same condition. The very same position.

So it is not a question of renegade Backbenchers wanting to "do unto them "because if a change came about anyone on this side (and if it was any of the renegade Backbenchers on the other side), would be faced with the very same situation. That is why the constitution is an important thing. Certainly, I think just about all of the Backbenchers in this House at this time were elected mostly as independents, that was certainly my stand. There were others in the race in 1988, who I certainly hoped to win and where I could offer a word of persuasion, I did. But, I campaigned on no-ones platform. So that is how I was elected and the fact that I have grouped together with men, elected representatives in this House of similar mind and attitude and belief, I have no excuses whatsoever to make in that particular respect. I think grouping together like we presently have, working together collectively, as we presently do is doing a lot of good for this country. I think the Government could somehow site our example.

The Member for Tourism spoke about a censor motion and indeed there was one which was put to the President and it ended up that it has not been brought, or at least it was a motion of no confidence. Notice was given, but for one reason or another, including the fact that it was the belief of the Backbenchers, we had no fight with the three Official Members of this House. Any quarrels we have are with the Elected Members of this House, we did not choose to put that motion forward after it had gone back and forth between the President and the mover once or twice.

I think it is true to say that as Backbenchers, certainly I speak for myself, I have a very high regard for the three Official Members of this House whom I have known in a different capacity. And I quite understand what their role is, what their function is, both as civil servants and as Members in this House. So I have no personal beef with them.

It is my opinion that their role functions in tandem with what ever is the political wish of the day as expressed through the Elected Members on the Government Executive. If it is not that way, well it is something new to me.

I think it is good that I clear up that point and make it clear that we had no wish or desire whatsoever to have the Official Members into any fray between ourselves. I do not think that removal of duly Elected Members from the Executive Council (if such is chosen to be done and is the wish and desire of a majority of this House), is going to have the terrible instability and I do not think for one minute if such was done, that there is recklessness in that. Because if a House cannot function as it should agreeably, in a majority, then there must be a remedy for it. Whether or not that remedy is taken or it is blocked because of the present constitution of the House or the voting pattern, it does not take from it the fact that majority should rule and the majority should have the last word.

Other motions were moved, it was noted by the Member and certainly again those motions were put down by the Government. I do not agree that Motion 9/90, when it was brought made it absolutely clear as the Member for Tourism said that there would be the widest opportunity for members of the public to have a part in it.

The President, has indicated that this would be his view in the methodology or procedure that would follow, I certainly subscribe to that, I welcome those views, but it is essential that this country has an opportunity as wide as possible to that participate in it. I certainly do not agree that the easiest way or the best methodology is by having someone who will make themselves available to the public, believing that the public will go in the numbers and sufficient to talk to him as the Members themselves in public meetings and otherwise, or through a referendum which would show by the number of votes, the position. So, I disagree with the Member when he says that to have a referendum, and he stated quite clearly that he is against a referendum in this particular matter, and it seems apparent that he does not subscribe to them generally.

I, too wish to make my position very clear on the issue of independence. This scare word that is tossed up ever so often by the Government and by dozens of politicians over the years which has been used systematically to intimidate the people into subjection; for interest groups to intimidate the population who do not understand that is a major step that we simply could not flop into it as been suggested. Unless the Government knows something that I or the rest of us here do not know.

The Member says that he made a statement to the effect that he believes that there is place for constitutional advancement to ministerial positions in this country. I do not have any great disagreement with him there because if we are to progress, and I believe even the First Elected Member for Cayman Brac has made the point that he thinks there should be a Constitutional review and possible change, although he has systematically said otherwise over the years during the last election, then I think there is room for us all to have views which can change.

The Member for Education, in predictable fashion, has said that the resolve section is requesting changes to create a Referendum Law should be passed and that the public would not have an opportunity to be consulted. Well, I think he is contradicting himself because if you have a Referendum Law, this specific law would ask that the people be involved. The people would have the right to agree or disagree, so, I fail to see the point which he was making. He did not seem to understand an earlier motion and I think that perhaps he does not understand this one either.

This motion is for the public to be involved, not, as I say was done with Motion 6/90. The involvement was real slim except what the Backbenchers took to the public and the public understands very well. They are not confused as the Member for Education seems to think they are. A referendum - I do not believe would give the Caymanian people any convoluted impression about what is being asked for. The people do understand. They are not ignorant as he might choose to believe they are.

Motion 6/90 was not clouded. I do not think in a long time that a motion has had the airing that that one has had, mainly from the Members of the Backbench and never have the people been so keenly involved and understood its implications. What they have said about it, what they feel about it to me is very, very clear and I trust it is clear to the Government who should not believe that that question has been put to rest or that there is a loss of interest in that particular exercise. I will not comment on the mathematics of the Member for Education because as he noted figures can be made to say anything and it goes back to what my friend, the First Elected Member for Bodden Town said, when this session first began.

I think it was an 'Alice in Wonderland' story he spoke about, that things meant what she wanted them to mean. So the figures which he put forward here, meant what he wanted them to mean. But if one was to take the point he made even slightly, it still shows that the Backbenchers have more electoral support than do the four Elected Members of the Government with the addition of the First Elected Member for Cayman Brac.

I think that the situation is quite clear to the Elected Members of the Executive Council, that they are in a position without the support that they once had. This fact is made by the Member for Education. I do not see this motion depriving the Government of that solid Member which they have. I would point out to him that this is not the Congress of the United States and we do not have a situation of impeachment of a President here and all the rest of it.

I think it would have been wise as the Member has said, that the public or the former Backbench supporters of the Government supposedly wanted to be cuddled to keep the majority. I think they ought to know what cuddling is about at this point in time and had it been applied earlier, the situation might be much different. I know nothing about a palace revolution which was planned in February of 1989, but if there was one, I am sure the words of the First Elected Member for West Bay would have cleared the air on any such issue.

The Member for Education said that the First Elected Member for Cayman Brac said that "the rest of the Backbenchers do not know who are Backbenchers or ordinary Members and who are the Executive Council Members". There are at least seven people who are not confused.

MR. PRESIDENT: Unless you are going to finish in literally a minute or two, we shall have to move the suspension of the agreement to go to 6 o'clock.

MR. GILBERT A. McLEAN: Mr. President, I think I will finish in a few minutes.

MR. PRESIDENT: I am sure we are all greatly relieved.

MR. GILBERT A. McLEAN: The Member for Education tends to be funny in his way and I guess he was suggesting that people would vote by proxy, if a referendum was called when he said that friends of friends who could not be present would vote for them. He just simply does not understand what a referendum is about. Because if he did he would understand clearly that the nearest it could get to that would be through an absentee ballot as it is in an election.

On the question of appointing a Commissioner to look into the Constitution of the Cayman Islands. I would think it would be a very good thing indeed if someone could be found (if it is going to be a group effort someone within the Caribbean) who is an expert in Constitutional Law and certainly, I do not know the gentleman whom he referred to, but not because a person was born in a particular Island in the Caribbean does it necessarily mean that he is a West Indian in the true sense of that word. So, I imagine he would know who he is speaking about, but I do think it would be good indeed if we could find someone here or recommend someone from within the Caribbean to undertake this study or be part of that Commission.

On the question of who a person is, I think our present Governor was born in Barbados, but I do not really know what is his nationality.

MR. PRESIDENT: I was brought up in Barbados, sorry. I do not qualify as a West Indian on your definition.

MR. GILBERT A. McLEAN: Mr. President, I do not think that the Commissioner as has been suggested by Government as being the answer to our whole constitutional position. I do not think really that it can be the whole answer; no question about it. I believe that it is necessary for the Government to poll the people, one way or another, be it through public meetings or otherwise and this particular motion asks specifically for this House to take a certain action to amend a certain part of the constitution. This is specific and it hinges on the will of the people. If the will of the people is such that it should not be, then the people can reject it.

Mr. President, I recommend this motion to the House and to Members.

MR. PRESIDENT: The question will now be put on Private Members Motion No. 17/90.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: It appears that the Ayes have it, but I would like a division taken, please Clerk?, bearing in mind that the three Official Members are not voting.

DIVISION NO. 34/90

AYES: 7

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

ABSTENTIONS: 6

Hon. Thomas C. Jefferson
Hon. Richard W. Ground
Hon. James M. Ryan
Hon. W. Norman Bodden
Hon. D. Ezzard Miller
Capt. Mabry Kirkconnell

ABSENT:

Hon. Benson O. Ebanks
Hon. Linford A. Pierson

MR. PRESIDENT: The result of the Division is seven Ayes and six Abstentions.
The Motion is carried accordingly.

AGREED: PRIVATE MEMBER'S MOTION NO. 17/90 PASSED BY MAJORITY.

MR. PRESIDENT: There is one item of incomplete business. I still do not have the transcript on a particular point, so I propose to deal with this in writing once I have it and I will inform all Members of the House on the point, in writing.

MR. GILBERT A. McLEAN: Mr. President, the motion passed asks that this House meet for a short bill to make a law, a provision for a voters referendum on the matter of the 1972 Constitution proposed herein; that I imagine mean that we would be coming back here tomorrow, but I have a statement which I would like to make if you permit me, because it is based on the fact that the Government has indicated that it will not support a Referendum Law. If we went and drafted such a law when it came back to the House it would be defeated and thus it would be quite futile to do so. I would make a statement to that effect if you would allow it, Mr. President.

MR. PRESIDENT: By all means, please do.

MR. GILBERT A. McLEAN: The motion has been passed by this honourable House for a special referendum to get the public's opinion on the single point of reducing eight Members to seven Members for the removal of Executive Council Members. The Executive Council Members have stated that they will vote against a referendum law and the Governor has ruled that the Official Members will vote on the referendum law. It will therefore not be passed and to draft and introduce the bill is thus futile. We, the seven Backbenchers, will now await the reply from the Foreign and Commonwealth Office as to whether they will bring in a referendum. After our motion was tabled, the Government tabled and passed a Government motion for General Constitutional Review, our only other alternative will be to raise these matters at the constitutional review which we will do.

PRESIDENT'S STATEMENT

MR. PRESIDENT:

Thank you.

I think that is very clear. Perhaps I might add, even if it had come to a bill been presented in the terms of the Royal Instructions before assenting to any such bill, as Governor, I would have been bound to refer it to the Foreign and Commonwealth Office, to the Secretary of State. It is section 8(i) which provides that the Governor shall not assent to any bill without previously obtaining instructions through a Secretary of State (and then it lists the types of bills), and it says, "any bill of an extraordinary nature and importance, whereby our prerogative (that is the Queen's prerogative), may be adversely affected". I am shortening the statement, and under that I have no doubt that a bill to have a referendum is a significant and important matter and I would have, as Governor, had to refer it to the Secretary of State.

In so doing, I would have been bound to point out the matter of the Constitutional Review to which you have referred and I would have made that very point that I would consider a referendum a matter of importance, suitable to be raised in the context of a constitutional review. In that I am in agreement.

I think that covers that point. I am never very sure that we have not missed something out.

The Honourable First Official Member.

ADJOURNMENT

**MONDAY
3RD SEPTEMBER, 1990
PRAYER**

MR. PRESIDENT:

Prayers.
The First Elected Member for West Bay.

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.

ANNOUNCEMENTS BY THE PRESIDING OFFICER

MR. PRESIDENT:

Proceedings of the Legislative Assembly are resumed.

Before we proceed with today's Order Paper, I am sure Members would like me to record the presence in the gallery of the Honourable Harold Rowlands, CBE, from the Falkland Islands, an Official Member for many years of their Assembly and now an Elected Member. We are pleased to have you with us.

QUESTIONS TO HONOURABLE MEMBERS

MR. PRESIDENT:

The First Elected Member for Bodden Town, Question No. 108.

MR. ROY BODDEN:

This question is addressed to the Honourable Third Official Member with responsibility for Internal and External Affairs.

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

NO. 108:

Would the Honourable Member say what are the regulations governing a Police Officer entering a "restricted area" in the execution of his/her duties at Owen Roberts Airport?

ANSWER:

Police acting in the execution of their duty have the right to do so anywhere on the Islands. In emergency situations this right would be exercised within the restricted area of an airport. Such situations would include bomb threats or terrorism.

On routine duties such as drugs' interdiction, Police Officers are instructed to identify themselves to the Senior Customs Officer on duty and inform him in general terms the reason for their presence.

MR. PRESIDENT:

There appear to be no supplementaries.

Town.

Next question please, the First Elected Member for Bodden

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 109: Can the Honourable Member say if the bill for the radio spot jingle: "Health For All Caymanians - All Caymanians For Health", has been paid?

ANSWER: Yes, the bill for the radio spots for the jingle: "Health For All Caymanians - All Caymanians For Health", has been paid.

SUPPLEMENTARIES:

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Mr. President. Can the Honourable Member say what date the bill was paid?

HON. D. EZZARD MILLER: Mr. President, I do not have the records here for the specific date, I could supply it in writing.

MR. ROY BODDEN: Mr. President, I would like to have the record with the date, as that is of great significance to me, so I appreciate the Member undertaking to provide it.

MR. PRESIDENT: You must not make a statement but the Member has undertaken to provide the information in writing.

Next question, the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 110: Would the Honourable Member say if the Portfolio has changed its plan to set up a Substance Abuse Counselling Centre in the Bodden Town area?

ANSWER: No, the Portfolio has not changed its plan to establish a drop-in centre, which would include substance abuse counselling, in the Bodden Town area. However, following a review of the services presently offered by the Cayman Counselling Centre, a decision has been made to give priority to the establishment of a Half-Way House facility which will provide residential aftercare for those individuals who have been through primary treatment.

Provision for this service will appear in the annual estimates. No decision has been made on the possible location of the Half-Way House, pending approval of the 1991 Budget, although investigation of suitable rented accommodation has commenced.

SUPPLEMENTARIES:

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Is the Honourable Member in a position at this time to say if further consideration would be given to finding suitable available land in the Bodden Town constituency?

HON. D. EZZARD MILLER: Yes, Mr. President.
When the 'drop-in' centre programme is finalised, we will be looking around for a property but, at this time, it is the decision of the Government to rent rather than purchase.

MR. PRESIDENT: There seem to be no more supplementaries. The next question please, the Second Elected Member for Bodden Town.

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

NO. 111: Would the Honourable Member say:

- (a) what is the expected date of arrival of the Constitutional Commissioner; and
- (b) will the Government give the timetable for the review and projected date of completion?

ANSWER: The Secretary of State has not yet replied to the request forwarded to him by the Governor following the passage of the Motion in the Legislative Assembly.

It is, therefore, not possible to give any information on the second part of the question, but assuming that the Secretary of State replies in the affirmative, and the Commission is constituted, Members should be assured that ample time will be given at every stage of the review for all concerned to make such representations as they may wish.

SUPPLEMENTARIES:

MR. PRESIDENT: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Mr. President, may I ask the Member if he can let us know how long it will take to find the Constitutional Commissioner after the Secretary of State has approved, if he does approve, the review?

MR. PRESIDENT: I think that is a hypothetical question.

MR. TRUMAN M. BODDEN: Mr. President, would the Member say what steps he would have to go through in getting this appointment of the Commissioner?

MR. PRESIDENT: I think again that is a question that does not arise from the original question. It is perfectly clear that that is a matter for the Secretary of State. Other supplementaries?
Next question. The Second Elected Member for Bodden Town.

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

NO. 112: Would the Honourable Member say:

- (a) how many Officers are employed in the Drug Squad of the Royal Cayman Islands Police Force, and what is the nationality of each one; and
- (b) what is the total length of service of each Officer in the force, as well as length of service in the Drug Squad?

ANSWER: (a) The present number of Officers employed in the Drug Squad of the Royal Cayman Islands' Police Force is 14. The nationality of each of these is as follows:-

- 2 - United Kingdom officers on contract;
- 5 - Caymanian officers;
- 5 - Jamaican officers on contract;
- 1 - Cuban officer with Caymanian status;
- 1 - Guyanese officer on contract.

- (b) The total length of service of each Officer in the Royal Cayman Islands Police Force is as Follows:

Years	Total
Under 5 years	86
5 - 10 years	75
11 - 15 years	22
16 - 20 years	25
21 years	3

	211
	= =

The length of service of Officers presently employed in the Drug Squad of the Royal Cayman Islands Police Force are as follows:

Years of Service	No. of Officers	
18		1
8		1
4		1
3		2
2		6
1		2
Under 1 year	1	

		14
		==

MR. PRESIDENT: There seem to be no supplementaries. In that case Question No. 113, the Second Elected Member for Bodden Town.

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

NO. 113: Would the Honourable Member state how many Caymanians and non-Caymanians work in the hotel industry and what is the ratio of Caymanians to non-Caymanians in the major establishments?

ANSWER: As of 27th August, 1990, a total of 934 Caymanians and 521 non-Caymanians were employed in hotels and condominiums.

In the major establishments there is an average of 59 per cent Caymanians to 41 per cent non-Caymanians.

SUPPLEMENTARIES:

MR. PRESIDENT: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Would the Member say if there are any indications that there might be more Caymanians interested in entering the tourism field, that might improve the present percentage here?

HON. W. NORMAN BODDEN: Yes, Mr. President, I think this is an on-going process. I think the hotels themselves are endeavouring to attract more and more Caymanians during their recruiting process. I can only say that is an on-going situation and as Caymanians become available, are qualified and experienced in that particular area and are in fact interested in the hospitality industry, I think the properties themselves are endeavoring to attract more and more Caymanians and hopefully the situation will improve.

Additionally, I might say that some of the properties are in fact training young Caymanians to fill responsible positions in their hotels. The Hyatt and the Holiday Inn are two properties that come to mind that have on-going training programmes and I see some evidence of Caymanians filling responsible positions on those properties.

MR. TRUMAN M. BODDEN: Would the Member say whether he has any statistics as to percentages which may be employed in the categories such as management, clerical etcetera?

HON. W. NORMAN BODDEN: Not available here, Mr. President, but I would point this out. I think it is common knowledge that in many instances, managerial and technical positions in the hospitality industry are filled primarily by non-Caymanians. As I said earlier, this situation is changing as Caymanians become qualified to fill those positions.

MR. PRESIDENT: Question No. 114, the Second Elected Member for Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 114: Would the Honourable Member say if Cayman Airways Limited is considering or negotiating to change or add to the jet aircraft currently in use by the Company?

ANSWER: Cayman Airways Limited is not considering or negotiating to change the jet aircraft it currently operates. However, the Company is in the process of preparing a proposal to the Portfolio regarding an additional B737-400 aircraft to be put in service in 1992.

SUPPLEMENTARY:

MR. PRESIDENT: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Would the Member give an indication of how it is envisaged for Cayman Airways to meet the cost of an additional B737-400 in the light of what it is presently paying for the two which it has?

HON. W. NORMAN BODDEN: Mr. President, this would be a part of the information that I would expect to receive from the Company when their proposal is formally made to the Portfolio. It is not known at this time whether it will be a lease, or a lease/purchase or, what the situation will be, so this is information that I expect to receive from the company in due course.

MR. PRESIDENT: Question No. 115. The Second Elected Member for Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 115: Would the Honourable Member say if Cayman Airways Limited has any interline agreements with other airlines flying the Cayman/Miami route whereby tickets are accepted by the other carriers and vice versa?

ANSWER: Cayman Airways Limited is party to interline ticketing and air cargo agreements with all major airlines, including those United States carriers operating on the Grand Cayman/Miami route.

SUPPLEMENTARIES:

MR. PRESIDENT: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Would the Member say if this has been a recent arrangement or has it been something long standing?

HON. W. NORMAN BODDEN: Mr. President, this has been a long standing arrangement. As far back as I can recall, Cayman Airways has established this form of interline agreement with all major airlines.

MR. GILBERT A. McLEAN: Would the Member say if he is aware that if one goes to Cayman Airways with a ticket written on one of the other U.S. carriers, or if one goes to one of the other U.S. carriers with a ticket written on Cayman Airways, the companies tend not to know really what one is seeking and there are certainly instances where tickets are not accepted?

HON. W. NORMAN BODDEN: I am not aware of this, Mr. President. It all depends on what the passenger is seeking when he or she presents himself or herself to a carrier on whose ticket stall the ticket they hold has not been written. There are instances where airlines issue fares that can only be used exclusively on that carrier's flights. I do not know if the Member might be referring to those sorts of instances but other than that, I am not aware of any difficulty of the exchange of tickets between Cayman Airways and other carriers and vice versa.

MR. GILBERT A. McLEAN: Would the Member undertake to look into this situation and find out what might be the case with it?

HON. W. NORMAN BODDEN: Mr. President, I cannot look into the situation any further. If the Member has specifics, I will be able to take the matter up and give a reply to him in writing as to what the problem might be. I can only say that there exists interline ticketing and cargo agreements with Cayman Airways and other carriers. I am not aware of any difficulty being experienced with exchange of tickets between carriers. If the Member has something that is specific, I will take it up and reply to him in writing but I am not aware of this and really, I cannot investigate this any further without definite information.

MR. PRESIDENT: The Second Elected Member for Cayman Brac and Little Cayman. Question No. 116.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 116: Would the Honourable Member say when will the overhead metal door at the Gerrard Smith Airport Terminal building be replaced with a suitable conveyor-type luggage apparatus?

ANSWER: A new baggage conveyor, similar to the type installed at Owen Roberts Airport, has been ordered from the manufacturer in Canada and is due to be shipped on 1st October, 1990.

On arrival in Cayman Brac it will be installed by the manufacturer. It is estimated that the installation will be completed by the middle of November, 1990.

SUPPLEMENTARIES:

MR. PRESIDENT: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Mr. President, could the Member say how long ago this conveyor has been ordered?

HON. W. NORMAN BODDEN: Mr. President, I cannot give the specific date but it has been several months. I might be able to explain the supplementary by saying that the delay was caused mainly by the manufacturer having to make modifications to standard equipment to suit the Brac Terminal and this is what caused the delay.

MR. PRESIDENT: The Third Elected Member for George Town, Question No. 117.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 117: Would the Honourable Member state what Government intends to do about solid waste disposal in the future, and whether an incinerator or similar apparatus is still being considered?

ANSWER: Government has included in the 1990 Budget funds for a comprehensive study on a Solid Waste Collection and Disposal Service in order to develop a long-term plan.

Terms of Reference for this consultation include consideration of some form of volume reduction including incineration and/or recycling. It is anticipated this study will be completed by 31st December, 1990.

The Terms of Reference and additional information on the magnitude of the problem are attached for Members' information.

SUPPLEMENTARIES:

MR. PRESIDENT: There appear to be no supplementaries.

MR. TRUMAN M. BODDEN: Mr. President, there are three pages attached to this that the Member did not read. If that is not regarded as a part of the answer, then there would be none. If not, presumably we would be given sufficient time to read it.

MR. PRESIDENT: Well, I think the problem here is there is a specific question -

what Government intends to do - that has been answered. The rest is supplementary information. It is one of the problems with such a comprehensive question.

The Second Elected Member for Cayman Brac & Little Cayman.

MR. GILBERT A. McLEAN:

Yes, Mr. President.

In the reply, the Member has said that the consultation will include consideration of some form of volume reduction including incineration and/or recycling. It is said and it is held to a large extent, that incineration is a highly unhealthy type of disposal of garbage in the environment. Would the Member say whether he will take a very careful look at this type of suggestion in light of the fact that one of the few things that we really have is a clean atmosphere in the Cayman Islands?

HON. D. EZZARD MILLER:

Mr. President, that might be one train of thought on incineration but there also exists the other train of thought that it can be made a clean method of volume reduction, when one includes scrubbers, etcetera on the stack. There are several states in the United States that have incineration plants that are meeting all of the EPA standards, etcetera. Any such system recommended by the consultants would have to carry that kind of safeguards with them.

MR. PRESIDENT:

The First Elected Member for Bodden Town.

MR. ROY BODDEN:

Thank you, Mr. President.

Would the Member say if he would be prepared to give consideration to any studies which have brought out some of the negative effects of incineration before he makes his decision?

HON. D. EZZARD MILLER:

Yes, Mr. President.

MR. PRESIDENT:

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN:

Would the Member say whether these consultants will be employed in accordance with the Financial and Stores Regulations and, if necessary, put out the tender under it?

HON. D. EZZARD MILLER:

Yes, Mr. President.

The whole consultancy is being handled by the Department of the Central Tenders Committee.

MR. PRESIDENT:

Question No. 118. The Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 118:

Would the Honourable Member say what is the cost of the spare engine for the B737-400s, and whether this has been purchased by or leased to Cayman Airways Limited?

ANSWER:

The cost of the spare engine for the B737-400 is US\$3,286,666.00. The engine is being purchased by Cayman Airways Limited.

SUPPLEMENTARIES:

MR. PRESIDENT:

Cayman.

The Second Elected Member for Cayman Brac and Little

MR. GILBERT A. McLEAN:

Mr. President, the Member has said that the engine is being purchased by Cayman Airways. Does that mean that Cayman Airways does not have the engine at this time?

HON. W. NORMAN BODDEN:

No, Mr. President, the engine is on hand at Owen Roberts Airport in the custody of the Maintenance Department. What I meant was that it was being financed and therefore it was paid for by the company on a monthly basis.

MR. PRESIDENT:

The First Elected Member for Bodden Town.

MR. ROY BODDEN:

Thank you very much, Mr. President. I would like to ask the Honourable Member, should the necessity arise where Cayman Airways might need the engine before it is completely paid for, can we use it?

HON. W. NORMAN BODDEN:

Yes, Mr. President.

MR. PRESIDENT: We move to the final question on today's Order Paper. Question No. 119, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 119: Would the Honourable Member say what progress is being made on the sale of the Shorts aircraft?

ANSWER: The aircraft is still for sale and is currently being advertised in various aviation publications.

MR. PRESIDENT: There appear to be no supplementaries. In which case, may I congratulate Members on the swift dispatch of questions. It must be the first time for a long time we have not had to extend past 11:00 o'clock.

Item 3 on today's Order Paper.

GOVERNMENT BUSINESS

**BILLS
FIRST READING**

CLERK: THE SUPPLEMENTARY APPROPRIATION (1987) BILL, 1990.

MR. PRESIDENT: A Bill entitled The Supplementary Appropriation (1987) Bill, 1990, is deemed to have been read a first time and is set down for Second Reading.

**BILLS
SECOND READING**

CLERK: THE SUPPLEMENTARY APPROPRIATION (1987) BILL, 1990.

MR. PRESIDENT: The Honourable Financial Secretary.

HON. THOMAS C. JEFFERSON: Mr. President, I was sort of following the Order Paper this morning, which indicated we would take the First Readings altogether and then do the Second Readings.

MR. PRESIDENT: If you would prefer to do that, it is fine with me. We seem to do it sometimes one way and sometimes another. If you would like to take all the First Readings together, fine.

HON. THOMAS C. JEFFERSON: I am guided by the House, Sir.

MR. PRESIDENT: Well, we will take all the First Readings together. Clerk. Bills - First Readings continuing.

**BILLS
FIRST READINGS**

CLERK: THE SUPPLEMENTARY APPROPRIATION (1988) BILL, 1990.

MR. PRESIDENT: A Bill entitled The Supplementary Appropriation (1988) Bill, 1990, is deemed to have been read a first time and is set down for Second Reading.

CLERK: THE SUPPLEMENTARY APPROPRIATION (1989) BILL, 1990.

MR. PRESIDENT: A Bill entitled The Supplementary Appropriation (1989) Bill, 1990, is deemed to have been read a first time and is set down for Second Reading.

CLERK: THE CUSTOMS BILL, 1990.

MR. PRESIDENT: A Bill entitled The Customs Bill, 1990, is deemed to have been read a first time and is set down for Second Reading.

CLERK: THE CUSTOMS TARIFF BILL, 1990.

MR. PRESIDENT: A Bill entitled The Customs Tariff Bill, 1990, is deemed to have been read a first time and is set down for a Second Reading.

CLERK: THE JUVENILES BILL, 1990.

MR. PRESIDENT: A Bill entitled The Juveniles Bill, 1990, is deemed to have been read a first time and is set down for a Second Reading.
Bills, Second Readings.

BILLS SECOND READING

THE CLERK: THE SUPPLEMENTARY APPROPRIATION (1987) BILL, 1990.

MR. PRESIDENT: The Honourable Financial Secretary.

HON. THOMAS C. JEFFERSON: I am happy that it did not take long, Mr. President, to reach the Second Reading.

I move the Second Reading of a Bill entitled A Bill For A Law To Allow And Confirm Certain Expenditures During The Year 1987.

May I begin by first apologising for this Bill not coming forward long before now. I think we made two attempts to get it here and in both cases, after the Council having approved it, it somehow mysteriously got filed.

The Bill before us is seeking to supplement the Appropriation Bill which was done back in 1986, for the year 1987, and it really embodies the Expenditure which was approved by Finance Committee during the year 1987. I recommend the Bill to the House.

QUESTION PUT: AGREED.

**THE SUPPLEMENTARY APPROPRIATION (1987) BILL, 1990,
GIVEN A SECOND READING.**

SECOND READINGS

CLERK: THE SUPPLEMENTARY APPROPRIATION (1988) BILL, 1990

MR. PRESIDENT: The Honourable the Financial Secretary.

HON. THOMAS C. JEFFERSON: Mr. President, I beg to move the Second Reading of a Bill entitled A Bill For A Law To Allow And Confirm Certain Expenditures During The Financial Year 1988.

This is a similar Bill to the one recently passed by Honourable Members and it deals with the Supplementary Expenditure to the Appropriation Law, which was passed by the Finance Committee during the year 1988. That is, the Appropriation Law for 1988 was passed in the year 1987 and during the year 1988, certain supplementary expenditures were approved by Finance Committee, a total in excess of \$7 million and this legislation is seeking to confirm those expenditures.

Thank you.

MR. PRESIDENT: The question is that this Bill be given its Second Reading.

Does any Member wish to speak?

The Second Elected Member for Cayman Brac & Little Cayman.

MR. GILBERT A. McLEAN:

Yes, Mr. President.

I would just like to note the time it has taken for the Bill to come to the Legislative Assembly and the answer for that, I think, lies in what the Financial Secretary has said and to know that supplementary expenditure for the year 1988, was \$7,023,324. Quite a large and extensive amount of money, which perhaps was the policy of the Government of the time to do, but does not appear to be the policy of the present Government where supplementary expenditure is concerned.

MR. PRESIDENT: Does any other Member wish to speak? Would the Mover wish

to reply?

HON. THOMAS C. JEFFERSON:

Yes, Mr. President.

Firstly, to thank Honourable Members for their support and perhaps also to comment on the point made by the Second Elected Member for Cayman Brac and Little Cayman.

While we have the authorisation presently before us in respect of the supplementary request in excess of \$7 million, may I just ask Honourable Members to note that if we look at the accounts for 1988, we would find that the actual sum expended against the budget which is upgraded by the supplementary requests approved by Finance Committee, we would find that there was actually an under-expenditure of \$7.1 million.

I thank Members for their support.

QUESTION PUT: AGREED.

**THE SUPPLEMENTARY APPROPRIATION (1988) BILL, 1990,
GIVEN A SECOND READING.**

SECOND READING

CLERK: THE SUPPLEMENTARY APPROPRIATION (1989) BILL, 1990.

HON. THOMAS C. JEFFERSON:

Mr. President, I again beg to move the Second Reading of another Bill for A Law To Allow And Confirm Certain Expenditures, this one, during the year 1989.

In this case, the Supplementary Appropriation being presently considered, or moved by me at this time, is \$3.6 million. I recommend this Bill as well, to Honourable Members.

QUESTION PUT: AGREED.

**THE SUPPLEMENTARY APPROPRIATION (1989) BILL, 1990,
GIVEN A SECOND READING.**

SECOND READING

CLERK: THE CUSTOMS BILL, 1990.

MR. PRESIDENT:

The Honourable Financial Secretary.

HON. THOMAS C. JEFFERSON:

Mr. President, I move the Second Reading of a Bill for A Law To Repeal And Re-enact The Customs Law, Second Revision.

Most of us realise that the Customs Law has served us for quite a number of years and we have made many amendments to that Law, which presently has a Second Revision. There are many aspects of the Law that require updating in order to deal with modern day practices in Custom's administration. This Bill seeks to repeal the Customs Law, Second Revision and to re-enact its provisions incorporating the amendments made since its revision, as well as including extensive new provisions to bring the Law up to date.

The present Bill before the House has 77 clauses. I do not propose to go through this Bill clause by clause, but mainly to outline as best I can the rationale behind it and what the major changes are in respect of this Bill.

Clause 6(2), makes a provision for the Police Constable to assist in the enforcement of the Law and for this purpose is Ex-Officio Officer of Customs.

Clause 9(a)(ii), Customs Officer given power to search with or without warrant where he has reasonable grounds for suspecting that an offence has been committed against the Law. The proviso to the section limits the role of the Collector or Justice of the Peace to deciding whether a search should take place and not to personally supervise the search as the Law presently requires, since this may violate the provisions that a search must be made by someone of the same sex as the person being searched.

Clause 11(2) and (3) gives power to the Collector to appoint boarding stations. Officers may board ships or aircraft to prevent smuggling.

Clause 14(1), the time allowed for making entry of goods arrived by sea is reduced to seven days from fourteen, to bring it in line with the seven days allowed for goods arriving by air.

Clause 17(2), makes it an offence to tamper with any lock, seal or mark used to secure or identify goods.

Clause 19, the power of the Collector is extended to allow to land any goods which he is satisfied are temporarily imported with a view to subsequent exportation within 6 months, if not re-exported within this time the goods attract full duty.

Clause 42, deals with re-imported goods after repairs or processing abroad, are to be liable for duty. Under the existing Law, this is not so.

Clause 61 (1), gives a penalty for offences under section 49-56, which deals with offences by Officers, smuggling, engaging in smuggling, presumption of being engaged in smuggling, evasion of duty, possession, etcetera of goods on which duty has not been paid, or offering goods for sale under cover of having been smuggled, etcetera. So the penalties for offences under sections 49-56 are

increased from a fine of \$5,000 to \$6,000 and in paragraph (3), the fine is proposed to be \$1,200. Paragraph (2) of this clause increases the fine presently fixed at \$250 by subsection (2) of section 61 to \$1,000.

Clause 74 incorporates the provision of the Provisional Collection of Custom Duty Law 1985, which Law is consequently repealed by clause 75. I believe that there may be one or two more that are of significance.

Section 40 (7), the value for duty for custom purposes is laid down in the Law as the normal value. This is defined as the Cost Insurance and Freight value on a sale in the open market, that is between buyer and seller not associated in business with each other. It follows that discounts shown on invoices must be for a specific purpose, example for cash, for payment within a specified time, for bulk buying, etcetera and must be available to any buyer purchasing similar goods for their supplies. The limitation to 20 per cent is necessary to prevent evasion of duty by manipulation of cost and as a regular feature of revenue control in many other countries, where the percentage allowed is much lower.

In the Bill before us, perhaps there is one more major change and that is the extension of Customs Limit to 12 miles, rather than the present three.

I recommend the Bill to Honourable Members.

MR. PRESIDENT: The question is that a Bill entitled The Customs Bill, 1990, be give its Second Reading and the Motion is open for debate accordingly.

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I think that a revision of the Customs Bill and especially the Schedule, which is now in a separate Bill, is one which is very much needed.

This Bill, subject to the amendments that the Honourable First Official Member has mentioned is in effect, a repeat of what the older Law was with amendments.

I would like to just comment briefly on a few of the new sections that he has raised. The section which gives an Officer who has reasonable grounds to suspect that an offence has been committed, the power of searching any place, premises, person or thing, then in instances where a warrant is not being used, this is a very wide power and I would assume that certain guidelines would probably be laid down within the Department so that this would be used sparingly, especially in relation to minor offences.

The other section that I would like to just briefly touch on is section 14 (1). This is a reduction from fourteen days to seven days of the landing of goods by an importer, in which they have to deliver the forms. I would assume that the traders and importers are happy with the reduction. As was mentioned here, when goods arrive by air, that time is sufficient. I am not certain that the difference is enough, except there is more goods being imported through the port perhaps than in the airport at a single time. When a ship comes in there might be delays that may have to be looked at. I did not see any power to extend the time in it, there was really no power before.

Clause 42, relates to goods which have been repaired and this is limited to the cost on the value of the goods attributable to the process of repair. That seems to me to be reasonable. I would assume that it would not relate to the actual services. I am not certain whether it would relate to services rendered in the repair, or whether it is only relating to the goods, as it says, attributable to the process and perhaps clarification on that point would be good coming from Customs, as to some guidelines there.

The other clause which I had not appreciated was new before, was section 40. Once again, this deals with the limitation which the Member mentioned on discounts being limited to 20 per cent of the market value. That section is very long, 40 and 41 looks like they would relate to both - they seem to deal with several amounts. Anyhow, that is a matter of detail which in the Committee stage I can read and have a further look at it.

Beyond that, I do not have any further matters to raise. It seems to me those variations that have been done with the Second Revision are reasonable. I would assume that when the Law was looked at for the revision, it was found to be working well and therefore there was no need to have a complete review of the whole Law beyond these new sanctions that were put in. With that, I support the Bill.

MR. PRESIDENT: Does any other Member wish to speak?
The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, just a brief word on this Bill to say how happy I am to see the Bill before the House. This has been, as far as I can understand, an ongoing review for quite a long time. I believe that our Customs Officers are indeed happy that the Bill has finally come to this stage.

There is one enquiry and maybe the Member in winding up could answer it. I have not been able to pinpoint it but I am wondering whether the Bill deals in any form, with the manner in which we assess motor vehicles coming into the country? This is a matter that I have raised for some time on several occasions. I find it difficult when a poor person goes to the United States and buys a relatively new vehicle at a good price, they get a Notary Public to sign the documents and make it legal, then they come back to the Island only to be told that they have to pay some price out of a book. I do not seem to be able to pinpoint whether the Bill deals with that situation, but I would hope it does. As I said, I hope the Member will explain it, as I intend to deal with it at the Committee level.

Thank you, Mr. President.

MR. PRESIDENT: Does any other Member wish to speak?

The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL:

Thank you, Mr. President.

Re-enact The Customs Law, Second Revision.

I rise to give my support to a Bill For A Law To Repeal And

I am, like other Members have said, glad to see this Bill before the House in its revised form. I am glad to see that we now have a Tariff Law which is separate from the schedules that were once a part of this Law.

There is one thing in 10(3)(c) that has been a concern to the Central Planning Authority and the Development Control Board for many years, that is under the marginal note, Prohibited and Restricted Goods and it is caravans, prefabricated buildings and other store houses and aircraft hangers.

The caravans, I support 100 per cent. I think the Islands are too small to ever think of having caravans or being mobile for living purposes. When the original Customs Law was enacted, our situation was with an abundance of labour and not much need for labour. It has been completely reversed. We are very grateful for the economic boom which we experience today but it was necessary that we create as much labour as was possible within the Islands at that time. Today labour is short, it is expensive and the construction of a very small modest home reaches between \$60,000 to \$80,000.

It is becoming very difficult for the less fortunate people, or the middle income people to become home owners and I think that this is something that we should take a look at and redefine exactly what we mean by "prefab". We have allowed pre-engineered buildings which are all the steel buildings coming under pre-engineered, they in essence are prefab as well, but most of them are being brought in by people who can afford to pay higher prices.

Therefore, what I am trying to get across is that I think we must be very cautious that anything brought into this country is of high quality and of a satisfactory standard and that it meets at least the South Florida Building Code or the Southern Building Code and certainly that it meets the Cayman Islands Code when it comes into Law. But I do feel it would be another opportunity for a factory that could be put into operation here in the Cayman Islands, because I do not think the importation of a prefab building, unless it is in pieces, would ever be feasible due to the high ocean freight rate. I do feel that it would help to bring the cost of housing down and I think it is imperative that we consider reducing the cost of living here in the Cayman Islands.

I also note in section 14, the entry of goods, where time to file your entry has been reduced from fourteen days to seven days provided the customs brokers and all, have no problems with that. The small importer I think, would have none, but on some of the larger imports, (quite possibly with invoices sometimes going astray, that I am sure can be corrected now by the use of fax), I do not see that the seven days will be that much of a problem but I would like to see some provision in the Law where this time could be extended, if it was an absolute necessity.

With these few words, I support the Bill.

MR. PRESIDENT:
reply?

If no other Member wishes to speak, would the Mover wish to

HON. THOMAS C. JEFFERSON:

Yes Mr. President, thank you.

I should thank Members for their support of the Bill and also say that I appreciate the comments made by those Members who spoke.

In respect of Customs Officers being allowed to search premises without a warrant, all of us, Customs and myself, agree that it is a wide power to bestow on a Customs Officer. We also want the Members to be aware as mentioned by the Third Elected Member for George Town, these Customs Officers will be operating under the guidelines from the Collective Customs in this respect, so in that sense there is a sort of check and balance in relation to the procedure to be used when dealing with this particular matter.

Members also made comment on the reduction of the time frame for the allowance of goods arriving by sea from fourteen to seven days. I think, subject to checking, that the reduction to seven days is in line with the Port Authority Law which says that after seven days you have to pay a charge for storage. The reduction also is seeking to reduce the congestion at the Port and from the point of view of the custom brokers, they have no problem with it because they generally have a deposit and the goods are released straightaway.

In respect of clause 42 which deals with goods repaired abroad, what we are dealing with here is that any goods repaired overseas, the cost of those repairs would attract customs duty - not the market value of the item, just the cost of the repairs to the item, which were sent overseas for repairs.

Members also made mention of section 10(3) which deals with goods that are prohibited and restricted. The items such as caravans and prefabricated buildings, I agree with the First Elected Member for Cayman Brac and Little Cayman, that perhaps there should be a definition that all of us agree with. But the system presently embodied in the Law allows the Governor in Council to allow prefabricated buildings into the country. I believe that it is perhaps the better way of dealing with this subject because in one year it may be that you want to allow none, in another year it may be that you allow some, based upon the supply of labour, whether it is totally committed or whether some are free. I believe the mechanism here provides a safeguard in both cases in that the Governor in Council has the authority under the Law to allow the importation of prefabricated buildings, if it is seen to be in the best interest of the Islands.

One other comment made by a Member related to how the Customs Department assesses Customs Import Duty on motor vehicles. I think in this case, he is talking about used vehicles because in case of a new vehicle coming from the factory, there never has, to my knowledge, been any difficulty. What I believe is causing perhaps some comment, is that Customs is operating in such a way that when an individual purchases a used car in the United States they utilise what is known as the "red book", which gives the average value of that vehicle. Realizing also, that in the United States, particularly in the Florida area where most of the people of the Cayman Islands shop, in order not to take advantage of the system for the collection of duty, we feel that the red book is perhaps the better tool to use to justify, because the red book is actually produced by the Automobile Industry in the United States, and it indicates the average value of that vehicle. If it happens that the person gets a little better deal than the average that the red book indicates, I think we are all happy for him or her, but I do believe that if we were to utilise invoices and say that whatever invoice you produce, we are going to accept, I think if we take that step it would not take us more than a month to realise that we did something wrong because we are certainly going to get taken advantage of, given the knowledge we have of the Customs operation in motor vehicles, as well as other areas being imported. I would recommend that we would continue to use the "red book" for this purpose.

I thank Members for their comment.

QUESTION PUT: AGREED.

THE CUSTOMS BILL, 1990, GIVEN A SECOND READING.

AT 11:28 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 12:05 A.M.

MR. PRESIDENT:

Proceedings are resumed.

SECOND READING

CLERK: THE CUSTOMS TARIFF BILL, 1990.

MR. PRESIDENT:

The Honourable Financial Secretary.

HON. THOMAS C. JEFFERSON:

I beg to move the Second Reading of a Bill entitled A Bill For A Law To Charge Certain Duties Upon Goods Imported Into The Island. This Bill, entitled The Customs Tariff Law, 1990, is intended to take the place of the Schedule to the existing Customs Law Second Revision and is a companion measure to the Bill entitled A Bill For A Law To Repeal And Re-enact The Customs Law Second Revision, which passed its Second Reading before we took the morning break.

The Bill seeks to set out in a format which is accepted in international circles, the various duties payable on goods imported into these Islands. These are listed in the First Schedule to the Bill.

The Second Schedule enumerates the goods exempt from duty. The Third Schedule specifies the goods liable to package tax. The Fourth Schedule contains some general rules for interpreting the classification of the goods in the tariff.

The Bill updates the duties previously included in the First and Second Schedule to the Customs Law, Second Revision and the new rates provided for in the Miscellaneous Duties and Fees Law 1990, and have been incorporated into it.

The headings in this Bill are substantially more than in the First Schedule of the Second Revision Law, but it is a forerunner in our attempt to computerise the Customs operation. Although the format of the tariff has been changed, mainly for statistical purposes, it is not our intention to require importers and brokers making entry to use the heading laid down until we have had full consultation with them and have given them every assistance in so doing.

In keeping with earlier speeches, I am going to make this one short as well and I recommend the Bill to Honourable Members.

QUESTION PUT: AGREED

THE CUSTOMS TARIFF BILL, 1990, GIVEN A SECOND READING.

SECOND READINGS

CLERK: THE JUVENILES BILL, 1990.

MR. PRESIDENT:

The Honourable Member for Health.

HON. D. EZZARD MILLER:

Mr. President, I wish to move the Second Reading of A Bill For A Law To Repeal And Replace The Juveniles Law, Law 16 of 1975. This Bill is a fairly comprehensive Bill containing

some 59 clauses. It is the product of several years of discussion and research by the Portfolio and Departments in Government concerned with the problems and general development of juveniles in the Cayman Islands.

This Bill is also the product of detailed study by a committee which met quite frequently during 1985, and 1986. Committee members included representatives from the Social Services Department, the Education Department, the Legal and Judicial Departments and the Police. While the Government does not believe that this Bill is perfect, it is something from which we can work, grow and evolve improved programmes and services for juveniles in the Cayman Islands.

The Bill is made up of seven clauses. Clause 1 is the preliminary section which deals with definitions, etcetera.

Clause 2 deals with the Juvenile Courts and it is an attempt to improve the functioning as well as the jurisdiction of the Juvenile Court.

Clause 3 deals with provisions for the preliminary trial of juvenile offenders.

Clause 4 deals with evidence and procedure in cases involving a juvenile.

Clause 5 deals with the provisions for the protection of juveniles. Clause 6 deals with the ability of Government to licence and approve schools so that we can adequately deal with the juvenile problems in Cayman.

The last clause 7 deals with the general provisions of the Bill. I wish to give notice here of a Committee stage amendment to clause 57, which basically deletes sub-clause (1) and introduces the powers by the Governor in Council to make regulations under the Bill.

Mr. President, I commend the Bill to Honourable Members.

DEBATE ENSUED

MR. TRUMAN M. BODDEN:

Mr. President, this Bill is one of the most important Bills that will come before this House because it deals with the most important things on this earth that persons have - our children. As such, it has to be given the due weight and the due right of parents within this country to have full input into this. Already we have been given notice of amendments showing that the Bill, while it may have passed through a committee, (which was referred to as a 1985-86 Committee and I would assume that it ceased to sit in 1986), it probably at this stage is not only somewhat out of date but that committee, all of which were Government Members, from what the Member for Health said, did not, from what I can see, have the input from the public at large.

As we know, this Bill is very long. It has now just come to the House within the Standing Order time but obviously not, in my opinion, with sufficient time that the public should have had, to go through this Law.

The Member himself admitted that the Bill is not perfect and I accept that that may have been a statement, but I believe that this can be better perfected if it is referred to the Select Committee on the Rights of Children, Young Persons and Women so that the public can be given a right to make representations on it. At a later stage under the appropriate Standing Order, I will be moving that it be referred for study to a Select Committee.

MR. PRESIDENT:

May I interrupt you. Surely the appropriate moment to do that is as soon as possible rather than debate the merits and principles of a Bill which you propose to be deferred.

MR. TRUMAN M. BODDEN:

Mr. President, section 49(1) is what I am referring to and it reads:

"When a bill has been read a second time it shall stand committed to a Committee of the Whole House, unless the House on motion made refer it to a select committee. Such a motion shall be made immediately after the bill has been read a second time, and may be moved by any Member."

That is what I was referring to.

MR. PRESIDENT:

Quite correct, but I am suggesting that maybe it would be a better use of the time of the House and, indeed, if there is debate on a Bill which you propose to have deferred and referred to a different Select Committee, it seems to me that that point ought to be taken earlier rather than later. That is all I am saying.

MR. TRUMAN M. BODDEN:

I would not like to anticipate the House but if I do not get a right to debate this and the Government votes against that going into the Committee, I have lost my right to speak.

MR. PRESIDENT:

No, no, you are taking the wrong point, I am not suggesting that. I am not suggesting that at all.

MR. TRUMAN M. BODDEN:

I do not follow you, Sir.

MR. PRESIDENT: Let me go through it again. You are, if I understand you correctly, proposing that this Bill be referred to an existing Select Committee of the House, not to the committee of the Whole House which a Bill after Second Reading normally is referred to. Is that what you have in mind?

MR. TRUMAN M. BODDEN: Yes, Sir.

MR. PRESIDENT: Well, I am suggesting that it will save the time of the House if that question is settled first before the Bill is debated. Do you take my point? It becomes almost, an otiose debate if after the debate it is then referred to a Select Committee which then goes through another procedure and may well come back with an amended Bill for recommendation.

MR. TRUMAN M. BODDEN: I take your point, Sir, but with respect, I do not agree with you. I think it is so important that I would like to speak on it because I do not think that publicly and from the point of view here for example, the Green Bill was put on my table today. I would just like to debate it.

MR. PRESIDENT: May I interrupt you again. I am not quite sure, if you feel the Bill has not had sufficient time to be considered, surely you do not wish to debate it yet. You are waiting for the input from the public that you are talking about.

MR. TRUMAN M. BODDEN: Mr. President, there are certain areas of this Bill, I have been through the White Copy in detail, I give you that undertaking, in detail. There are very important points that I feel this House and the public should have their attention drawn to which will better prepare them if it goes to Select Committee.

I take your point regarding the time of the House, but we have speeded up considerably today and on this specific Bill. I regard this as extremely important and I would like to debate the Second Reading of it.

MR. PRESIDENT: I am sure the House agrees with you, it is a very important Bill. I still think that if you go forward to debate it, of course at the end of the day you have to put your separate Motions that are being dealt with by a specific Select Committee, not by the normal Committee of the Whole House. That will then require the Motion which you have in mind. I understand now what you wish to do.

MR. TRUMAN M. BODDEN: Yes Sir, that is correct, thank you. The best way, I believe of getting the Law near to perfection is to have as much input from the public as is possible. I would be the last person in this House who would feel that I would know with absolute certainty the various views on the many sections within this Law of the public, if it passed through this House at this stage. I believe that the public should be given a fair opportunity because it is their children that will be subjected to this Law and to that effect, I believe that we must take a reasonable amount of time and get reasonable input from the public.

Some of the important areas that I would like to see looked at are in the definitions where we are dealing with "Approved Schools" and at a later stage in the definition section with "places of safety". I think the time has come that these must be within the Islands and if that is the case, let us say so and specifically deal with it in the Law.

There are sections in this which I will reserve for the Committee, whichever type of committee it is that looks at this in depth. But on principle, I believe that if we are going to look, for example, at the constitution of the Juvenile Court, that it may be good to have a woman on the panel at all times. While that is borne out in relation to the Justice of the Peace, I believe that it should also be a panel dealing with juveniles when the Magistrate himself is sitting, because I think that when you are dealing with children, it is very important that whatever order is made, many times the balance of having a woman on that panel is one which could mean much better input and perhaps a better order being made in the interest of the juvenile.

Also, I believe that when dealing with the question of probation orders, it would be good to ensure that the conditions and terms that a Court imposes along with it should be reasonable terms and conditions. We should say that in the Law. I am sure it will be in most cases but, to be more explicit, we could add that in.

The other section, perhaps this may be a bit of detail, is the committal to fit persons under section 12. I think that while examining a person prior to the committal, that there should also be a power. These committals can be for periods of time, several years for example. There should be a right to examine that person during the period of the committal to the fit person, just in case there are reports which may cause concern as to the person who is caring for the juvenile. I am saying that on the basis of what I remember from my time a long time ago, but also when I was in practice before that Court.

I believe I am correct (and this is something I would look at at a later stage), but when a juvenile comes before the Juvenile Court, I think if possible, it would be good to have both parents, not just one. If we take the Interpretation Law of single including plural, perhaps that is implied. Wherever possible, if both parents could be with the juvenile and there is a right for the Court not naturally to order a parent or a guardian against which a complaint may be at that stage before the Court itself, then that is fair enough.

On bail or detention of a juvenile, that section has to be looked at in depth. I think we need, in this respect, guidelines and input into it because that section, to me, is too wide at present.

Secondly, I do not think that we have the proper facilities at this

stage to fully deal with long periods (which I regard under this as a long period), of detention. This is limited to seven days but there is no reason why (except in matters such as homicide or that type of case) it should be necessary for a juvenile to be detained prior to being convicted in circumstances when it must be possible to take a juvenile to Court within two or three days. The outer limit, while it is seven days, I think that should be reduced. I am also a bit worried on the discretion that is left with 'what is a grave crime?'

Perhaps we could look at better defining that word because it will vary with the decision of the Constable who is making the decision for detention. It is in circumstances where the charge is one of homicide or other grave crime that there is a discretion in the police to detain him. I do appreciate in this section that he shall release the juvenile, unless it falls within (a)-(d) as set out in the Law.

Another area of the Law that I think should be looked at is in section 22 as I was not able to fully relate this back, perhaps by the Second Official Member in due course, or the draftsman. It referred to guilt or perjury, that the juvenile is liable to the same punishment as if he had committed perjury. I would assume by implication, that would be limited to what penalties could be inflicted on a juvenile and would not necessarily mean that the penalty there, which is a period of imprisonment and/or a fine, would be inflicted. By implication, I know that is in there but I would just like to make sure specifically that that part would be made abundantly clear if necessary.

The sections relating to corroboration and the giving of evidence by children of tender years, section 22 seems to me, at least in sub-section (2), to follow what is established Law that in some instances, where a child of tender years gives evidence, there must be some other corroboration which can come either from another witness or from evidence other than a witness where it refers to corroborated by some other material evidence, I have no problem with that.

One other thing that I would like to mention is that I understand that the United Kingdom has, within the past year or so, revised its Juvenile Law. I am wondering whether we have had an opportunity, since it did not exist at that stage, to look at our Law and perhaps to incorporate any provisions which may not have been put into this Draft. The workings of the Juvenile Court are very important and its duties are set out in section 26. The duty of explaining to the juvenile in simple language is a very important one and I am sure one that a panel takes seriously prior to accepting, what is many times in that Court, a guilty plea. In many instances enquiries have to be made beyond the mere acceptance to ensure that the circumstances do justify that specific offence. That is clearly set out and entrenched in the Law and the practice.

Another good provision is the secrecy of the identity of a juvenile. It is very important and it is once again clearly set out, that even in relation to a warrant, once the identity is ascertained by the Justice of the Peace, there is no necessity to actually name the juvenile. There are a couple more things on section 30(6)(f) but that is more for the Committee stage.

There is power to make interim orders which can last for the thirty day period. I think that this provision is good because it gives a period of time that the Court can assess the situation and decide what it wishes, in a permanent order, to do. So, there is a period of time of digesting the facts and not just the circumstances of the case, but as is usual in all of the cases before the Juvenile Court, an assessment is made of the home life and the circumstances behind the juvenile's life and the reasons behind why he or she may have committed that offence.

Section 37, which deals with contributions, does appear to extend that area of the Law and it is important that parents be bound to support as well as to make contributions, as is set out in this order, to their children. Probably one of the worst stages a parent can get to is if there is not sufficient money, or food, or whatever for a juvenile or a young person because by and large, this Law will be dealing with children who have not the maturity or ability to defend themselves. It is therefore a protective Law and one can never become too harsh in ensuring that that Law does go to the maximum in protecting the juvenile and the juvenile's rights. Section 37, itself, I should mention, deals basically with commitments to fit persons to Approved Schools and the like. I am speaking basically of maintenance itself.

In section 38, under Contribution Orders, the amount put in there is a weekly sum of \$100 and I am really wondering if, in this day and age, that is sufficient. I know we have free school and free medical, but perhaps that section should be widened, the amount increased to ensure that it is sufficient and this is once again just dealing with committing a juvenile to the care of a fit person and an Approved School or other facility.

The enforcement of the orders I see are under the Affiliation Law of 1973. One of the good things that I think perhaps could come out of having this is to spend some time and give the public a right to look at it. There are other laws that are related to this that perhaps we should have a good hard look at at the same time.

Section 39, deals with provisions for Affiliation Orders. Once again that refers, in subsection (5), to the Maintenance Law revised. I guess what I am trying to point out with these contribution sections is, there is other legislation that does materially affect this and it may be good to have a look at the total legislation at one time and not least legislation that indirectly affects children in their life, such as what the committee now established could deal with relating to violence in homes.

Sections 40 and 41, where we are dealing with juveniles being used for begging, performing and cruelty to juveniles under 41. There the injury to health would naturally include mental health because that has become, in the past ten or twenty years, most important. I know within the schools there are counselling services, as well as within the Department of Health and Social Services. There is a limitation of up to two years in relation to counselling services that the Court may order. That, I think, is reasonable.

I am just wondering whether the section that deals basically with negligence which causes death or injury to a young person, could not be looked at more carefully, as set out in section 41. It is most important because many children of tender age, I believe if parents had counselling and

better guidelines on matters which this refers to, such as having gas, oil, and petrol, that sort of thing, a petrol stove, where they may be burnt or explosions may be caused, we may have far less injuries amongst children. Once again, many of these things go beyond the Law and they go into a stage where we need to have guidelines and to have a relationship with and an education of the public in relation to these things.

MR. PRESIDENT:
2:15 P.M.

I think we might break there. Proceedings are suspended until

AT 12:45 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:29 P.M.

MR. PRESIDENT:

Proceedings of the House are resumed.

Elected Member for George Town, continuing.

Debate on the Second Reading of the Juveniles Bill, the Third

MR. TRUMAN M. BODDEN:

Another area of the Law that I feel needs to be looked at in some detail, will be the parts and sections that deal with employment of a juvenile, including the types of work and the number of hours. I also believe that the exclusion from these sections applying to Approved Schools need to be looked at as to whether that is desirable or not.

I note that in relation to Approved Schools, it appears that the Governor in Council makes the decision in relation to which Approved School, in certain circumstances, the child is sent. I wonder whether this is as a result of the fact that for a long time Jamaica has been used for this purpose and perhaps whether it is now totally necessary in this Law on principle. The decision there, since the bodies are two different ones, the order can be made by a Court and the specific school designated by the Governor in Council. Perhaps when finally we get local facilities, this will in fact, drop away.

I believe that while we need a Juvenile Law (and I commend the Member of Government for bringing this Law here), I believe that it has to be dealt with in a slower fashion. While I believe that the input of the 1985-86 committee, which had on it Members from all of the relevant Government Departments is good, I still believe that the views of the public should be sought and time taken to listen to parents as to what they feel should be in this Law.

I would like to mention, I support a new Juvenile Law. I am saying that I believe I would like to know with some certainty that the public are happy with the major provisions in it. As a father of two living children, I believe that probably the least that this Legislature can do is to permit parents to have their say and to deal with this preferably through a Select Committee.

Thank you.

MR. PRESIDENT:

Does any other Member wish to speak?
The First Elected Member for West Bay.

MR. W. McKEEVA BUSH:

Mr. President, I rise to give my support to this Bill before the House. This Bill deals with a very important subject, important to all of us, our children. It is one Bill that I have been asking for for many years. While it does not do all of the things that I think it could do, I welcome the move before the House.

The Bill deals with many areas. The area of emotional abuse comes to mind. Under that subject, I focus on verbal and behavioral abuse. You see, the child could be deprived of loving care, could be subjected to harsh beating or threatening criticism, or neglected. Neglect could be interpreted as failure to provide adequate care and attention, failure to provide food, clothing, medical services, even failure to provide mental stimulation and moral guidance. The child could be continuously threatened with violence, he could be rejected or even abandoned. When these are reinforced by overprotection and over-possessiveness as we often see in our society, emotional harm does result.

It is evident that all these theories do not easily translate into law. I believe it is impractical, if not impossible, to enact and enforce legislation to control or eliminate verbal abuse of our children in our communities. However, extending and intensifying community education has always been, in my view, of greater practical value.

I believe that concerned, caring and knowledgeable persons in our society must be prepared to provide assistance in the identification of problems associated with child abuse and even help to develop treatment programmes to eliminate or reduce these in abusing families.

Our country desperately needs to educate parents, not only about how to foster proper patterns of behavior in their children but even more importantly, about how children learn and develop. Parents need to be informed about what is right for optimum development.

Today in our country, even the best informed and most conscientious parent could find it almost impossible to shield his or her child from the effects of the lawlessness of the wider society as we see indiscipline everywhere among adults.

I have pointed out before the explicit sex and rabid violence and cheap human relationships on the television screens. I am often amazed at how children are made to look so adult while still so young; made to look adult by make-up, earrings, all kinds of contests where we witness some of the

foul music and foul language, even at ball games. Adults are slowly but surely eroding children's birth-rights of childhood.

I believe that our children should enjoy special protection and be given opportunities and facilities by law and by other means to enable them to develop physically, mentally, spiritually and socially, in a healthy and normal manner in conditions of freedom and of dignity.

I believe that in the enactment of laws for this purpose, if it could be so, the best interests of the child should be the paramount consideration. As I said, undoubtedly, the law cannot mandate all aspects of care and protection for every child, but it must provide the framework in which the most effective programmes could be implemented. As I said, we can begin by educating, which I believe could reverse the trend that no doubt has a telling effect on our children, the trend of making children into adults before their time, education which could restore childhood to our children.

There are some other areas that I would like to deal with briefly. I see that the age of criminal responsibility would be eight years. I have held the belief that the child below the age of 12 hardly needs the correction of a Juvenile Court, but is really in need of discipline, guidance and control. I ponder at the attitude that a parent cannot control an eight, nine or 10 year old child. My God, are we to give up parenthood?

In looking at section 41, Cruelty to Juveniles and in particular 41(2)(b), where it is proven that the death of a child under three years of age was caused by suffocation, not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child, but while the child was in bed with some other person who at the time of going to bed was under the influence of drink or any drug, then that person shall be deemed to have neglected the child in a manner likely to cause injury to the child's health. I wonder how far we are taking this when we say specifically "or any drug"? Perhaps a parent has been under some kind of medication, perhaps medication prescribed by a doctor and that parent then went to bed with the child and something did happen.

This caught my attention and I would hope that in his winding up, the Member would look at this, or in Committee stage whether we go to a Committee of the Whole House, Select Committee, or the Committee to deal with the Bill. I believe that this needs some looking at.

I welcome the section which gives power to declare an Approved School on application of managers. I visited an Approved School and, believe you me, what I witnessed could never be considered conducive to proper upbringing, care and attention and what have you. I doubt that that school helped the child. So, I am extremely happy to see this section. When the Member gets up, I trust he will be able to put some meat on these sections and subsections.

When I tell you that I am happy, however, I cannot find the words to describe how I feel about section 55, which gives power to the Governor to release persons detained under Approved School Orders and about one of those times when I ranted and raved in the House just about this section. Before, we would commit a child to an Approved School in Jamaica and once the child was committed to that Approved School, he or she was in total control of that foreign authority. Many times in dealing with parents with cases, I have found that the authorities here said that the child could possibly be brought back, but they had no authority to say so. This section 55 brings a complete new picture, a complete reversal of that situation as I understand it. I hope I am reading correctly.

In dealing with this Bill, I would like to point out that I have called before for the establishment of a Family Court and I believe that in time, this Family Court could carry the responsibility for the administration of the Juvenile Court. Because of the position the child holds with the family unit and the need for every child to have a family, suggests to me that the Family Court could be the appropriate body for such administration. I would hope that those who have the power would look at this idea of a Family Court. I have given many other reasons why the Family Court is necessary, which I do not have to rehash today.

I do not know whether it is being done now, but I would advance the idea of training in psychology and behavioral sciences for the Justices in the Juvenile Court. It was recognised that the Juvenile Court functioned on the social/legal basis and that these social and legal facets are not necessarily antithetical. I believe that there must be a preservation of the balance between them. I have called for an appointment of a Magistrate to deal specifically with the Juvenile Court; that was laughed out of the House. I believe that the Magistrate would be the sole trustee of that balance which I spoke about and in addition to having adequate legal knowledge, should have a social perspective and understanding of causes of behavior.

Lastly, I would like to advance the idea that I believe it would be wise to put money towards in-depth, ongoing research that seeks to establish the origin of problems of children. I believe that such research would indicate the existence of deep-seated social problems.

Whether the Bill goes to a Select Committee, or whether it is dealt with by the Whole House, is left to be seen. One thing I want to remind this House is that whatever we do, it is our children's future and we need to get on with this Law that deals with so many areas. If we go into a Select Committee, it needs to be dealt with quickly. I believe that there is merit in that suggestion because as was said we passed a Bill, or a Motion, which I think has tremendous relevance to this particular Bill. But there is no time for procrastination if it goes to that Select Committee.

Thank you.

MR. PRESIDENT:

The First Elected Member for Bodden Town.

MR. ROY BODDEN:

Thank you very much, Mr. President.

There are a few comments which I would like to make by way of an introduction and then there are some sections with which I wish to take issue. I shall try to articulate my

differences in the spirit and in keeping with the examples set by previous speakers and lastly, I shall continue to follow the example and will not speak any longer than is necessary.

First of all, let me say that this is a very important and timely Bill and I commend the Member bringing the Bill for what is seemingly, a comprehensive effort. I would caution though that since we have waited all this time, we may as well proceed slowly and deal thoroughly with what we have before us so that when we have completed the exercise, we may well be assured that we have something which is comprehensive, agreed and practical.

I would like to draw attention to Part 1, section 3, dealing with age of criminal responsibility. I would be happy to be informed if there is some psychological basis for arriving at the age of eight years as far as this is concerned. Certainly, my recollection of psychology states that maybe it would be more internationally accepted for us to consider the years 10 or even ideally 12, as far as criminal responsibility is concerned. But perhaps the Member may have a convincing reason and it is something which he may choose to deal with in his winding up.

Then Part 2, dealing with Juvenile Courts and section 9(g) and (h), where it spells out methods of dealing with juvenile offenders and sending juvenile offenders to Approved Schools. I am concerned about this and it is not that I have any reservations about sending juveniles to Approved Schools. I am just concerned that at the moment, in the Cayman Islands, we have no Approved Schools, or for that matter, no Juvenile Remand Centres specifically designed.

I have always taken issue with transporting our juveniles, especially to Approved Schools in Jamaica and I am asking that we give serious consideration to establishing our own schools because my information on the experiences that our juveniles are exposed to in Jamaica, is that these experiences are of more harm than they are good.

So I would hope that by the time, or shortly after this Bill passes into Law that we will be well on the way to establishing our own Remand Centre and our own Approved School here. I am a crusader for these rights and it is my understanding that this kind of transportation overseas contravenes the United Nations Charter, the Declaration of Human Rights.

Committal to fit persons 12, section 3(a), as to the age and religious persuasion. I wonder what is the relevance of finding out the religious persuasion of a juvenile offender? I would strike a note of caution here, is there a particular prejudice? What if the person is a Seventh Day Adventist, what if the person is from a Church of God of Prophecy, or what if the person is from an agnostic background? What is the significance of that? The importance is that it is a juvenile offender and clearly something went wrong by the fact that the person is an offender. What does it matter the religious persuasion? I would think that we may have to give some more attention to these kinds of things because it could be an avenue for introducing some particular prejudice.

I would like to turn now to section 50 - Power to declare an Approved School. I believe that this is a good section. It gives the discretion to the Governor to declare any house or building or enclosure, etcetera an Approved School. In this, perhaps we may have the beginning of the kind of mechanism that we would need to set up our own custodial system for our juveniles. I am sure and this section leads me to believe that if we are serious, we can set in place worthwhile and practical mechanisms to deal with the problems we have experienced and are continuing to experience among our juveniles.

But I would also like to underscore that this Bill and the Law when it comes, for that matter, will not in itself be a panacea for all of the problems we are having, or will have, with juveniles. This Law, when it comes, is not intending to take away the responsibility of parents for the proper upbringing of their children. It is not its intention to take away the responsibility of the society and the societal organizations. This is a last resort. It is not intended to be a tool for parents to use to abnegate, or an excuse for them to use in the abnegation of their responsibility for the proper upbringing of their children. I would like to caution the parents, the community and society as a whole, not to have that kind of expectation and not to abnegate the responsibility because the Law will deal with them.

This Law will work best if there is a concerted effort by parents, by community organizations, by society and of course, by those social control agencies set up by the Government. That leads me to observe that our children are really not bad. My experience as a school teacher and as a community leader, leads me to conclude that, in many cases, what happens is that the young people are misunderstood or that we, as adults, are taken up with our own worlds and our own commitments and we do not afford the young people and the juveniles the time and the attention that they need.

In conclusion, I would like to suggest that the Mover give serious consideration to deliberating this further, perhaps in a Select Committee. Since we already have a committee with great relevance to this Bill, it would not be far-fetched and I hope that I am not out of order in suggesting that we move it and discuss it along those lines, it can only help.

This is a significant step along the way and I am glad that so far we have been able to sensibly and logically debate it. I hope that that continues. I would also hope that the Honourable Member is not adverse to having it looked at more in-depth at a Select Committee stage.

.Thank you.

MR. PRESIDENT:

The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.:

Thank you, Mr. President.

Repeal And Replace The Juveniles Law, Law 16 of 1975.

I rise to offer my support for the Bill entitled A Bill For A Law To Here we are dealing with this country's most precious

commodity and that is, we are dealing with the welfare of our children who are destined to be the future leaders of this country.

I welcome the new Bill. I have heard requests for quite a long time now for the need for such a Bill. I congratulate the Member on his efforts and for at least bringing this Bill at this stage, before the Honourable House. I think it is timely and necessary.

In reviewing the Bill, there were certain questions I had or suggestions which I felt would strengthen the position because I think it is important for us to exercise due care when we are dealing with the lives of our children.

Section 30(b), subsection (1) which basically states that the Justice of the Peace may issue a warrant authorising any police officer to search for the juvenile and if it is found that the juvenile has been, or is being assaulted, ill-treated, or neglected in any matter, or that any offence is being committed in respect of him, to take him to and detain him in a place of safety.

I think this is good but the only word of caution that I would offer is that maybe it would be a wise suggestion for that particular police officer to be accompanied by maybe a member from the Social Services Department, or even a Justice of the Peace to ensure that there is no chance of any charges, or inference of abuse, or whatever it is, of a juvenile by the police officer in question, be it correct or incorrect.

I also had a question with regard to section 37 of the Law entitled Contributions. I have been assured by the Member that there is no reason for me to fear, or be concerned about this, in that this particular section calls for a contribution from the parent or parents, or the guardian, or whoever is responsible for the child while he is in an Approved School. My only concern was that I trust that Government will not depend on such contributions to determine the level of care made available made to the juvenile. There are some parents who can afford to pay or make a contribution and there are others who cannot, but this should in no way affect the care that is made available to that juvenile.

Section 41, I also have a question about. Section 41 says:

"Any person who having the custody, charge or care of any juvenile, wilfully assaults, ill-treats, neglects, abandons or exposes that juvenile, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause that juvenile unnecessary suffering or injury to health (including injury to or loss of sight, hearing, limb, or other organ of the body, and any mental derangement), is guilty of an offence, and is liable -

- (a) on conviction on indictment to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding 2 years, or both;"

I can see the concern that maybe if we make the sentences too stiff, it will discourage individuals who would be interested in acting as a fit person under this Law for the custody of a juvenile. I can appreciate that concern but when a juvenile is damaged to the extent as is listed here under this Law, which includes loss of sight, hearing, limb or other organ of the body, that is a serious offence. I think personally that a term of two years or \$5,000 imprisonment is not sufficient. I think the fine and term of imprisonment shall be determined by the nature of the offence but not limited to \$5,000 or two years. I think we should maybe look a little closer at that particular section of the Law. I would not want to discourage those people who would be interested in volunteering to be a designated fit person but those people who are guilty of such offences should be severely dealt with by the Law.

I am also glad to hear that this particular Law would enable the Courts to have some discretion to those schools designated as Approved Schools. As I understand it under the present Law, the Court has no discretion, other than to send the juvenile to an Approved School in Jamaica. I could see maybe 20 or 25 years ago, this might have been an accepted thing and we have had many students who have been referred to these homes in Jamaica come back and be worthwhile and upright citizens in the community. But I think the conditions in those schools have deteriorated to such a point now that when we send students in that area, they come back in most cases, hardened and wiser criminals.

I think that it is time for us to look carefully at the possibility of having some type of local institution, or facility available that is considered adequate, where our juveniles can be housed and can be taught to become responsible and upright citizens.

It is also good under section 50 that the Governor has the authority, (that is the governor in Executive Council I assume), not only to declare a house or building or other places as an approved home, but they also have the ability to declare that an approved home or school shall cease to carry that designation when the situation warrants it to be done. Maybe it will be done in the regulations but I think there is a need to establish the criteria for the qualifications of consideration under section 51 entitled, Power to declare a school approved school on application of managers. In other words, I think that whoever would be interested should know what is being looked at, or looked for, in order for them to be considered as an approved establishment.

I think that it would be good if there was some provision in this Law calling for a mandatory provision in the Law for the Member, or some Member of his Portfolio and in particular a Member, or Members from the Social Services Department to visit these Approved Schools on a frequent basis to make sure that the conditions under which children are housed are acceptable and continue to be that way.

I support the idea of this Bill going to a Select Committee but like the First Elected Member for West Bay and also the First Elected Member for Bodden Town, I would not like to

see any substantial amount of time wasted in having the provisions of this Bill implemented.
I support the Bill.

MR. PRESIDENT:

Proceedings are suspended for fifteen minutes.

AT 2:52 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:52 P.M.

MR. PRESIDENT:

Proceedings are resumed.

The Second Reading debate on the Juveniles Bill. Does any other Member wish to speak? In that case, would the Mover wish to reply to the debate?

HON. D. EZZARD MILLER:

Yes, Mr. President.

I would first of all like to thank all Honourable Members who support the legislation and I said, in moving the Bill, we do not purport that the legislation is perfect but it has had considerable input from the technical people concerned with the legislation. We believe that any improvements made from here on in will come largely from experience in working with the new provisions of the Bill and we need to implement it as soon as possible, in order to allow us to start gathering that experience as early as possible.

I would just like to comment briefly on some of the points raised by speakers. The Third Elected Member for George Town intimated that he would prefer and intended to move a Motion to send this Bill to a Select Committee. I do not support that at this time because, as I said earlier, this Bill has been talked about for a long time, we have had a lot of technical input into the Bill.

The Member, in his contribution intimated that the report of the committee might have been outdated. I do not accept that because they met for two years. In the two years that I have had the responsibility in the Portfolio, we had the task of pulling all of the input from various organizations and Government Departments into one document of drafting instructions for the Legal Department. Those drafted instructions were in fact, reviewed by the lecturers from the Law School in consort with the Social Services Department. Their recommendations were also taken into consideration in the final draft.

He asked that the definition of an Approved School, I think he felt that it should be only Approved Schools locally. The reason we believe it needs to be given the wider definition given in the Law is because there are going to be instances where one or two children might require a specialised type of care and it would uneconomical and also less effective to provide that in a vacuum in Cayman. We need the flexibility of being able to approve such specialised institutions, when and where necessary to meet peculiar circumstances.

His idea of having a woman on the Juvenile Panel at all times, I believe can be handled administratively whenever possible, but I would resist putting it in Law in case the day ever arose where the Juvenile Court could not meet because we could not find a woman JP.

I think he also felt that we should have both parents attend the Juvenile Court but he went on to say that the Interpretation Law means that when you use a singular, it refers to the plural. I believe that that would be the situation here, where we refer to one parent, of course, it would mean two parents where possible, but we could deal with the juvenile offender with one parent.

He also asked for a better definition of "grave crime". I do not know if he can come up with a better one but that is the best one our legal experts could come up with in the context of the Law, so I think we will have to stick with that for now.

He spoke about the Childrens Act in the UK and expressed that maybe we should wait until that Law is in place and we have some experience from it. Again, I believe that our Juvenile legislation is short in so many areas and prohibits us from developing the kind of innovative programming and services that we need to deal with the problems we are facing today.

I believe that the urgency of the matter mandates that we go ahead in putting this proposed Bill into Law. The Select Committee that he and some other speakers refer to, can still review the legislation whenever it deliberates because I do not believe that there is any timetable on the meetings nor the reports on that particular Select Committee. In dealing with the problems of youth, as they envisaged that committee dealing with it, there would be nothing wrong with reviewing this legislation and proposing amendments where they find them to be necessary. He used as an example, the contribution of \$100. I believe that this is one of the specific areas that we are going to have to get experience from in determining what is adequate.

I would just like to tell him that in moving the Bill, I did say that I named the Government Departments that were represented on the Bill but we did have some private sector Members on that committee that met then. The list that I gave was not exhaustive in terms of its membership.

The First Elected Member for West Bay raised some valid points but like him, I fully concur that trying to put all of the concerns he expressed into Law has been a very difficult exercise. We have tried in section 41, to cover as many eventualities as possible and we hope that experience will show that those areas that are spelled out there can deal with any of the problems that might arise.

While dealing with that, I would just like to respond to the Second Elected Member for West Bay's concerns about the penalties for that area, because those penalties are not for the offence of having someone lose a limb or their eyesight, they are the penalties if someone, in negligence,

exposed a person to a situation where they might have received bodily harm. These penalties will bite if the person causes bodily harm, he then falls under the provisions of the Penal Code. In addition to these and we did in fact increase it from \$500 in the old Law to \$5,000, and we believe that there is a substantial enough increase there.

In responding to the First Elected Member for Bodden Town's contribution, I cannot say that I have any physiological or psychological reason for the eight years. That is taken from the old Law and I believe in the UK legislation, they just enacted it as 10 years but I think that ours, eight years here, is based upon experience of having children of that age committing the kind of offences and needing the protection that this Law provides.

He is concerned about religious persuasion. I give him the assurance that it is not intended to create any kind of prejudice. To the contrary, it is there to try and match people. To use the example he used, in the case of a Seventh Day Adventist, we would not want to place a Seventh Day Adventist child with a Catholic or somebody in the United Church. The reason why they must take their religious beliefs into consideration is so that we can put like with like, so that it helps the environment into which the child is put. It is not intended to be disruptive, it is the other way around.

I share his concerns about the Approved School. The Education Department, the Social Services Department and the Cayman Counselling Centre are presently working on a programme for some of our troubled youth in the school and we hope to put that programme in place. But unless we get this Bill, which allows us this flexibility in approving or naming Approved Schools locally, we cannot do very much under the old Law, which was quite specific. The definition of an Approved School under the old Law was, and I quote:

"Approved school means a school approved by the Minister under the Juveniles Law of Jamaica."

So we are trying to build in the flexibility to allow us to put forth the programmes that we need.

The Bill is in essence an attempt by Government to put legislative framework in place which will allow us to put the programmes and services in place that the youth in Cayman today, deserve and need. I thank all Honourable Members for their support of the Bill.

QUESTION PUT: AGREED.

THE JUVENILES BILL, 1990, GIVEN A SECOND READING.

MOTION
TO COMMIT THE JUVENILES BILL, 1990,
TO SELECT COMMITTEE
(Standing Order 49(1))

MR. TRUMAN M. BODDEN: Mr. President, under Standing Order 49, I move that the Bill be referred to the Select Committee on the Rights of Children, Young Persons and Women already established, for it to hear the public's views on it and to consider whether changes should be made to it and report thereon.

MR. PRESIDENT: Members have heard the Motion duly put under Standing Order 49, that this Bill be remitted to the existing Select Committee on the Rights of Children, Young People and Women. There is no need for a seconder under the Standing Order, so would the mover wish to speak to his Motion?

HON. D. EZZARD MILLER: Mr. President, just on a matter of procedure, does the Motion need to be seconded? I do not have my Standing Orders with me, that is why I am asking.

MR. PRESIDENT: I do not think that it does. It does not say so in Standing Order 49, but I see that the Attorney General is busy looking to check.

HON. RICHARD W. GROUND: I suspect it does need a seconder, I think Motions do unless...

MR. PRESIDENT: Under a different Standing Order?

HON. RICHARD W. GROUND: Yes.

MR. PRESIDENT: Well, for safety, let us have a seconder.

MR. G. HAIG BODDEN: Mr. President, I am happy to second the Motion.

MR. PRESIDENT: Thank you.
I think that gives us what I call belt and braces in another

context.

Would the mover wish to speak to it please?

MR. TRUMAN M. BODDEN:

Yes, Sir.

I will be brief, as I had dealt earlier with this. I believe that the Law is so important that we should take sufficient time, as we have waited since the Committee's report in 1986, to get this far. Take a month, two months to look at this in depth and try to get full input from the public on it.

I do agree with the Members who said that the Select Committee has to sit and it has to sit within reasonable time and that this cannot be put off for any length of time. There is no reason why we could not, fairly quickly, have a short sitting and put out a notice asking the public to get their views in as soon as possible, then consider each of the different sections individually. Along with this, we could also look at the Laws that are related to it, such as the Maintenance Law and the Affiliation Law which are referred to in this and try to do an overall review of it.

Hopefully then, in the session in November, which is two months off, we should be able to come back with such amendments, if any, that the committee recommends. At least we would have had the opportunity of getting a much wider and further input from the public on the matter and most importantly, looking at things overall, not just this Law in isolation. I would ask the Government to think of it that way. I am putting this forward constructively, I think everyone has left politics out of it. I genuinely feel that there are certain sections here that need to be looked at in a lot more detail than it can get to a full House Committee stage, which will be dealt with reasonably quickly as we know and will not have the period of right to call witnesses or look at specific areas.

The other point was that the United Kingdom has brought out a new Juveniles Law. Some of those sections may be relevant to this and in the light of their experience over there we could look to see whether they fit into our own Law.

I would ask Members to support this move and I would undertake, if necessary, to sit very long hours on this committee, even on a Saturday if it became necessary to try to finish it quickly and get back to the House as quickly as we can - and not before the next session in November.

Thank you.

MR. PRESIDENT:

Does any other Member wish to speak?
The Honourable Member for Health.

HON. D. EZZARD MILLER:

Mr. President, I wish to reiterate what I said in the reply hoping that the Member was not going to insist and that he would accept the urgency in getting the legislation in place and that he was not going to move his Motion to send this to a Select Committee. He cannot really send it to a Select Committee supposedly to get all this public input, but then it is going to be a short Select Committee. I would point out that even if the legislation is passed now, it still takes two or three months before it can be put into action because it has to be assented to by the Governor and it has to be cleared by the Secretary of State under the disallowance. To put this in a Select Committee now, in particular when we have so many Select Committees, that in some people's minds are maybe more urgent than this one, for example the Select Committee on Immigration and it's related legislation. We have had to put off one Select Committee that some Members feel is very important, that of the Ombudsman, until such time. The decision of the Committee was to put that meeting off until such time as the Select Committee on Immigration had finalised its deliberations and reported to the House.

I really cannot support sending this to a Select Committee to which a Chairman has not yet been appointed, which has no schedule of meetings set down, which will be competing with other (as I said in some Member's minds) more important matters. I believe that as far as the technical side of the Law is concerned, we have taken very broad and detailed representation and any improvements in the legislation have to come from the experience of administering the new Law. Under those conditions I really cannot support sending it to that Select Committee.

MR. PRESIDENT:

Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN:

Mr. President, I would like to say that I support the Motion which I seconded, to send this important Bill to a Select Committee. It is apparent that all the Members of the House agree generally with the Bill, but Members feel that a better job can be accomplished in a Select Committee where it would be possible to seek the advice of persons or bodies involved with juvenile work in these Islands.

The Bill itself mentions other Laws which apply in certain parts to this Bill and I believe it is necessary to study this carefully. The Member himself, in introducing the Bill, mentioned that a certain amendment for the rules not to be made by the Rules Committee would be amended in the Committee stage and this is something that needs careful scrutiny. Because of the fact that juvenile crime is really on the increase it is apparent that this Bill needs the most careful scrutiny and study which it can only be given in a Select Committee, so I wholeheartedly support the idea that we deal with this by way of a Select Committee.

MR. PRESIDENT:

The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL:

Thank you, Mr. President.
We are looking at a Bill which replaces a Law which was

enacted in 1975, some 15 years ago. I have been in this House for 10 years and have looked forward to the day when we would have a Juvenile Law come to this House. Today that day has arrived and I feel it is imperative that we take advantage of the opportunity of passing this Bill. I concur with the Third Elected Member for George Town that this committee is formed. There is no reason why, although we passed the Second Reading of this Bill today, we cannot in this committee, when time is available to study and if there are amendments that we feel are necessary, certainly bring them forth and I feel certain that the Legal Department will do what is necessary. We do have the Public Accounts Committee, Immigration Legislation, and many other Select Committees who have not had an opportunity of meeting. I do not see how, if we are going to do something in haste, we are going to do a proper job. I would ask Honourable Members today to let us get ahead and pass this Second Reading of this Bill, let us deal with what we can in the Committee stage and then look at it in detail. When our Select Committee meets we can make recommendations and come back with an amendment whenever it is ready.

I do not support the Motion before the House.

MR. PRESIDENT:
reply?

If no other Member wishes to speak, would the mover wish to

MR. TRUMAN M. BODDEN:

Mr. President, only to say that obviously my priority in relation to the Juveniles Law, differs considerably from that of the First Elected Member for Cayman Brac. I regard this as far more important than the Select Committees that he has mentioned because this is dealing with children of tender age who have no way at all, nor the capacity of dealing with themselves and therefore perfection of this Law in the beginning is far more important than correction of it at a later stage. In fact the whole principle relating to large sections of this Law is to deal with prevention rather than cure and the committee itself will look at that aspect.

Prevention is to get it right the first time, cure is after you have dealt with it, to go back to try to correct it. It is never an easy job. That is why I feel since we have waited from 1986 for this committee to deal with this, this is now some four years later, what is wrong with a couple of months so that we can try to get this far better perfected? I would feel much happier as a father of children to know that a Law coming in had been dealt with before it was passed, even if it took another few months since we have waited the four years, rather than have it put through and then talk about mending it after. It is an admission of the imperfection in the beginning.

Thank you.

QUESTION PUT: AYES AND NOES

DIVISION NO. 33/90

AYES: 7

First Elected Member for
West Bay
Third Elected Member for
West Bay
Third Elected Member for
George Town
Second Elected Member for
Cayman Brac & Little
Cayman
First Elected Member for
Bodden Town
Second Elected Member for
Bodden Town
Elected Member for East
End

NOES: 8

Hon First Official Member
Hon Second Official Member
Hon Third Official Member
Hon Elected Member for TAT
Hon Elected Member for EERC
Hon Elected Member for HSS
Hon Elected Member for CW&A
First Elected Member for
Cayman Brac & Little
Cayman

NEGATIVED BY MAJORITY:

MOTION TO COMMIT THE JUVENILES BILL, 1990, TO THE SELECT COMMITTEE ON THE RIGHTS OF CHILDREN, YOUNG PEOPLE AND WOMEN, DEFEATED.

ADJOURNMENT

MR. PRESIDENT:
early?

I wonder whether the House might consider adjourning slightly

HON. THOMAS C. JEFFERSON:
specific today and adjourn promptly at 4:30 p.m.. I move the adjournment of this Honourable House until 10:00 o'clock tomorrow morning.

I believe Members will agree that there is no need to be so

QUESTION PUT: AGREED:

AT 4:26 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., TUESDAY, 4TH SEPTEMBER, 1990.

TUESDAY
4TH SEPTEMBER 1990
 10:06 A.M.

MR. PRESIDENT:
 and Development.

Prayers.
 The Honourable First Official Member responsible for Finance

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 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.

QUESTIONS TO MEMBERS

MR. PRESIDENT:

Proceedings of the House are resumed.
 Questions.
 The First Elected Member for Bodden Town, Number 120.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 120: Can the Honourable Member say:

- (a) whether the Education Department consider children at age 13 sufficiently mature to make permanent subject choices;
- (b) if the answer is in the positive, is there any empirical evidence to support the Department's position; and
- (c) if the answer is in the negative, or if no empirical evidence exists, how has the situation changed to benefit the student?

ANSWER:

- (a) It is the opinion of the Education Department that children at age 13 may not always be sufficiently mature to make permanent subject choices.
- (b) See (a) above.
- (c) Recent changes include increased provision for counselling by teachers, heads of year, career teachers and finally a parent's/teacher's evening at which the options' scheme is presented to the parents accompanied by a booklet which sets out the choices that are available.

If suggestions put forward in the executive summary of the Education Sector Review are implemented, pupils will then not need to make option choices until they are at least 14 years of age and thus after three years of secondary education rather than the one year as presently done at the Cayman Islands High School.

MR. PRESIDENT:

Supplementaries?

Member for Bodden Town.

The next question please, Number 121, the First Elected

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 121: Can the Honourable Member say:

(a) how many cases of Dyslexic children there are at the various levels in Government schools; and

(b) what is being done at each level to ensure that these students have access to proper education?

ANSWER:

(a) The focus has not been on classifying children into categories, for example, Dyslexic. At each level there are children under-achieving in reading and other subject areas. Further diagnostic procedures are presently being organised to determine which pupils have learning difficulties as opposed to other reasons for under-achievement in Government Schools.

(b) At each level pupils considered as having learning difficulty receive direct teaching strategies for remediation. Classroom teachers and/or special education personnel intervene with specific task training strategies to assist with the disability. The majority of children receive attention in the regular classrooms. Some are withdrawn in small groups for more specific assistance.

Children with more severe learning problems are provided for at the Light House School.

SUPPLEMENTARIES:

MR. PRESIDENT:

Supplementaries.

MR. ROY BODDEN:

Thank you, Mr. President.

provision exists for ascertaining that students may

be dyslexic or otherwise?

HON. BENSON O. EBANKS:

standing in the Member's name.

Mr. President, I believe that question begs another question

MR. PRESIDENT:

answer is to the next question so maybe you would take that as a supplementary.

I think it is running into that, but we are not to know yet what the

HON. BENSON O. EBANKS:

The point made in the answer, Mr. President, is that it is not customary to classify children having problems in categories. It is true to say that there has not been an Educational Psychologist in post, until this term, for some time and the department was using outside consultants.

MR. ROY BODDEN:

Thank you, Mr. President.

consider it effective, the prescribed treatment for these children with learning disabilities if there has been no proper diagnosis of what the disabilities were or are?

Then will the Honourable Member tell the House how does he

HON. BENSON O. EBANKS:

I did not say that there were no facilities, Mr. President. What I said was that the department did not have its own Education Psychologist on staff. We have been employing outside psychologists and consultants on short term basis. But this is why we are now in a position to map a strategy within the department because we have our own staff.

MR. PRESIDENT:

because the supplementaries are now on to the next question.

I think that we should perhaps move on to the next question

The First Elected Member for Bodden Town.

MR. ROY BODDEN:

Thank you, Mr. President.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 122: Apart from Dyslexia, can the Honourable Member say if there are any other serious learning disabilities in the Government schools?

ANSWER: According to the past Diagnostician's and Educational Psychologist's reports, no child has been diagnosed as having Dyslexia in Government schools. There are children with learning difficulties, but the etiology has not been determined. Environmental factors and developmental delays could be some contributing factors in learning disabilities.

The term Dyslexia is a specific label which means reading difficulty. Other labels are Aphasia (language disorder), Acaculia (arithmetic disability), Agraphia (writing disability) and others.

Of all the labels, Dyslexia could be considered the most serious of the academic disabilities.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. ROY BODDEN: Thank you, Mr. President.
Am I to understand from the Honourable Member's answer that there are no children in the Government schools diagnosed as dyslexic?

HON. BENSON O. EBANKS: That is my information, Mr. President.

MR. ROY BODDEN: Mr. President, I know how you feel about statements, and I beg your pardon, but I would like, at the end of the session perhaps, to have a discussion with the Honourable Member because when I ask a question it is from a factual basis.
Thank you.

MR. PRESIDENT: Sorry, it is from a...I did not catch the last two words.

MR. ROY BODDEN: It is from a factual basis.

MR. PRESIDENT: Of course you are at liberty to discuss anything, but I think I should make the point from the Chair, that if a question is put the Member has answered it to the best of his ability. There may be more you want to take up with him.

Any other supplementaries?

Question Number 123, the Second Elected Member for Bodden

Town.

THE SECOND ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND AGRICULTURE

NO. 123: Would the Honourable Member say if Government will consider amending the Electrical Licensing Regulations so as to allow non-Caymanians to obtain Electrician Licences?

MR. G. HAIG BODDEN: Mr. President, I was under the impression the question I had put in had read to allow the non-Caymanian spouses of Caymanians.

MR. PRESIDENT: I think there is one word missing on the Order Paper which was in the original question. You are quite right. It reads so as to allow non-Caymanian spouses of Caymanians to obtain electrician licences. That is the text that I have. I think there are a few words missing in the Order Paper.

HON. LINFORD A. PIERSON: Yes, Mr. President, my answer is on the basis of that question reading non-Caymanian spouses of Caymanians. The answer is:

ANSWER: The Electricity Law and its Regulations are currently under review. Regulation 61, which deals specifically with non-Caymanian spouses, is being addressed in the review as considerable representation has been made to the Portfolio in favour of non-Caymanian spouses being allowed to take the Electricians Trade Test, in lieu of providing an overseas licence.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Mr. President.
Is the Honourable Member in a position to say when the results of this review may be expected?

HON. LINFORD A. PIERSON: This review is now currently being undertaken and it is hoped that it will be possible to bring the necessary amendments to the House in the November sitting or early next year.

MR. PRESIDENT: Next question, please.
The Second Elected Member for Bodden Town, Number 124.

THE SECOND ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND AGRICULTURE

NO. 124: Can the Honourable Member give some indication as to the status of the launching ramps which are to be built in the Bodden Town area?

ANSWER: The current status of the proposed launching ramps in the district of Bodden Town is as follows:

Hirst Road - Newlands

Instructions have been given to the Lands Officers to proceed with acquisition of a one acre site adjacent to the western boundary of the public road. It is anticipated that the purchase of this property will be finalised in time for the completion of the ramp during 1990. In the meantime a jetty will be constructed offshore from the end of Hirst Road.

Frank Sound

A report and sections 3 and 6 notices have been prepared in respect of the portion of land to be acquired for the launching ramp at this site. Negotiations are in progress with the proprietor. It is proposed to acquire approximately 50 foot of sea frontage to accommodate off-road parking as the facility will be located at the East End - North Side - Bodden Town Road intersection. As a precise survey is to be carried out on this site, acquisition may not be finalised until the latter part of 1990. Therefore, it is proposed to commence construction of this facility in early 1991.

Bodden Town

It was initially agreed to upgrade an existing ramp at Pease Bay. However, due to certain representations made to the Planning Department, this proposal was abandoned. Another site in the general vicinity has been investigated by the Natural Resources Laboratory (NRL) who initially advised against creating this type facility in such close proximity to the proposed channel. The Natural Resources Laboratory has subsequently reviewed the channel situation at Pease Bay and now supports clearing of the existing channel in lieu of creating a new channel. The proprietor of the alternate site has now withdrawn his offer, therefore a new location will have to be sought.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. G. HAIG BODDEN: Mr. President, may I ask the Member if his Portfolio has any alternate sites under consideration, in other words have they located or have they found any other sites that may be used?

HON. LINFORD A. PIERSON: Mr. President, we were only advised yesterday that the site that was initially offered for the ramp has been withdrawn, but we are in the process of seeking other suitable areas or another site.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I know this question specifically dealt with Bodden Town, but there is an overlap with the Bodden Town, Frank Sound and East End area. I wonder if the Member would be in a position to say what is the status on the ramps in the East End area?

MR. PRESIDENT: That was quite cleverly constructed. I do not think it really stems from the original question, but the Member may wish to reply.

HON. LINFORD A. PIERSON: Yes, Mr. President, it was cleverly put. I would promise the Member that I will get that information to him in writing as it is not now available.

MR. PRESIDENT: If there are no other supplementaries, the next question. The Second Elected Member for Cayman Brac and Little Cayman. Number 125.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND AGRICULTURE

NO. 125: Would the Honourable Member say if the blasting of rock on the road next to the Ashton Rutty Centre caused any damage to that building?

ANSWER: Minor damage to the roof of the Ashton Rutty Centre did occur as a result of the blasting of rock along Ashton Reid Drive. Five sheets of metal roofing were damaged and are to be replaced at a cost of \$1,480.00.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. GILBERT A. McLEAN: Would the Member say who met the cost of the repairs?

HON. LINFORD A. PIERSON: The Public Works Department, Sir.

MR. GILBERT A. McLEAN: Would the Member say if there was in place any agreement or contract with the people who are doing the blasting and the Public Works whereby if damage was caused it would not be for the account of Government?

HON. LINFORD A. PIERSON: The answer to that supplementary is not available but the Chief Engineer has assured me that he will get this to me and I will supply it to the Member in writing.

MR. GILBERT A. McLEAN: Is it not true that Public Works gave the assurance that there would be a contractual agreement between Government and the people doing the works, particularly in view of the fact that they were using dynamite so that the people using dynamite would be responsible for any damage caused?

HON. LINFORD A. PIERSON: As stated this particular answer is not readily available. I would say though that the Public Works Department did in fact take certain safety precautions in that the storm shutters were installed over all of the windows in the Ashton Rutty Centre. It was not of course anticipated that the flying rocks (because of the low charges being used), would have damaged the roof, but there were safety precautions. But on the question of any agreement I will in fact supply this to the Member in writing.

MR. GILBERT A. McLEAN: Mr. President, would the Member say if any examinations were done on the cisterns which are on the west part of the Ashton Rutty Centre and on the foundation to see if any cracks have occurred?

HON. LINFORD A. PIERSON: The results of examinations carried out to the entire building revealed that no other damage was sustained to the building.

MR. GILBERT A. McLEAN: Is it the case then that the Public Works specifically checked to see whether there were cracks in the cistern or foundation?

HON. LINFORD A. PIERSON: Mr. President, it is my understanding that the whole building was thoroughly checked by the Public Works Department.

MR. PRESIDENT: Question Number 126, the Second Elected Member for Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 126: Would the Honourable Member say what work is to be carried out at the Cayman Brac High School

expected to cost the \$300,000.00 recently allocated to the project?

ANSWER: The work to be carried out at the Cayman Brac High School consists of the construction of a new Industrial Arts/Technology Block and renovations to the Science Block.

In March, 1990, the review of the proposed Industrial Arts Centre provided an inception cost ranging between \$260,000.00 to \$290,000.00, with approximately \$10,000.00 to complete renovations generally, including the Science Block.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. GILBERT A. McLEAN: Would the Member say how many children this new renovation and innovation is expected to serve?

HON. BENSON O. EBANKS: All the children of the High School.

MR. GILBERT A. McLEAN: The girls also participate in the wood-work class and industrial arts as well.

HON. BENSON O. EBANKS: Yes, in most instances.

MR. GILBERT A. McLEAN: Would the Member say if the work has been contracted out or whether it is being done by the Public Works Department?

HON. BENSON O. EBANKS: The drawings are presently out to tender.

MR. PRESIDENT: Question Number 127. The Second Elected Member from Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC & LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND AGRICULTURE

NO. 127: Would the Honourable Member say what percentage of capital work is to be completed in 1990 in each district, including Cayman Brac and Little Cayman, identifying the works expected to be completed?

MR. GILBERT A. McLEAN: Mr. President, I understood from the Member for Communications that the information in this question is not readily available and he would ask that it be deferred, I do not know if he could confirm that?

MR. PRESIDENT: That is fine, but the question would normally be put; we will take it that the question is being put and he will seek agreement to do that.
All right?
We will take it that the question has been put, he will seek deferment and the question will come up on a subsequent day.

MR. GILBERT A. McLEAN: Should I read the question?

MR. PRESIDENT: I think there is no need to because we all understand what is going on. So the question will be taken at a subsequent day's sitting.

HON. LINFORD A. PIERSON: That is correct, Mr. President.

MR. PRESIDENT: Question Number 128, please, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND AGRICULTURE

NO. 128: Would the Honourable Member state what progress has been made on the construction of the new Court House and offices?

ANSWER: The construction programme for this project will be delayed due to the necessity to revise and expand on the original consultant's proposal to extend over the car park to the south of the existing building.

The new client brief requests more accommodation than was included in the design presented in the original proposal by the consultant architect.

Public Works is currently preparing a comprehensive development brief for inclusion in the 1991/1992 Building Programme. It is envisaged that this project will take 18 to 24 months to complete.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. TRUMAN M. BODDEN: Would the Member state whether there has been any input from the Judicial Department as he refers to client brief?

HON. LINFORD A. PIERSON: Yes, Sir, there has been input from the Chief Justice Department who is really the client.

MR. TRUMAN M. BODDEN: Does the Member expect to have what is necessary to include this in the coming budget as he refers to 1991-1992 Building Programme?

HON. LINFORD A. PIERSON: Yes, Mr. President.

MR. PRESIDENT: Last question on today's Order Paper, Number 129, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND AGRICULTURE

NO. 129: Would the Honourable Member state the cost per square foot of the Port Authority canteen building and what the average cost is of building such buildings is at present?

ANSWER: (a) The cost per square foot was \$132.60, i.e. the contract price was \$143,990.00 and the area of the building 1,085.89 square feet.

(b) The average cost of such a building is difficult to determine in the absence of any similar such building being constructed on the Island.

A bill of quantities will generally provide a good comparison of prices when used for tendering, provided the bidding contractors are of similar qualifications and level of professionalism. However, the Port Authority's quantity surveyors (J.E.C. Consultants) in reviewing the contractor's rates stated that the rates are in line with those currently charged for this type of project and size executed by an experienced general contractor such as Hurlston Construction Ltd.

If one was to construct a new building today of the same area and quality, and under identical physical and design constraints on a town centre site, one would have to add an inflation factor to the cost quoted of 6 per cent to 10 per cent.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. TRUMAN M. BODDEN: Did this contract go out to bids and was this the lowest bid?

HON. LINFORD A. PIERSON: There are two questions. Yes, the contract went out to bid and the second part of the question is, no, this was not in fact the lowest bid. The policy is not necessarily to accept the lowest bid.

MR. TRUMAN M. BODDEN: Could the Member give particulars of what the bids were, especially the lower bids? How much were the lower bids?

HON. LINFORD A. PIERSON: Mr. President, tender documents were submitted to two other contractors with queries going out to several more who declined to bid. Only one of the contractors who received documents responded. The price quoted was \$9 per square foot less than that quoted by Hurlston Construction Company. The resultant increase arose from inflation and additional requirements by the Authority during the six month period from tender to construction requirement.

MR. PRESIDENT: That completes the questions on today's Order Paper.
The House will now go into Committee to study a Bill entitled the Supplementary Appropriation (1987) Bill, 1990 and other Bills.

GOVERNMENT BUSINESS

BILLS

HOUSE IN COMMITTEE

10:44 A.M.

MR. CHAIRMAN: The House is now in Committee. With your leave may I assume that as usual we should authorise the Honourable Second Official Member to correct minor printing errors and the like in these Bills.

Would the Clerk now state each Bill and read its Clauses and we will proceed as we usually do, the Clerk will read the Clauses with the marginal notes and I will keep an eye open and any Member who wishes to speak on a particular Clause, would he please indicate.

COMMITTEE ON BILLS

THE SUPPLEMENTARY APPROPRIATION (1987) BILL, 1990

CLERK: CLAUSE 1: Short Title.
 CLAUSE 2: Expenditure confirmed.

QUESTION PUT: CLAUSES 1 AND 2 PASSED.

CLERK: A Bill For A Law To Allow And Confirm Certain Expenditure During The Financial Year, 1987.

QUESTION PUT: TITLE PASSED.

THE SUPPLEMENTARY APPROPRIATION (1988) BILL, 1990

CLERK: CLAUSE 1: Short Title.
 CLAUSE 2: Expenditure confirmed.

QUESTION PUT: CLAUSES 1 AND 2 PASSED.

CLERK: A Bill For A Law To Allow And Confirm Certain Expenditure During The Financial Year, 1988.

QUESTION PUT: TITLE PASSED.

THE SUPPLEMENTARY APPROPRIATION (1989) BILL, 1990

CLERK: CLAUSE 1: Short Title.
 CLAUSE 2: Expenditure confirmed.

QUESTION PUT: CLAUSES 1 AND 2 PASSED.

CLERK: A Bill For A Law To Allow And Confirm Certain Expenditure During The Financial Year, 1989.

QUESTION PUT: TITLE PASSED.

THE CUSTOMS BILL, 1990

CLERK: CLAUSE 1: Short Title.
 CLAUSE 2: Interpretation
 CLAUSE 3: Establishment of the Customs Department
 CLAUSE 4: Appointment of the Collector

QUESTION PUT: CLAUSES 1 THROUGH 4 PASSED.

CLERK: CLAUSE 5: Duties of the Collector.
 CLAUSE 6: Officers.
 CLAUSE 7: Powers of the Collector.
 CLAUSE 8: Duties of Officers.
 CLAUSE 9: Powers of Officers
 CLAUSE 10: Prohibited and restricted goods.
 CLAUSE 11: Inward bound vessels to proceed direct to a port.
 CLAUSE 12: Master or Commander to make report.
 CLAUSE 13: Place for the discharge of cargo and disembarkation of passengers.
 CLAUSE 14: Entry of goods.
 CLAUSE 15: Examination of goods.
 CLAUSE 16: Samples.
 CLAUSE 17: Movement of uncustomed goods.
 CLAUSE 18: Release of goods from port or airport of arrival.
 CLAUSE 19: Temporary imports.
 CLAUSE 20: Approval of bonded warehouses.
 CLAUSE 21: Customs Regulations.
 CLAUSE 22: Deposit of goods in bonded warehouse, etc.
 CLAUSE 23: Delivery from bonded warehouse.
 CLAUSE 24: Bonded warehouse deficiencies.
 CLAUSE 25: Revocation of approval of a bonded warehouse.
 CLAUSE 26: Transit and transshipment.
 CLAUSE 27: Queen's Warehouse.
 CLAUSE 28: Disposal of goods held in the Queen's Warehouse
 CLAUSE 29: Mode of sale of goods in Queen's Warehouse and disposal of proceeds of sale.
 CLAUSE 30: Duties of masters of out going vessels.
 CLAUSE 31: Entry of goods outwards.
 CLAUSE 32: Clearance of coasting ship and transire.
 CLAUSE 33: Times of import and export.
 CLAUSE 34: Surplus stores.
 CLAUSE 35: Accidental loss of goods under Customs control.
 CLAUSE 36: Liability for fire and accident.
 CLAUSE 37: Agents.
 CLAUSE 38: The charge of duty.
 CLAUSE 39: Liability for duty.
 CLAUSE 40: Basis of valuation.
 CLAUSE 41: Calculation of value.
 CLAUSE 42: Re-imported goods.
 CLAUSE 43: Relief from duty.
 CLAUSE 44: Drawback.
 CLAUSE 45: Refund of duty where goods are returned or destroyed.
 CLAUSE 46: Concession to armed forces of the Crown
 CLAUSE 47: Package Tax.
 CLAUSE 48: Governor may waive or order refund.
 CLAUSE 49: Offences by Officers
 CLAUSE 50: Offences against Officers.
 CLAUSE 51: Smuggling.
 CLAUSE 52: Engagement in smuggling.
 CLAUSE 53: Presumption of being engaged in smuggling.
 CLAUSE 54: Evading duty.
 CLAUSE 55: Possession, etc., of goods on which duty has not been paid.

CLAUSE 56:	Offering goods for sale under colour of having been smuggled, etc.
CLAUSE 57:	Procedural offences.
CLAUSE 58:	Miscellaneous offences.
CLAUSE 59:	Forfeiture.
CLAUSE 60:	Mandatory penalty.
CLAUSE 61:	Penalties.
CLAUSE 62:	Customs may sue and be sued.
CLAUSE 63:	Officers may represent the Customs in summary courts.
CLAUSE 64:	Notice of seizure.
CLAUSE 65:	Vicarious liability.
CLAUSE 66:	Joint responsibility.
CLAUSE 67:	Recovery of penalties.
CLAUSE 68:	Appeals.
CLAUSE 69:	Rewards.
CLAUSE 70:	Special powers of Governor in Council
CLAUSE 71:	Expenses of implementing Customs requirements.
CLAUSE 72:	Bonds and security.
CLAUSE 73:	Regulations.
CLAUSE 74:	Provisional collection of customs duties.
CLAUSE 75:	Repeals and savings.
CLAUSE 76:	Amendment of certain Laws.
CLAUSE 77:	Commencement.

QUESTION PROPOSED:**DEBATE:**

MR. W. McKEEVA BUSH: Mr. Chairman, in regards to a query I made yesterday in the Second Reading debate concerning the use of what is known as the "red book". I am wondering whether the Honourable First Official Member can give an undertaking that if there is going to be continued use of this red book; that if a car is imported and there is a conflict in the price, that the Officer can examine the car and from that examination will be able to come to some agreement as to the involved price.

HON. THOMAS C. JEFFERSON: Mr. Chairman, at the present time this is done on occasions. We may find that the red book may indicate a particular price, but the purchaser of the car may request the Officer to examine the car to determine its real value and it is done.

MR. W. McKEEVA BUSH: I have never known it to be done and all of my cars have been used cars. I am using myself as an example.

MR. CHAIRMAN: You are declaring an interest of course.

MR. W. McKEEVA BUSH: Well, if I need to, I will.

MR. CHAIRMAN: I think the Member has replied to you, that that process can take place and he says it does take place.

MR. W. McKEEVA BUSH: All right.

HON. THOMAS C. JEFFERSON: In essence that is what I am trying to say, Mr. President.

MR. CHAIRMAN: I think it must always be open to a person importing anything to make representations about the duty being charged.

MR. W. McKEEVA BUSH: I do not know how many people know that they can request, for instance in vehicles, I am dealing with vehicles because that is where I have had my complaints. Anyway, if it is being done, then fine, but as I say I doubt that there are many people who understand that such a procedure can take place. I thank the Member for his explanation.

HON. THOMAS C. JEFFERSON: I do not know that I need to say anything further, Mr. Chairman, the process is available to the purchaser of the car and I assume that the First Elected Member for West Bay is really talking about used car purchases.

MR. CHAIRMAN: I would have been surprised if most people are not prepared to argue in a case like this.

MR. W. McKEEVA BUSH: There was one other enquiry I would like to make in regard to new cars driven from one state to another and then exported. Is that considered to be a used car then once it reaches the Island?

HON. THOMAS C. JEFFERSON:

The answer is that it is considered a new car.

MR. W. McKEEVA BUSH:

Thank you.

MR. GILBERT A. McLEAN:

Mr. Chairman, I was wondering if in Section 42(b), if some consideration could be given, not necessarily at this meeting of this Committee, but where goods may be sent out of the country again to be re-imported and they are under warranty. Is there any consideration for exemption given for any reduction in what may be charged? Because there are goods which are brought in and they are under warranty and to get them back to the States for example, it would not cost the customer.

HON. THOMAS C. JEFFERSON:

In practice, Mr. Chairman, whenever the goods are under warranty there would not be charge made by the party repairing the vehicle, therefore, no duty would follow as a result of re-importation.

MR. JOHN D. JEFFERSON, JR.:

Mr. Chairman, I have a little problem with that particular new concept of charging duties on goods that are re-imported into the island after being shipped over-seas for repair. Taking into consideration that the duties on the original purchase of the goods have already been collected by Customs, I think that this could lend itself to some conflict. With repairs, how do you determine what the value of the repairs are going to be? I would suggest that that particular provision of the Law be a little further carefully looked at.

MR. CHAIRMAN:

I think perhaps we might ask for legal interpretation. As I read it, there would only be additional duty come for consideration if there was an increase in the value of the goods.

HON. RICHARD W. GROUND:

I think, Mr. Chairman, that in context that means, in effect, the value of the repair, though I stand to be corrected. The goods when they are exported are broken, so they have a diminished value. They are imported, when they come back they are repaired. What you are attempting to do is to levy a duty on the service of doing the repair. If that service could have been done on the Island or might have been done on the Island, but if someone goes outside the Islands and imports that service in effect, then there is no reason in principle why the Customs Law should not apply duty to the importation of that benefit. That is what I understand this to be trying to do.

MR. CHAIRMAN:

Well, since we have no formal amendment moved we cannot proceed to debate it, but I think a point is being made by the Third Elected Member which may well be worth looking into because personally, I am not quite clear as to the two statements.

HON. RICHARD W. GROUND:

Perhaps I could just say something else to expand on it. If, for instance, you sent your car abroad and it is repaired and parts are put into it, there is no reason why when you re-import the car you should get those parts in duty free. If they had been imported separately as parts they would have been dutied and the car repair person on the Island would have paid duty on them.

MR. JOHN D. JEFFERSON, JR.:

Mr. Chairman, I think that is an extreme example because most goods are of the classification of typewriters and other equipment. I did learn that at one stage we had a very special car on this Island, which was required to be shipped abroad for servicing. But I think that is an extreme example. I think the present system works very well, whereby, if a piece of equipment has to be shipped off of the Island for repairs a Customs Officer confirms that it goes out, takes the serial number and upon re-entry checks to make sure that that is the same piece of equipment. I do not think that has been abused. I think this particular provision of the Law should be further carefully looked at.

HON. THOMAS C. JEFFERSON:

We have no difficulty with looking at it again.

MR. CHAIRMAN:

Any other points before I put the question on Clauses 5 to 77?

QUESTION PUT: CLAUSES 5 THROUGH 77 PASSED.

CLERK: Schedule.

QUESTION PUT: SCHEDULE PASSED.

CLERK: A Bill For A Law To Repeal And Re-enact The Customs Law Second Revision.

QUESTION PUT: TITLE PASSED.

QUESTION PUT: TITLE PASSED.

THE JUVENILES BILL, 1990

MR. CHAIRMAN: The Clerk will read the Clauses in succession as before. Would Members please catch my eye on any Clause on which they wish to comment.

MR. TRUMAN M. BODDEN: Mr. Chairman, I have a reasonable amount here, so I ask that she not go fast.

MR. CHAIRMAN: We will go steadily and wait for you.

MR. TRUMAN M. BODDEN: Would you be taking a block of them and then giving us a right to raise any of them, or do you want me to catch her eye as you hit a number? I could not do it at the speed she handled the Customs.

MR. CHAIRMAN: Well we will ask the Clerk to go more slowly and see how we get on. We can always go back. What I was trying to do was to streamline the procedure so that we can take as many Clauses which are not contentious together as we can.

CLERK: CLAUSE 1: Short Title and commencement.
CLAUSE 2: Interpretation.

MR. TRUMAN M. BODDEN: I have something on that, Sir.

MR. CHAIRMAN: I will take Clause 1, then because you want to discuss Clause 2. You know you have not proposed any amendment, so in fact, please go ahead. Clause 1, Clause 2, please discuss.

MR. TRUMAN M. BODDEN: It was in Clause 2, Sir, not on Clause 1. I would like to ask the Member here because I do not intend to spend a long time moving amendments which are going to be in vain. In relation to the Approved School and the place of safety - whether this is something where we can have them restricted, at least the place of safety within the Cayman Islands. I understand the problem with the Jamaican school.

HON. D. EZZARD MILLER: Mr. Chairman, the problem is not necessarily with the Jamaican school. The problem in both of these areas is the inability of Government to provide specialised care that can be very acute and it might only be for one child. Unless we have the flexibility to be able to appoint a school or a place of safety in which the child can get the treatment for that acute problem, we would wind up in a situation where we would not be able to provide it or we would be able to provide it at some expense locally and probably to the detriment of the child in not being able to mix with people and get a synergistic effect of a programme. It is just to give us the flexibility to be able to deal with specific and acute cases. I would venture to say that none of them would be approved in Jamaica because of their particular economic position at the time.

MR. TRUMAN M. BODDEN: I will not put anything on that, I think the results are obvious. I would just mention on the "nightwork", the word "in" needs to go in the fourth line and I am dealing with the white paper, because I only got the green paper yesterday, Sir.

HON. D. EZZARD MILLER: I would like to point out, Sir, that there is really no change between the white paper and the green paper. The green paper is not something that we have produced which is different from the white paper which was circulated. They are exactly the same.

MR. TRUMAN M. BODDEN: It was just a clerical error.

MR. CHAIRMAN: It is a typographical error.

MR. G. HAIG BODDEN: Mr. Chairman, I would like to say that it is my hope that the Approved Schools and the places of safety mentioned in the interpretation could be defined as places in Cayman. However, I too, will not put any amendment because it is quite clear from previous attempts to deal with this Bill that nothing will be changed in it.

MR. CHAIRMAN: I do not think that is quite the question. You do not have the time to put an amendment without special leave or suspension of Standing Orders.

MR. G. HAIG BODDEN: Well, I know, Sir, that you could permit amendments.

MR. CHAIRMAN: I do not think so, I do not think the President has that power. It is a suspension of Standing Orders that requires the House to approve.

MR. G. HAIG BODDEN: But I think amendments can be put without the two day's notice if the Chair agrees, Sir. However, I am not going to argue because I know I would be out numbered.

MR. CHAIRMAN: That is a counsel of defeat, I would not take that.

MR. TRUMAN M. BODDEN: May I just continue on that Point of Order?

MR. CHAIRMAN: On Clause 2? Fine.

MR. TRUMAN M. BODDEN: Under Standing Order 52(2), it does say:

"(2) Notice of any amendment, new clause or new schedule proposed to be moved to the Bill shall be given in writing not later than two days before that on which the bill is to be considered in Committee; and, except with leave of the Chairman, no amendment of which notice has not been given may be moved."

Do I understand it that you would not give leave on any amendment?

MR. CHAIRMAN: Unless it were a matter of obvious urgency, I would not think the Chair should consider it. The paper was circulated in the due time required, therefore it would be an abnormal provision. I would go on and say that I think that this House, in the last year or so, has varied from Standing Orders quite often enough and I think we need to have serious reason to do so.

MR. TRUMAN M. BODDEN: In that case, Sir, then on the balance of what I have, I will raise it and leave it.

MR CHAIRMAN: But that is what I understood you wished to do.

MR. W. McKEEVA BUSH: Mr. Chairman, there is one very important section which I had discussed with the Third Elected Member for George Town which I raised yesterday in my contribution to the debate. In regard to section 3, the Age of Criminal responsibility. I intend, when we get to it, to ask the Chair to allow an amendment to that because I think that it is of a very serious enough substance.

MR. CHAIRMAN: In that case it seems to me you could have given notice yesterday or possibly earlier.

MR. W. McKEEVA BUSH: Mr. Chairman, you will agree that the last several weeks have been hectic for everybody. Yesterday I was here but I was feeling under the weather. I think that in the Standing Orders you do have the discretion and it is a matter of serious substance. I would hope that you would have a look at it when the time comes.

MR. CHAIRMAN: Quite so, when you make the point we will consider how serious it is. That will go with what I said before.

Now we are on Clause 2.

HON. D. EZZARD MILLER: I think that Members seem to be missing the point of the reason why we have left the definition of Approved Schools in the form that it is. We do have at times acute problems with juveniles which cannot be catered to effectively locally. Unless the Law gives the flexibility to allow us to place those juveniles in Approved Schools or in environments like places of safety, where we can give them the best possible benefit, then we are not providing adequately for the children who have those acute needs. That is why we are not in favour of limiting it to Approved Schools in the Cayman Islands.

MR. W. McKEEVA BUSH: The Member is saying that it is a possibility then that children will still be sent to Jamaica.

HON. LINFORD A. PIERSON: I think it is fair to say that the kind of specialised and acute care we would be talking about in these instances is not available in Jamaica.

Members will remember some years ago when we sent some children to Boy's Town in the United States, whom I believe it is fair to say benefited from such a programme. If we limited place of safety to the Cayman Islands, then we could not facilitate that if the need arose again. All we are trying to do is provide the widest possible spectrum of services toward juveniles who are in trouble for whatever reason.

MR. W. McKEEVA BUSH: Will the Member give an undertaking that authorities will do all in their power to use somewhere else other than Jamaica to send our children in need of assistance?

HON. D. EZZARD MILLER: I have no problem with giving that undertaking and providing it within the confines of the Law to the best of my ability. That is not the intention.

MR. ROY BODDEN: Mr. Chairman, I would just like to register a few suggestions and observations. The first is, I do not know if or to what extent use is being made or is planned for psychological services and psychological assessments on these juveniles and youngsters. I would be happy if the Member could provide some information in this regard.

The second thing is that to my knowledge the most successful of these kinds of programmes are programmes which are comprehensive in that it involves the cooperation between and collaboration with for example Social Services and the Education Department.

I am a firm believer and I take cognisance of the fact that there are good programmes and advantages to sending youngsters overseas and I know a little about the Boy's Town in Nebraska. But we have to seriously begin to tailor and plan and implement programmes which can be carried out in the Cayman Islands because it is expensive to send youngsters abroad and sometimes what we do is we exacerbate and aggravate the problems rather than provide solutions.

My suggestion is that in this regard, as far as juvenile delinquency and these kinds of problems, perhaps the best approach would be to work out some kind of programme where we utilise the psychological services and testing etcetera which is offered by the Education Department and try to come up with a suitable programme, so that we lessen the dependency of sending our students or our youngsters abroad.

HON. D. EZZARD MILLER: Mr. Chairman, I have no problem with that. In fact, the department has contracted the services of a clinical psychologist locally who works with children, both in Social Services and those that turn up from problem children of addicts, whether alcohol or drugs, at the Cayman Counselling Centre. There is a committee established right now between Social Services, Education and the Cayman Counselling Centre that is working on a general programme to be developed locally for troubled children in school. I believe that in this point in time we have to take that general approach. Those who need acute and in most cases short time specialised care, we send them in the best market that is available.

MR. W. McKEEVA BUSH: Has the Member searched or investigated the possibility of finding a building that might be suitable and investigated the possibility of such a programme? Really, when I saw this and even up until I debated yesterday, I thought that was probably the case. Maybe I was too hopeful, but I really thought that finally we have found something that might be able to work in these islands and the Portfolio is going to institute a programme here.

HON. D. EZZARD MILLER: It is intended to institute the programme here because we are changing the Law specifically to allow us not to have to send them to Jamaica. In fact, I believe there is a house that is owned by Government on Maple Road in George Town, a four bedroom house that is under consideration for this joint programme for specialised education by the Education Department and Social Services.

The programme is well in hand, in fact when this Law is propagated in three months we will have to have the programme in place to bring the kids who are presently in Jamaica back home. I will not be suggesting that that be an Approved School under this Law.

MR. W. McKEEVA BUSH: That?

HON. D. EZZARD MILLER: The one that we are presently using in Jamaica.

MR. W. McKEEVA BUSH: All right.

MR. CHAIRMAN: Right, let us move on.

CLERK: CLAUSE 3: Age of criminal responsibility.

MR. TRUMAN M. BODDEN: I have something on that, Sir.
Could I ask the Member why he has fixed that date?

HON. D. EZZARD MILLER: Mr. Chairman, that is taken directly from the old Law and it has served us well. I think the experience in Juvenile Court suggests, in talking to the Justices who sit on the Bench, that it is safe to retain the age of 8 years old and that is why we have stuck with it.

MR. TRUMAN M. BODDEN: Mr. Chairman, I think it is well known that in the United Kingdom and in other countries the presumption is 10 years or more. It seems to me totally incomprehensible in this modern day and age to fix the presumption of guilt at eight, a child of those tender years. It is very clear under the Children and Young Persons Act, 1933, in the United Kingdom says it shall be conclusively presumed that no child under the age of 10 years can be guilty of any offence.

I point this out because as the First Elected Member for Cayman Brac talked about or referred to passing this now and amending it later, once a child is convicted the psychological effect and damage is done. Therefore it is important that we get this right and I understand that in the International Symposium dealing with young persons, which was held in Barbados, the talk was more in the line of 12. This, I

think, is to me, totally wrong in this day and age. I think it is going to be damaging and quite frankly then I think we are relying on a Common Law presumption (which is not set out specifically in this Law either). We are looking at a gap of between eight and 14 with a rebuttal presumption. That gap in this day and age is just too big.

MR. ROY BODDEN:

Mr. Chairman, I would just like to say that I have some serious moral scruples about eight years being the age of criminal responsibility. It is an international accepted fact in the annals of child psychology that a child at eight years is not developed psychologically to the point where they can be expected to make these kinds of distinctions.

I would like an undertaking from the Member, at least if he would consider, and certainly if he would try to solicit expert output namely from psychological sources or from a psychologist before we seal this into the Law. Once we convict a few persons on this, we cannot undo the damage and we cannot easily remove the scars. From my experience as a school teacher, children at the age of eight years old are just beginning to reason rationally. There are some concepts, if you read psychological journals, that they are still incapable of grasping and I am saying very bluntly that if we seal this into the Law we will be making a grave mistake, perhaps of irreparable consequences.

HON. RICHARD W. GROUND:

If I might just point out something before the First Elected Member for West Bay speaks and then he can take it into account when he does speak. There is in fact going to be and will remain a buffer zone between the ages of eight and 12 because the Penal Code provides, and will continue to provide, that a person between the ages of eight and 12 will not be criminally responsible for an act or a omission unless it is proved, (and that means proved obviously by the prosecution, and proved beyond a reasonable doubt), that at the time of doing the act or making the omission, the accused person had the capacity to know that he ought not to do the act or make the omission. So the scheme of it is that up to eight there is simply no way that a person can be guilty of a criminal offense. Between eight and 12 the prosecution had to prove in layman's language that he knew what he was doing and that he knew what he was doing was wrong.

MR. CHAIRMAN:

Could you make it clear that that applies to any offense under any Law?

HON. RICHARD W. GROUND:

Any offense under any Law imposing criminal actions.

MR. G. HAIG BODDEN:

Mr. Chairman, I would just like to say that at the expiration of six months, my colleague and I from Bodden Town will be bringing a motion from the House to amend the age of eight to 10. Seems to be no use in doing it today.

MR. GILBERT A. McLEAN:

Mr. Chairman, I would like to add my comments to this question of the age of criminal responsibility. I think what we are talking about here is eight year old children and an eight year old child is just that - an eight year old child.

If it means we are now in a society to the point where it has become a problem that eight year old children are taken to Court and they are committing crimes of that nature then I think it is the adults involved in whatever way who should be there on trial.

In the days when I went to college and I studied teaching, we were taught that adolescence begins at around the average age of 12. To me it is absolutely inconceivable that we can be sitting here talking about putting a Law into effect which will take eight year old children to Court in a criminal fashion. I think the rod of the parent here is a greater deterrent than any such thing and I really think at least 10, for example in keeping with the United Kingdom Law, it should be done and eight I absolutely and totally disagree with it.

HON. LINFORD A. PIERSON:

Mr. Chairman, to comment on the points raised by the previous speaker, I agree that it is an indictment on society, perhaps parents, that an eight year old should even be brought to Court.

Having served on the Juvenile Court since 1976, my appointment as a Justice of the Peace, and I know there are other Justices here that can say similarly, it is not strange to find juveniles coming to the Court at that age for some major offenses. I would also say that section 3 does not contemplate a brand new idea, a concept under this Law. As a matter of fact this existed from under the 1975 Law, so this is not a brand new concept.

As regards the question of changing this to 10 years or maybe 12 years, I would suggest that this be carefully looked at and the basis for this change be carefully considered.

MR. CHAIRMAN:

I would just like to ask the Attorney General's advice. As I understand it is the Criminal Procedure Code, the Penal Law?

HON. RICHARD W. GROUND:

It was the Penal Code.

MR. CHAIRMAN:

The Penal Code provides for the period between the age of eight and the age of 12 where the prosecution must prove conclusively that the child knew what he was doing and that it was wrong. That system goes across all our Laws and what is stated here is simply that no child under the age of eight can be held criminally responsible. I just want to get that absolutely clear. Now, if then there is a proposal to make this 10 instead of eight, I would be grateful if Members would bear with me, this is an important

consideration - if it is a proposal to make the age 10 instead of eight then it requires an amendment to the Penal Code.

HON. RICHARD W. GROUND: That is correct.

MR. CHAIRMAN: Right.
In other words it cannot be done only under this Law, that is the point I was making.

MR. W. McKEEVA BUSH: I understand that, Mr. Chairman. I understand you would have to look at the other Law, but we are dealing with this one now and for the purposes of this one at the present time, I believe that we should look at what holds in England, which is the age of 10. I am sorry that I cannot be deterred but if the Chair allows we are going to ask that Section 3 be amended. It is really fundamental, Sir.

MR. CHAIRMAN: That is understood, the arguments for it are understood. Do not feel that I have not got the point. Just one word. I do want the Attorney General to state what the position would be if the age of eight were amended to 10 in this Law. Does it cover all other offenses under all other Laws then?

HON. RICHARD W. GROUND: If this Law was changed we would have to do a consequential amendment to the Penal Code. I suppose that could be done in this Law, we could stick a section on the end to do it, but the two points would have to be addressed.

MR. CHAIRMAN: Thank you.
Well, maybe, it is time for the Member to speak, I think.

HON. D. EZZARD MILLER: Mr. Chairman, I would just like to say that I do not think all psychological analysis of any age group is basically subjective and I believe it is fair to say that the age of eight has served us well since 1975. I am amazed that no one realised the great travesty this was until now. I believe it is the experience of the Juvenile Court that they are having children, whether it is an indictment on society or not, at the age of eight who know what they are doing and know it is wrong and the position of the Portfolio would be that the age of eight has served us well. We are in our particular society and we would suggest that it be left.

MR. W. McKEEVA BUSH: Mr. Chairman, it is not true to say that nobody saw this since 1975. This 1975 Law has come under severe criticism from myself since 1985, 10 years afterwards, and only when I entered the House. But I did criticise it in several instances and that was one of the sections that I talked about.
I am wondering whether there is anyone in the Juvenile Courts that capable, scientifically or otherwise, to know that an eight year old child did not know what he was doing?

MR. CHAIRMAN: That is a question for the Courts to decide in each case, I believe.

MR. TRUMAN M. BODDEN: Mr. ...

MR. CHAIRMAN: I think we have now debated this subject quite thoroughly, I am going to invite any Member who wishes to put an amendment.

MR. TRUMAN M. BODDEN: Mr. Chairman, may I just ask because...

MR. CHAIRMAN: If it is fresh and new argument indeed.

MR. TRUMAN M. BODDEN: It is a new argument. I have been trying to catch your eye, I have been putting my hand, I think...

MR. CHAIRMAN: Well, other Members have also been doing the same.

MR. TRUMAN M. BODDEN: All right. The question of what the Attorney General raised in dealing with the 12 not the eight, the position in the United Kingdom is that instead of 12 years it is 14 years. I may just read from Archbold's 43rd Edition at paragraph 137, the Law there says between 10 and 14 years a child is presumed not to know the difference between right and wrong and therefore to be incapable of committing a crime because of lack of mens rea and authority R versus Owen, 1836, not 1936 - 1836. I do think that while we are dealing with the consequential amendment, if the Government so wishes and they are supportive, then we should also look at the 12 to the 14, in those amendments because it is known here that in the last House one Bill amended four Laws. So there is nothing unusual in that respect. The presumption itself is two years under and needs looking at as well.

MR. CHAIRMAN: Two years under what?

MR. TRUMAN M. BODDEN: Two years under an up-to-date assessment of a child's psychological age for presumption of...

MR. CHAIRMAN: In view of the United Kingdom, is that what you are saying? I just wanted that made clear, I was not sure ...

MR. TRUMAN M. BODDEN: Yes, that is what I am saying. But it is accepted in this day and age that this two years has moved upwards and in fact in the symposium, and I think the First Elected Member for Bodden Town told me, the talk there was of moving from 10 to 12 on the age of presumption of no guilt. It is moving upwards.

MR. CHAIRMAN: Does the Attorney General wish to reply on the facts, the comparison of the two laws?

HON. RICHARD W. GROUND: Well, I accept the point that the English Law has been as is now since 1836. It follows from that that when the 1975 Law was drafted, that someone in the Legislative Assembly here took a conscious decision to differ from it. So, it does not carry much weight to say the English have been doing this since 1836 because somebody made it apply to local circumstances and changed it. It does not address the merits of whether to change it again, but I just point that out.

There is a four year bracket, here it is eight to 12, in the United Kingdom it is 10 to 14. It depends how Members wish to move the amendment as to whether we shift it or whatever.

MR. CHAIRMAN: What I propose to do now is to suspend for the usual break and at the end of that break, any Member who wishes to bring an amendment on this matter, I will then consider it and we will take them.

Suspended for 15 minutes.

AT 11:40 A.M. THE HOUSE IN COMMITTEE SUSPENDED

HOUSE IN COMMITTEE RESUMED AT 12:07 P.M.

MR. CHAIRMAN: Proceedings are resumed of the House in Committee. I think perhaps before I enquire as to any possible proposed amendments, I think we have dealt with Clauses 1 and 2 and I should put the question on those two Clauses unless any Member has anything more to say on those two.

QUESTION PUT: CLAUSES 1 AND 2 PASSED.

MR. CHAIRMAN: We move to Clause 3 on which there has been some debate and which I have invited a Notice of Amendment.

CLERK: CLAUSE 3: Age of Criminal responsibility.

MR. W. McKEEVA BUSH: Mr. Chairman, that Amendment which was mentioned awhile ago is being done and is to be circulated.

MR. CHAIRMAN: Is it a very long text?

MR. W. McKEEVA BUSH: No, Sir, but I would like to have it.

MR. CHAIRMAN: I would prefer it in writing in front of us too.

MR. W. McKEEVA BUSH: Yes.

MR. CHAIRMAN: I had not realised that was what was happening. Attorney General, would it be in order to proceed with other Clauses and come back to number 3?

HON. RICHARD W. GROUND: I do not see why not.

CLAUSE 3 DEFERRED.

MR. CHAIRMAN: Shall we do that? If you would then start reading at number 4.

CLERK: CLAUSE 4: Establishment of Juvenile Court.

MR. JOHN B. McLEAN: One point. Mr. Chairman, in (b) I am not satisfied with where it says, three Justices of the Peace, one of whom "shall" be a woman. I think we should put "may". I do not see any reason why there should be a woman on the Bench. In my experience there, sometimes you need to be more than a man to deal with some of the foxes that come before you and I do not cater to this leniency when you are dealing with some of the little foxes that come before you. I think it should be "may".

HON. D. EZZARD MILLER: Mr. Chairman, I can only repeat what I said yesterday. The technical people think it is proper to always have a woman or a mother's perspective put into the debate amongst the three people.

MR. CHAIRMAN: It is only the one of three Justices, one of whom shall be a women.

MR. TRUMAN M. BODDEN: Mr. Chairman, 4 (1)(a) while I have utmost faith in a Magistrate, I think that a panel is better served when you are dealing with children. For what it is worth, I just pass it on to the Member that perhaps instead of a Magistrate sitting alone, it should be a Magistrate and one other Justice of the Peace, preferably a women. I differ slightly with my friend there. I know he has experience before the Court and mine is from a long time ago, but or who "may" be a woman, or whatever.

HON. D. EZZARD MILLER: Mr. Chairman, once again I believe it is written this way to give the flexibility depending on the nature of the case that they are dealing with. If it is something that is very intense in Law or something that could be presided over by a Magistrate alone or as we are now doing where we have the flexibility of the three Justices of the Peace, one of whom shall be a woman.

MR. JOHN D. JEFFERSON, JR.: Mr. Chairman, I would hope that measures could be taken to maybe appoint a special juveniles Magistrate. The idea of these Magistrates sitting on the Grand Court and then going down to Juvenile Court, I think there is a real danger there, even though I know that they do administer the Law. Because you are dealing with kids, I think you need somebody that would be restricted to that particular environment and in the absence of that, I would strongly suggest that at least a Justice of the Peace sits with the Magistrate when considering juvenile cases.

MR. CHAIRMAN: Could I ask a question which may not be answerable here, but are most Juvenile Court cases taken by the three Justices of the Peace? Is that the situation?

HON. D. EZZARD MILLER: I think it is fair to say the majority are.

HON. RICHARD W. GROUND: I believe the practice is that the Justices of the Peace will take juvenile cases unless there is a particularly serious battle, a nasty crime has been committed or alleged to have been committed. In which case a magistrate will take it, but the presumption is that it goes to the Justices, the Court of first choice.

MR. CHAIRMAN: I ask that question for two reasons. One to find out how often a Magistrate does take juvenile cases? To take up your question of having a Magistrate specifically for the work because you might find that Magistrate did not have enough to do.

Second, in order to find out how often, in fact, a woman does sit on such cases which would be when the three Justices of the Peace take it.

HON. RICHARD W. GROUND: Yes, I think the panel of Justices sits most Fridays now and it takes them all day to get through the list. Frankly, I doubt if there is enough work for one Magistrate who is only a Juvenile Justice. I think he would have maybe one day's work a week, so that part of it may simply not be economically feasible at the moment.

MR. CHAIRMAN: I think perhaps these are considerations which we could ask to be taken to the Chief Justice by the Attorney General. I think this is the line to deal with this.

HON. RICHARD W. GROUND: I have written this down.

HON. D. EZZARD MILLER: I have no problem with that, we are just trying in the Law to compromise as much as we can and meet both. There is a concern that it should be done by Justices or it should be done by Magistrate with other advisers. We are trying to build in the flexibility and allow the Court to a certain extent to decide.

MR. CHAIRMAN: Shall we go on?

CLERK: **CLAUSE 5:** Exclusions of general public from sittings of Juvenile Court.
 CLAUSE 6: General powers of Juvenile Court.
 CLAUSE 7: Proceedings before Juvenile Court.
 CLAUSE 8: Powers of Juvenile Court.
 CLAUSE 9: Methods of dealing with juvenile offenders.

MR. TRUMAN M. BODDEN: I had just one thing there in 9. (1) (d). In the penultimate line between where it says subject to such terms and conditions. Perhaps if we put subject to such reasonable terms and conditions but I do not really press that. It is just that I know here perhaps we may follow one or two things that have been done overseas and you could get very odd types of terms and conditions. I just point it out for what it is worth.

HON. RICHARD W. GROUND: I think the reasonableness of a term or condition imposed by the Court is challengeable on appeal even without the work reasonable in there. The Court on appeal is going to be concerned to see whether they are reasonable or not. So with respect, I do not think it is necessary. I hesitate to have to go to any Court and tell them that they are likely to make terms and conditions which are not reasonable.

MR. CHAIRMAN: I was always taught that Courts will not even touch a definition of reasonable.

MR. TRUMAN M. BODDEN: The only point as I remember the Juvenile Court, an appeal is an extremely rare thing. By and large children come before - they plead guilty and that is it. Parents accept it and they go off.

MR. CHAIRMAN: The appeals from Juvenile Court this is as a Magistrates Court, lie to the Grand Court or some other?

HON. RICHARD W. GROUND: Off hand, I would say it went to the Grand Court.

MR. CHAIRMAN: This would lie to the Grand Court?

HON. RICHARD W. GROUND: I believe that to be right. I would want to check it.

MR. CHAIRMAN: Not the Court of Appeal is what I am saying?

HON. RICHARD W. GROUND: It could get to the Court of Appeal eventually but not in the first instance because it is a species of Summary Court.

MR. CHAIRMAN: All right on that Clause?

CLERK: **CLAUSE 10:** Enforcement of recognizance.
 CLAUSE 11: Special provisions relating to probation.

MR. TRUMAN M. BODDEN: There was one thing on that which I think is a little bit more than a clerical concern. There is a (1) after the 11 which really should not be there and in the third line on the white copy, section 9 subsection (1) paragraph (d) or sub-section (1) (d), or whatever you like. I think that is a little bit more than a clerical and I raise it.

HON. RICHARD W. GROUND: The Member is right on both of those.

HON. D. EZZARD MILLER: That just goes to show that the green copy is exactly the same as the white copy, Sir.

MR. CHAIRMAN: I see the point about the bracket (1) close bracket, which should not be there, but did you say section 9 sub-section, I did not quite here what you read out, the second reference.

MR. TRUMAN M. BODDEN: Sorry, maybe I should have quickly looked, it was the one after 11.

HON. RICHARD W. GROUND: It is in line two in the green copy, it says section 9 subsection (d). It should be (l) (d) because if you look at 9.....

MR. CHAIRMAN: I see, thank you very much.

MR. TRUMAN M. BODDEN: You have an 11 (1) and no (2) is what I am referring to.

MR. CHAIRMAN:
have that clear too.

No, I got that one, it was the second reference you made, I now

Clause 11 we are still on.

HON. RICHARD W. GROUND:

Perhaps while the Member just collects his thoughts I could just go back to the appeal point and say that we can now confirm that the appeal from the Juveniles Court goes to the Grand Court in the same way as an appeal from the Summary Court. It is Clause 9 (4) in fact spells it out.

CLERK: CLAUSE 12: Committal to fit persons.

MR. JOHN D. JEFFERSON, JR.:

Mr. Chairman, the question I had is what is the definition of a "fit person" and where will this definition be expressed with regard to the Law?

MR. CHAIRMAN:

Clause 2?

HON. D. EZZARD MILLER:

Clause 2 in the definition section under Clause 2. A "fit person" as defined includes a person who undertakes the care and maintenance of a juvenile who may or may not be a relative or guardian of his and a home or institution for the care or treatment of juveniles wherever situated not being an approved school. Under Clause 2 of the Bill, interpretation clause as the third definition on the second page of the Bill.

MR. JOHN D. JEFFERSON, JR.:

My page is missing that is why I did not have it. My page was missing with the definition of "fit person".

MR. CHAIRMAN:

You now have it?

MR. JOHN D. JEFFERSON, JR.:

No, I do not.

MR. CHAIRMAN:

You have now seen it.

MR. JOHN D. JEFFERSON, JR.:

That is fine.

MR. CHAIRMAN:

I think I will put the question on Clauses 4 to 12, just so we do not lose...

MR. TRUMAN M. BODDEN:

If I may just raise one thing on 12. There is power to examine the person before appointment, there seems to be no power to re-examine them. I guess it would have to be a discharge of the appointment if there was any doubt. For what it is worth, in the future, maybe it could be looked at.

HON. D. EZZARD MILLER:

I think it is probably fair to say that if anybody orders a "fit person" it will be a monitoring process conducted by Social Services Department. Once a person is certified to be a "fit person" and as long as he has somebody in care and protection, there is ongoing contact between that person identified as a "fit person" and the Social Services Department and the Education Department and other people so any evaluation should be an ongoing process.

HON. RICHARD W. GROUND:

This in fact is embodied in the scheme of the Law because Section 35 permits a Fit Person Order to be reviewed upon the application of the parents whether adoptive or natural or on the application of a Social Worker or Probation Officer. So a variety of people can bring the matter back before the Court, who can then decide whether the "fit person" was still "fit".

MR. CHAIRMAN:

Section 35 covers the point. In that case we will put the question on Clauses 4 to 12 because we have still not dealt with Clause 3.

QUESTION PUT:

CLAUSES 4 THROUGH 12 PASSED.

CLERK:

CLAUSE 13:

General considerations for guidance of courts.

CLAUSE 14:

Attendance at court of parent or guardian of juvenile.

MR. TRUMAN M. BODDEN:

The question that I raised is that it just said parent, but I assume the Interpretation Act would put the single into the plural and both parents would come up.

HON. RICHARD W. GROUND:

Yes, that is right, it could be either parent under that or both.

MR. CHAIRMAN:

Contrary to my normal request, could I ask Members to speak

up or else am I getting very deaf? I got that but with difficulty.

MR. JOHN B. McLEAN: Mr. Chairman, am I to understand, that if both parents were on the island, they would be requested to accompany the child to the Court?

HON. RICHARD W. GROUND: Yes.

CLERK: CLAUSE 15: Separation in police stations etc., of juveniles from adults.
CLAUSE 16: Bail or detention of juvenile.

MR. TRUMAN M. BODDEN: I had one on 16. The question of bail or detention is a very important section. My first point is that under 16 (1) any police officer can deal with bail. It has been usual and in fact it appears to me to be a section in the English Law 13(1) of the 1933 Law, where it says that:

'Where under the powers conferred by this section a constable arrests any person without warrant, the Superintendent or Inspector of Police or an Officer of Police of equal or superior rank or the officer in charge of the police station to which the person is brought shall, unless in his belief the release of the person on bail would tend to defeat the ends of justice so to cause injury or danger to the child or young person against whom the offence is alleged to have been committed release the person arrested.'

The point I am making here is that when one deals with a juvenile it would be better to have a senior police officer deal with the matter than to have perhaps a younger officer.

HON. D. EZZARD MILLER: Mr. Chairman, it does say that it must be the police in charge of the station to which the juvenile is taken. It is not any police officer - it is the officer in charge.

MR. TRUMAN M. BODDEN: Where do you see that?

HON. D. EZZARD MILLER: Section 16 (1), right before the word police officer. It says:

"16 (1) Where a juvenile is apprehended with or without warrant, and cannot be brought forthwith before the appropriate court, the police officer in charge of the police station."

MR. TRUMAN M. BODDEN: That is normally someone senior at nights.

HON. D. EZZARD MILLER: I mean if he is senior and he is the only one there, he has to make decisions on everything else.

MR. CHAIRMAN: It seems to be a parallel provision or similar provision you read out.

MR. TRUMAN M. BODDEN: The other part that I had was on the question of grave crime, I merely raise it for what it is worth and the third one is that the detention can go up to seven days and I would have thought three days would have been sufficient to get somebody before a Court. If the Court wants to, I think seven days is probably long.

HON. D. EZZARD MILLER: I think in fact the Law says, not to exceed seven days.

MR. TRUMAN M. BODDEN: It means it can go to seven days.

HON. D. EZZARD MILLER: Yes, but I mean it says that all efforts will be made to be brought in before. We could find ourselves over Christmas and New Year's holidays, where it might be necessary in some rare instances to have that seven days. That is the maximum, it is not that he has to be kept for seven days before he can be brought.

MR. TRUMAN M. BODDEN: Why could he not be taken before a Justice of the Peace who could review the situation and decide on bail?

HON. D. EZZARD MILLER: I do not know many Justices of the Peace that want would want to be disturbed over Christmas and New Year.

MR. TRUMAN M. BODDEN: Well, if they are Justices of the Peace they are on duty at all times, Christmas or not.

HON. D. EZZARD MILLER: I wonder, if the Member could help with a suggestion for another terminology other than grave crime. Since he has raised it and he thinks we could have a better definition.

That is the best we could come up with.

MR. TRUMAN M. BODDEN: What I would suggest is that we put in a crime which carries more than a maximum of a certain number of years, 10 years, 15 years or something. But, I just throw these out for what they are worth.

MR. JOHN D. JEFFERSON, JR.: Mr. Chairman, I have a question.

MR. CHAIRMAN: Could we just follow this one through? Attorney General do you want to say something about that?

HON. RICHARD W. GROUND: Not particularly on "grave crime." Personally, I am content to leave that in the discretion of a senior police officer.

As to the seven days, I do not know, but that might reflect the fact that the Juvenile Court tends only to sit on Fridays and it says appropriate Court, so it has to be a Juvenile Court they are brought to. That may be the thinking that lies behind it. I do appreciate that the Magistrate sitting alone can also be a Juvenile Court but we are so accustomed to the Juvenile Court sitting on Fridays and that being the juvenile day that I suspect that seven day period is in there with a view to that.

MR. CHAIRMAN: But all of this only arises if I understand it, in the case of circumstances of (a), (b), (c) and (d) as set down. Otherwise the child must be released. Is that right?

HON. RICHARD W. GROUND: The child must be released unless it is within (a), (b), (c) or (d). The Members concern is that if the child is not released he does not get before Judicial body for up to seven days.

MR. TRUMAN M. BODDEN: To follow on what the Attorney General has said, it seems to me that because a Juvenile Court only sits once a week, the child could be penalized as a result of that. What I was saying, if then that is the problem, take him before the Magistrate or if necessary take him before a Justice of the Peace merely for purposes of bail. It has got to be a very serious psychological effect to detain a juvenile. The right to freedom is the one thing that the Courts jealously guard and if the outer limit is there, it just worries me that seven days is a very long time to have a juvenile detained. If he could go before a Justice of the Peace or a Magistrate or someone else and be released, it is traumatic and to the parents.

MR. CHAIRMAN: What is the normal period for an adult?

HON. RICHARD W. GROUND: In our Law, I think it simply says as soon as reasonably practicable. In the United Kingdom I think it is within 24 hours, except in certain terrorist cases.

MR. TRUMAN M. BODDEN: I would be very happy with 24 hours.

MR. G. HAIG BODDEN: Mr. Chairman, I would like to say that there have been incidences where adults have been picked up by the police from Friday evening and it resulted in their being unable to get bail until after the week-end. We would not want the same thing to be happening with children of very tender age. I would hope that the detention period would not exceed 24 hours, even if it means amending the section to say that the juvenile can go before the Court or before a Justice of the Peace for the matter of obtaining bail. Of course I propose no amendment...

HON. D. EZZARD MILLER: Mr. Chairman, I think it is fair to point out that we are not talking here about any ordinary tender loving child. We are talking about one who has committed homicide or other grave crimes, a child who it is necessary in his interest to remove him from associating with a reputed criminal or prostitute. The officer has reason to believe that his release would defeat the ends of Justice or he is of the view that the juvenile should be kept in custody for his own protection or welfare. I do not think it is a matter of locking him up in jail, because the police officer has to notify the Social worker.

MR. G. HAIG BODDEN: Of course, Mr. Chairman, you could well be talking about an eight year old child.

HON. D. EZZARD MILLER: Who committed murder.

MR. JOHN D. JEFFERSON, JR.: Mr. Chairman, the question I had is the seven day period of detention, how does this differ with what is presently in the Law?

MR. CHAIRMAN: The Attorney General is looking it up.

HON. RICHARD W. GROUND: In the case of a juvenile detained because of fear for his own safety, he has to be brought before the Court at the earliest practicable opportunity, reflecting the phrase used in the adult Law.

MR. CHAIRMAN: That means before the Juvenile Court in the case of a juvenile?

HON. RICHARD W. GROUND: It means before a Court competent to try juveniles, yes, the Juvenile Court. It could be a Magistrate sitting as a Juvenile Court. In respect of a child who has committed an offence I do not see a provision in the existing Law.

MR. CHAIRMAN: I wonder if it would be suitable or sufficient for Members concerned to be noted that this period should be kept to the minimum. This is a maximum on here seven days, this does not say that it will be seven, it must be less than seven or not exceed seven. Whether you wish that to be conveyed to the Commissioner of Police, I imagine would be the right person.

HON. D. EZZARD MILLER: Is it not fair to say that this does not provide for the police man to keep the kid in jail, so to speak. He has to notify the Social Worker and Probation Officer who have to place the child in a place of safety which could be a hospital depending on what it is protecting him from. It might be in the confines of the police if his parents are trying to kill him or something.

MR. CHAIRMAN: Could I ask a question of the Attorney General also which may help? What is the remedy of the child, in other words his lawyer or his parents or whatever to get out of this form of restraint? Can he go to a Court for an order or what happens?

HON. RICHARD W. GROUND: The remedy is *habeas corpus*, somebody has to apply to a Court on his behalf.

MR. TRUMAN M. BODDEN: Mr. Chairman, a very ancient prerogative writ of habeas corpus is something I doubt very much that you are going to normally get a parent going out getting an attorney because they are not capable of doing it themselves and getting into the Court and getting this. It is extremely rarely used as I am sure the Attorney General would confirm. What I am saying is with children, as I have found it unlike an adult, if I was in there I could call an attorney and say, get me out. You have a child in there for whatever reason and the child does not have the capacity or the mental ability nor the resources to do anything and what worries me is you have to bend backwards when you are dealing with someone who cannot protect himself, who may have a parent, once again, who either does not care or may not have the sense either to try to protect him. Most of the time the child is going to sit there and it has got to have psychological effect every hour he spends in prison.

HON. D. EZZARD MILLER: Mr. Chairman, that same section that includes the seven days, says that the police officer in charge of the police station shall forthwith notify a Social Worker or a Probation Officer.

MR. G. HAIG BODDEN: But only for the purpose to detain the juvenile. It says "notify them and cause the juvenile to be detained." It does not notify them to help get him out.

HON. D. EZZARD MILLER: Again, we are not talking about the generally, we are talking about specific crimes of (a), (b), (c) and (d).

MR. CHAIRMAN: Well, I think Members have expressed their concerns and these will be conveyed.

HON. D. EZZARD MILLER: It is something that I will monitor through the Portfolio and Social Services Department to ensure that the period is kept as short as possible when it happens.

MR. TRUMAN M. BODDEN: If I may say just one last thing. I find it totally incomprehensible that a child should have to be held for up to seven days before you can get them before a Court in this day and age. I think it is totally out of the question; if the system is that bad, something has to be done to it. It is freedom, freedom of person you are dealing with here, the one most precious basic right one has other perhaps than freedom to life and religion.

HON. D. EZZARD MILLER: Well, the Member will admit that in the rare instance you could have five hot days in a row.

MR. CHAIRMAN: Surely the point here is, though, that the juvenile in question is being held for the stated grave reasons. That is the point.

MR. TRUMAN M. BODDEN: Mr. Chairman, he is an unconvicted person, he may not be guilty. Therefore, the reason for moving it from a man whose duty is that of a Prosecutor and a policeman or a policeman one I would say, to a Court which will look at all aspects of the case and make a decision. That is the difference, in fact all presumptions go that you must give a person bail if that is possible because you are restricting his freedom, taking away his freedom. I do not seem to be getting through, but anyhow.

HON. D. EZZARD MILLER: No, no, out of an abundance of caution, would the Member be happier with five days, which would allow for Thursday and Friday holiday.

MR. TRUMAN M. BODDEN: Mr. Chairman, if we have people on the Bench and you are

dealing with a person's right, there is no reason why we cannot find one out of the many people who are down there to try to grant bail to a child in distress, regardless of what he has done.

HON. D. EZZARD MILLER: But you have not answered my question, would you be happy with five days?

MR. TRUMAN M. BODDEN: No, I would not, I would be happy with 24 hours.

MR. CHAIRMAN: Could I ask what happens at the end of 24 hours? Can the process be repeated? If it were 24 hours I mean.

HON. RICHARD W. GROUND: If it were 24 hours the police officer would have to get the juvenile before some form of Court in that period. Once he gets before the Court, the Court would make an order usually up to seven days for the child to be kept in custody or could make an order granting bail and releasing the child. The practice here is to do it in seven day batches, but it is the Court's decision. The responsibility is then lifted from the police officer.

MR. CHAIRMAN: The Second Member for Bodden Town was next, I think.

MR. G. HAIG BODDEN: Mr. Chairman, at that time I only wanted to make the point that the remedy of having the Portfolio monitor it would never work because I do not see anybody calling the department or the Portfolio and saying we have this child here or the Portfolio calling the department to find out if any child had been held for a certain time. Certainly if the two did get in contact I imagine the Portfolio would say this is a matter for the police or it is a matter for the Courts. I do not think that could be used as a remedy at all to ensure the speedy release of a child.

HON. D. EZZARD MILLER: This section is very specific, Sir. The police officer in charge must forthwith notify a Social Worker who can then take custody of the child and take him to the Court as soon as practical.

HON. BENSON O. EBANKS: Mr. Chairman, somehow I feel that we are making more out of this than is really intended. Section 16 gives the Officer in charge of the Police Station or imposes an obligation of him to enquire into the case and release the juvenile on bail unless it is one of the four (a), (b), (c) or (d) charges. And, two, requires then where he is not released the Social Worker or Probation Officer has to be advised. Surely the idea of giving up the seven days is in the case as in a homicide, you have to gather evidence to take the juvenile before the Court. Taking the juvenile before the Court does not necessarily result in his being released. He could be remanded for a further period and in fact the time allowed to gather evidence might work in the juveniles favour if proper evidence is deduced at the time he is taken before the Court, otherwise he might be remanded for a much longer period. It would seem to be that all bases are covered here and we are really straining at a very extreme case where the juvenile would be at a disadvantage here.

MR. JOHN B. McLEAN: Mr. Chairman, this is more like a question to the Attorney General. If this section was changed from seven days and there was a case like I have seen before where a young girl ran away from the Girl's Home, if that was changed to 24 hours, would that not be that she could get bail within that time and go back on the street? In most cases you will find that the girl ran away from there for a reason, she does not want to go home so she ends up with a boyfriend. I am just looking at it from the point of view, I would want to see us do something that would tie the hands of the Welfare Officers, because I have seen this many times in the Court.

HON. RICHARD W. GROUND: Yes, it would mean if the child were able to get bail, she would then be free to go back on the street or go wherever. And of course the decision whether to give bail or not is a difficult one which is why I am not entirely happy with the suggestion that some Members have brought forward that the matter could go to a Justice of the Peace. A Juvenile Court of course is three Justices of the Peace and they interact and balance each other. It would be very difficult, indeed impossible to get together a full Juvenile Court of three Justices over a week-end, say. I think it would not be happy if just any old Justice would do for this purpose. I appreciate that that leaves the Magistrate as a possibility.

MR. TRUMAN M. BODDEN: But you see, Sir, the Magistrate is there all the time even if there is not a Juvenile Court. The other thing is, occasionally bail is conditioned, how enforceable that type of condition may be, I do not know.

MR. JOHN B. McLEAN: Maybe this is an extreme case that I mentioned but, my point is if the bail had to be granted, would 24 hours be sufficient for the Welfare Officer to place the kid where she would be safe? I have seen lots of times the parents do not want the kid, they do not want to be in the Girls Home, so 24 hours would put them back on the street. This is my concern about it.

HON. D. EZZARD MILLER: I think there is a real concern here, Sir, from the practical application of that and I think that is why we suggested the seven days although it might seem long. Part of this section is to protect the juvenile for his own welfare and that has to be in a place of safety where he is detained, not

at the police station.

- MR. TRUMAN M. BODDEN:** How many places of safety do you have at present, Sir?
- HON. D. EZZARD MILLER:** I could not answer that accurately, I would have to get that information from Social Services. I do not have it to hand.
- MR. TRUMAN M. BODDEN:** Are they other than police stations?
- HON. D. EZZARD MILLER:** They could be other than police stations as under the terms of this law.
- MR. TRUMAN M. BODDEN:** I know it could be, I am asking you in practice, where do you detain people for places of safety?
- HON. D. EZZARD MILLER:** I think right now it is at the Police Stations and the Hospital.
- MR. TRUMAN M. BODDEN:** That is the point that I am making.
- HON. D. EZZARD MILLER:** No, we put them in the Hospital too, and we put them in people's homes.
- MR. TRUMAN M. BODDEN:** You put them in the Hospital when they need to go in the Hospital.
- HON. D. EZZARD MILLER:** For their care and protection.
- MR. TRUMAN M. BODDEN:** You do not put them there if they are not ill.
- HON. D. EZZARD MILLER:** No, we do not put them in the Police Station when they are ill either. That is the point that I wanted to make.
- MR. CHAIRMAN:** Well, I think the Committee has had a good run through this section. I just wonder whether it might be helpful if the figures are available to show how many times juveniles have, let us say, in the last 12 months, been held or either directed to be held under the comparable position under the present law.
- HON. D. EZZARD MILLER:** I would undertake to get that information supplied to Members but I would not purport to have that here.
- MR. TRUMAN M. BODDEN:** I did not hear everything you said, but if that could...
- MR. CHAIRMAN:** I wondered if it would be helpful if the information can be got in this form - how many times in say the last 12 months or two years, a juvenile has been held or directed to be held in a place or whatever it is, under the present law? So we can find out just how often it happens.
- MR. TRUMAN M. BODDEN:** Yes, and which place of safety. That is very important, which place of safety.
- MR. CHAIRMAN:** Right. Let us go on. That was Clause 16, so we will go on to the end of this part, I propose, and then come back to Clause 3 for the amendment.
- CLERK:** CLAUSE 17: Remand of juvenile or committal to place of safety.
CLAUSE 18: Trial of juvenile when charged jointly with an adult
- MR. JOHN B. McLEAN:** One question on 18, Mr. Chairman. Again directed to the Attorney General. Is this section to say that a juvenile would be tried in the Magistrates Court if he in turn was along with an adult in some criminal case? I am just wondering why could it not be separated because I see it as having some sort of effect on the kid.
- HON. RICHARD W. GROUND:** Well, it allows the Magistrates Court to decide whether the Magistrates Court will hear it or whether it goes to a Juveniles Court. It does introduce the presumption really that the Magistrates Court is going to try it unless it has some special reason for being satisfied that it should go to a Juveniles Court. It arises, I think, as much from practicality as anything else, that if a juvenile and an adult have gone on some joint criminal enterprise, it can create very great difficulties separating out their trial into two separate trials. One before the Juvenile court, one before the Magistrates Court. If it is not going to create any difficulty to separate it, then one assumes the Magistrate will remit the matter to the Juvenile Court. But this section allows the Magistrate to keep the matter before his Court, if to split the cases is going to cause injustice.

I would not hold up.

MR. CHAIRMAN:
please move your amendment?

Excuse me, I have ruled what we are going to do. Would you

MR. W. McKEEVA BUSH:
but I will move it.

Mr. Chairman, respectfully, I think you are being unreasonable
The amendment is circulated, Mr. Chairman, and do you want

me to read it out?

MR. CHAIRMAN:
move it, unless you wish to read it out.

I think perhaps it is not necessary. If you would just formally

MR. W. McKEEVA BUSH:

No, Sir.

MR. CHAIRMAN:
some discussion in the Committee already, but would the Mover wish to speak to it?

The amendment is moved. It has of course been the subject of

HON. D. EZZARD MILLER:

I was questioning if whether this does not need a Secunder, Sir?

MR. CHAIRMAN:

Do we in Committee?

HON. RICHARD W. GROUND:
not needed.

Actually, Sir, you are right, in Committee I think a Secunder is

MR. CHAIRMAN:
I am sure the mover moving has checked that himself?

Could we just check? I think in Committee we do not need it. I

HON. RICHARD W. GROUND:
(10)(b).

A Secunder is not needed in Committee, it is Standing Order 24

MR. CHAIRMAN:

Thank you. Your floor, First Elected Member for West Bay.

MR. W. McKEEVA BUSH:
I wish it were, Sir. Mr. Chairman, as you have already said, quite a bit has been said on this. Briefly I would say that my reason is that I think even though the age of eight has been in the old Law since 1975 as I have said already this morning, this is something that I queried quite often and thought that the new Bill would have contained an age that is in line with the United Kingdom. The amendment is in line with what is now provided in the United Kingdom. Personally I just cannot accept that an eight year old child should be found guilty of a criminal offence and I would hope that the Government will change their minds and support it since they usually do everything else in line with what the United Kingdom does.

MR. TRUMAN M. BODDEN:
Mr. Chairman, I would ask that the Honourable Attorney General would perhaps ensure that where the child is between eight and 12 or the 10 to 14, whatever it comes to be, that the Juvenile Court draws its own attention to what appeared to be three very relevant questions before convicting a child and those were very briefly set out: The questions are "(1) whether the accused committed the acts constituting the elements of the offence" (and this is lifted from paragraph 137 of Archbold) and "(2) if yes, whether he knew that he was doing wrong, and (3) if again yes, and where applicable, whether apart from this he had the intent or other mental element essential to the offence?"

Why I am really asking this is to make sure that when the child comes before the Juvenile Court, (and this is more in the form of Judges Rules), that the Court (because we are dealing with many panels of different Justices), do direct their mind to this presumption or better still if the Prosecutor could or the Clerk could just remind the Court of this presumption which does not seem to really be put in Judges Rules or anything that they must strictly adhere to.

HON. RICHARD W. GROUND:
I would certainly be happy to do that. The Member may know that the Law School, as a special project, did a series of notes for the guidance of Justices because one has different panels and the need to make sure they all were aware of the principles and applied them. I will check back and see whether it makes this sequence plain. If it does not, we will amend that.

MR. ROY BODDEN:
Mr. Chairman, for what it is worth again, may I remind the Honourable Members that it would be fitting and proper, I think, for us to give this amendment some due consideration and perhaps to accept it because as was reiterated before, the Symposium on the Rights of the Child, held in Barbados certainly this was the direction in which they moved. I contend that in the annals of developmental psychology that no child at the age of eight has been found to be in complete control of their senses and certainly is unheard of to be criminally liable for an act which they may commit or have committed at that age. Indeed the third and perhaps most convincing point is that the United Kingdom to which we look for precedent and guidance in these things, their own statues are 10 years of age. Might I suggest that we have three good reasons for really seriously considering, if not changing, our age of criminal responsibility upward.

HON. D. EZZARD MILLER: Mr. Chairman, I would like to reiterate that the basic policy behind this whole Law is to allow intervention as early as possible. Members are no doubt aware that in particular in the United States and to some extent here in Cayman, drug offences in particular are beginning to seek out people of an age group who cannot be held criminally responsible to do their drug trafficking etcetera, etcetera. I believe it is better for us, in this case, to err on the side of safety in being able to intervene at age eight rather than 10. For those who are found by the Courts to be capable and mature enough that they do know what they are doing is wrong, I think in conjunction with the explanation given by the Attorney General as to what happens between the age of 12, the Government's position is that we would prefer to see it remain at eight and 12, rather than move to 10 and 14.

MR. W. McKEEVA BUSH: Mr. Chairman, has the Member or the Attorney General found any eight year old children involved criminally by their own consent?

HON. D. EZZARD MILLER: I do not believe we would have access to that information because of the confidentiality etcetera of the Juvenile Court.

MR. ROY BODDEN: Then how can we make the presumption that this is the correct age in which to intervene?

HON. D. EZZARD MILLER: Because Social Services is having to deal with problem children of this age.

MR. W. McKEEVA BUSH: Problem children, but what are problem children? I mean there has to be some basis. It cannot be that you took this completely out of the Law without even giving some recognition to the problems facing an eight year old. When the former draftsman, now deceased, put this in I understand he used some African precedent. To be exact I understand he used Kenya. Mr. Donaldson used the Kenyan Code and, by God, we have surely found some mistakes made by Mr. Donaldson.

MR. CHAIRMAN: It is true you cannot liable the dead.

MR. TRUMAN M. BODDEN: Mr. Chairman, may I just say that the matters that we are raising are matters of policy. Not talking about Mr. Donaldson because he was a special draftsman but the drafting in this specific law is good. It is very good. We are dealing with a question of the policy here and we do know that this Penal Code and those waited around for some years too.

What I wanted to ask though, I think the Member has to draw a distinction between a child who is to be found criminally responsible for his acts and a problem child. They are two totally different people and a problem child is not necessarily a person who is committing criminal acts.

HON. D. EZZARD MILLER: I have no problem and I agree with that distinction but nine times out of ten it is the problem children who commit the crimes.

MR. CHAIRMAN: I do not think we need to dispute this, I think it is perfectly clear what everybody means by what they are saying. Could I ask something for the sake of clarity? If this age is lifted to 10 as against eight, what actually happens to an eight year old who has committed one of these offences? What actually happens to him, could the Attorney General tell us what happens?

HON. RICHARD W. GROUND: Well, he will not be guilty of a criminal offence, he may be found to be in need of care and maybe placed with a "fit person" for instance. Of course he will not have the opportunity to make that placement secure. That is a euphemism, you cannot lock him up, well at least you cannot lock him up in the first instance. He would be placed with a "fit person" and you see how he would respond to that. That would be one of the ways, there are other ways.

MR. W. McKEEVA BUSH: Mr. Chairman, I would just like to say that what I was saying about the inclusion of this present Clause 3, taking it from the old Law, I am not saying that the draftsman did not do his work right, to put it clearly. It was no reflection on our present draftsman.

MR. TRUMAN M. BODDEN: From time a child is born, there are provisions under the Law as the Attorney General has quite rightly mentioned, to protect him and deal with certain situations. This that we are now dealing with is a question of criminal responsibility directly on the child for his acts and that is really the serious stage that the law is dealing with. If he is, for some reason neglected, or a child one week old neglected, we can go against the mother and the father or someone, so the protections are in there and the protections of society but this is now putting the problem directly on the child's shoulders. I think this is where the difference of the tender age comes in.

I should point out there is a section, although I do not remember where it is now, that says that this Law does not derogate from the power of a school, and other things, to administer corporal punishment. I think two or three areas that it mentioned that. So there are all of the other things left in society to deal with problems when a child is bad.

HON. BENSON O. EBANKS: I think it is significant that if this provision has been in the Law

for 15 years that nobody is able to deduce any evidence that it has worked adversely against any juvenile. Surely the persons who have worked with it and have looked at this draft, had that been the case, would have made some representation.

I believe that the point made by the Member piloting the Bill about the use of juveniles to peddle drugs and so on, if anything strengthens the reason why we should leave the minimum age in. The juvenile is still covered by the protection of the Penal Code, where between eight and 12, knowledge of the act has to be demonstrated. Unless I can be convinced that it has worked in 15 years adversely against the juveniles in this country I would be reluctant to change it.

MR. TRUMAN M. BODDEN:

Mr. Chairman, what the Member is putting up as a proposition to satisfy him, is something that is impossible when his Member of Government does not have the statistics on it. In other words, the Member for Health and Social Services has said that he does not know how many children at the age of eight have been charged because the whole idea of this Law things are kept in camera and in secret. The only people that could possibly get this would be through his Portfolio.

What I would just like to add is that the offence of trafficking or assisting with distributing a drug with a child of that age, the child surely has got to get it from somewhere and you get the adult, but you do not hold him criminally responsible for having the *mens rea* to carry out a trafficking offence. That seems to me totally incomprehensible to believe that an eight year old or nine year old could mastermind, get the money and deal in cocaine. The basis the Member for Education is putting this on, nobody can satisfy him other than the Member for Health going and getting these statistics.

However, modern psychology has shown that the two extra years should be added and if we are amending and upgrading a 1976 Law, then I do not think we should presume that because it was in there and there is no evidence which there cannot be to the contrary, that we must just leave it that way. We are changing everything else nearly in it.

HON. BENSON O. EBANKS:

Mr. Chairman, maybe the Member missed when I said that persons who were involved in the administration of this Law over the years were involved in the redrafting of the new Law. Certainly those persons, the Magistrate, the Police, the Probation officers, the Justices sitting on the bench, people dealing with adoption, and service clubs, just about every agency that could be thought of the Caring Homes people were on the Committee, just about everybody who would have been in contact with juveniles were on this Law. My argument is had this come to the notice of anyone, they certainly would have recommended a change.

I am not saying that the Member has to put this forward, this would have come out in the Committee stage in my view and there was no change recommended there as far as I know.

MR. W. McKEEVA BUSH:

Mr. Chairman, can the....

MR. CHAIRMAN:

Sorry, the Member for Communications was next.

HON. LINFORD A. PIERSON:

on a point that was just mentioned.

I would be happy to give way if the Member wanted to follow up

MR. W. McKEEVA BUSH:

Chairman, the Member for Education has said that had this come to their notice, meaning the Committee and the people that he was talking about, have they information that this particular section had really been gone into by that Committee?

HON. BENSON O. EBANKS:

The whole Law, Mr. Chairman, was gone into.

MR. W. McKEEVA BUSH:

Yes, I understand the whole Law, but that section is just about two lines and it is easy for people to keep the status quo. Had they really gone into all the significance of an eight year old child being held criminally responsible or is it just something that they said, oh we will let it go because it stood there for 15 years? How much consideration did that Committee give this matter? This is not a flimsy excuse.

MR. CHAIRMAN:

We do not the minutes of that Committee here, I do not see how we can answer the question, but I take your point. You are saying that it should have been considered and you say nobody can prove the point. Right?

MR. ROY BODDEN:

Mr. Chairman, I would like to reiterate what was said by the Third Elected Member for George Town in that if eight year olds are indulging in the drug trade and the drug business, then I think it is the responsibility of our society and the social control agencies to catch the adults.

For what it is worth, let me say that I feel so strongly about this particular section that if this is retained as it is, I will invoke the international lobby - America's Watch and the United Nations Charter of Human Rights against this because this should not be allowed to remain. This is absolutely out of order and I feel that strongly about it that I am prepared to invoke an international lobby against it.

HON. LINFORD A. PIERSON:

Mr. Chairman, I am not sure, as I am not a clinical psychologist as to the magic attached to 10 years as opposed to eight. It would seem to me that if a 10 year old was found

indulging in the trafficking of drugs, it would be as serious an indictment on society as if a nine or eight year old, or even an 11 year old as far as that goes. The Juvenile Law has worked well for 15 years and to use the phrase commonly used in this House, if it works well, why fix it? We knew that this Law required some amendments, but as far as Clause 3 of the Bill goes I am not aware of any analysis that has been done, psychological or otherwise, that would indicate a growing or pressing need to have to up-grade this from eight years to 10 years. A 10 year old would seem to me to be a very sensitive and fragile young child also. It is ironical but it is something that could happen with the United Kingdom Law or statute being some 10 years old as I heard here, if they decided to revise downwards I wonder what our position would be if they said that nine years was the magical age?

Until we have been able to assess this properly, I believe as a group of laymen, as far as clinical psychology or testing at this level goes, that we have to assume that some amount of thought was given to this even 15 years ago, also when this Bill was recently prepared. There is no evidence I have heard thus far to show where retaining the age of eight years under this section is totally wrong. To me, if it is a moral wrong to society, I would have thought that a child of 10 years being held responsible for any criminal act would be as much of an indictment on society as eight. What I saying here is that a lot of time is being spent on this. We are dealing with an amendment to it, I believe that we have voiced our comments from both sides of the House. It is perhaps time that we decide on taking a vote on this because we are really not going to get anywhere. Government is saying we see no reason why it should be changed, the Opposition is saying it should be changed and I feel that we should leave it as it is.

MR. CHAIRMAN: Unless there is fresh points to be brought forward.

MR. TRUMAN M. BODDEN: This is a fresh point. The danger in dealing with what is to me the most crucial and the most important point in that Law is the age of criminal responsibility is that in a type of Committee like this (and I accept it is the wish of the House), we do not have the time or the machinery to call experts who could come in here and enlighten us in areas that could assist us with coming to a decision on a technical point. That could include Members of the Committee of 1985 and 1986 or it could include a psychologist who could come in here and say yes, it is all right or it should go to 10. Or try to give some reasoning why the world is changing to 10 or 12 or mooting these points. It is at times like this that a different type of committee with a lot more time and a more informal way can sometimes get to the root and come up with a better solution as we...

MR. CHAIRMAN: There does not seem to me here to be a new point. It is a point you argued in putting your Motion at the end of the Second reading. Now come on, be reasonable.

MR. W. McKEEVA BUSH: Mr. Chairman,...

MR. CHAIRMAN: Excuse me, I am dealing with the other Member first, I hope you will accept that as a fair point, that is precisely the argument you used.

MR. TRUMAN M. BODDEN: Sir, I have to accept whatever you say.

MR. CHAIRMAN: No, you do not. I am asking...

MR. TRUMAN M. BODDEN: If you feel that way, so be it. It sure..

MR. CHAIRMAN: I am keen to get on with the business of the House, and I know all Members are. I think it is time for the Mover to reply unless there is some Member who has not spoken.

MR. G. HAIG BODDEN: Mr. Chairman, I have not said anything on it so far.

MR. CHAIRMAN: As long as it is something fresh. We have heard many arguments, please do not repeat arguments we have already heard.

MR. G. HAIG BODDEN: The comments I am going to make, are sort of contrary to what the Member for Communication said awhile ago. My contention is that there is a vast difference between a child of eight and a child of 10.

MR. CHAIRMAN: That point has already been made, clearly and several times over. I am going to insist that the House follows its own rules. Please do that. Would the Mover wish to speak now?

MR. W. McKEEVA BUSH: Mr. Chairman, I agree with the Member for Communication and Works. They have the votes and if I had brought my briefcase full of cases, they still would not have accepted it. He has sat on the Juvenile Bench before and he did not bring any evidence to substantiate his argument. I can say this as a parent and as a parent who has a 10 year old, that in observing my two children grow up, there is a world of difference between an eight year old and a 10 year old when it comes to accountability. But as I said, they have the votes, they have done their lobbying, let them go ahead, I have done my duty. I ask you please, to put this to a vote.

MR. CHAIRMAN: I shall then put the question on this amendment.

- (i) that Clause 3 be amended by deleting the word "eight" as it appears in line 2 and the substitution therefor of the word "ten"; and
- (ii) (Consequential Amendment - Insertion of New Clause 60)

By adding the following new Clause 60 under Part VII of the Bill:

"Consequential amendment to Penal Code.

60. As a consequence of section 3 of this Law, section 12 of the Penal Code (Law 12 of 1975) is hereby amended by -

- (a) the deletion of the word "eight" where it appears in the first line of subsection (1), and the substitution of the word "ten" therefor;
- (b) the deletion of the word "twelve" where it appears in line one of subsection (2), and the substitution of the word "fourteen" therefor."

QUESTION PUT: AYES AND NOES

MR. CHAIRMAN:

Will the Clerk take a Division?

**DIVISION
NO.34/90**

AYES: 7

First Elected Member
for West Bay
Third Elected Member
for West Bay
Third Elected Member
George Town
Second Elected Member
Cayman Brac and
Little Cayman
First Elected Member
for Bodden Town
Second Elected Member
for Bodden Town
Elected Member for
East End

NOES: 8

Hon First Official Member
Hon Second Official Member
Hon Third Official Member
Hon Elected Member for TAT
Hon Elected Member for EERC
Hon Elected Member for HSS
Hon Elected Member for CW&A
First Elected Member for
Cayman Brac & Little

NEGATIVED BY MAJORITY:

AMENDMENT TO CLAUSE 3 DEFEATED.

QUESTION PUT ON CLAUSE 3: AYES AND NOES

MR. CHAIRMAN:

Will you take a Division on that, Clerk?

**DIVISION
NO.35/90**

NOES: 7

First Elected Member
for West Bay
Third Elected Member
for West Bay
Third Elected Member

AYES: 8

Hon First Official Member
Hon Second Official Member
Hon Third Official Member
Hon Elected Member for TAT
Hon Elected Member for EERC

George Town
 Second Elected Member
 Cayman Brac and
 Little Cayman
 First Elected Member
 for Bodden Town
 Second Elected Member
 for Bodden Town
 Elected Member for
 East End

Hon Elected Member for HSS
 Hon Elected Member for CW&A
 First Elected Member for
 Cayman Brac & Little

CLAUSE 3 PASSED BY MAJORITY.

MR. CHAIRMAN: Clause 3 stands part of the Bill. We now go back to Clause 22.

CLERK: CLAUSE 22: Evidence of child of tender years.

MR. JOHN D. JEFFERSON, JR.: Mr. Chairman, I would like to ask the Second Official Member how he interprets sub-section (3) of that particular section?

HON. RICHARD W. GROUND: Sub-section (3) is a way of saying that the juvenile who tells a lie in giving evidence before a Court commits an offence. Because the evidence is not taken on oath, he cannot commit perjury, so one has to find a rather convoluted way of saying you should treat him as if he commits perjury. That is what it says. The Member has already raised with me the query whether this would expose the juvenile concerned to greater or different punishment such as imprisonment than those which could be inflicted upon him under this Law. My answer to that is no because it would be like any other offence committed by a juvenile. The modes of trial and the modes of punishment would be subject to the provisions of the Juveniles Law.

CLERK: CLAUSE 23: Power to take deposition of juvenile.
 CLAUSE 24: Admission in evidence of deposition of juvenile.
 CLAUSE 25: Power to clear Court when juvenile giving evidence.
 CLAUSE 26: Duties of Juvenile Court.

MR. TRUMAN M. BODDEN: Mr. Chairman, I really only had a request of the Honourable Attorney General. It is really to ensure that 26 (1) which I think is extremely important to the child's understanding of the offence that that is normally carried out. I presume it would be, but it is just good to draw ones attention to it.

HON. RICHARD W. GROUND: I am happy to do that. Again I think this is something that will be dealt within the guidelines which we did for the Juveniles Court.

MR. CHAIRMAN: But it is actually the responsibility of the Chief Justice. Is that right ultimately?

HON. RICHARD W. GROUND: How the Court conducts itself is ultimately the responsibility of the Chief Justice. As I say we did prepare guidelines to assist the Court.

MR. CHAIRMAN: I was really making, as you will well understand, it is not the Attorney General's responsibility to see this is done. He will transmit the desire of the House in that regard to the responsible person.

MR. TRUMAN M. BODDEN: May I just say that when I prosecuted before the Juvenile Court, I felt a very heavy duty on myself to ensure that if the Clerk was not there the Justices were properly instructed, fairly and everything. That is all that I am asking.

HON. RICHARD W. GROUND: Perhaps I can just say I think, and if I am wrong on this, those Members who sit as Justices can stop me, but I think that nowadays with the growth in the Courts staff and the number of qualified people they have, the Justices Court is usually Clerked by a qualified Clerk who can help on these matters.

CLERK: CLAUSE 27: Reporting restrictions.
 CLAUSE 28: Determination of age of juvenile.
 CLAUSE 29: Power to hear case in absence of juvenile.

CLAUSE 30: Warrant to search for and remove juvenile.

MR. JOHN D. JEFFERSON, JR.: I had a few notes on 30 (b)(i). I raised it in my contribution and out of an abundance of caution, maybe not necessarily incorporated into the Law itself, but as a general policy, I would feel much more comfortable if when an officer goes out to pick up a juvenile that somebody else goes along with him. Probably somebody from the Social Services Department or another responsible adult just in order to avoid any maybe unnecessary allegations.

HON. D. EZZARD MILLER: Mr. Chairman, I believe sub-section (4) - any officer executing such warrants may be accompanied by a person laying the information, does that meet the concerns of the Third Elected Member for West Bay? Subsection (4).

MR. TRUMAN M. BODDEN: It says, "may", not "shall", though.

MR. JOHN D. JEFFERSON, JR.: I would feel happier, Mr. Chairman, if that was "shall" rather than "may". I would not move an amendment at this stage, I would just like to voice my concern.

MR. CHAIRMAN: This is subject to the direction of the Justice of the Peace of course. Subsection (4), does say if the Justice of the Peace so directs and I would take it that the Justice of the Peace does so direct then either a qualified doctor or the person having laid the information does accompany the police officer. Would that be the practice? Could we be told that? I think this may meet your concern, because the Justice of the Peace has got to know the nature of the case and the problems and he will weigh up what is required. I may be speaking of an ideal world, but I think this is what this indicates.

MR. TRUMAN M. BODDEN: I am wondering. What the Member originally mentioned was to have a Social Services worker, for example, go with the policeman so that at all times there would be the two people going and arresting the juvenile. Instead the system is that once the juvenile is arrested and brought to the station, they must immediately call the Social Worker. Instead of just getting a big policeman there with a little child, then you would have a Social Worker who could ease the impact of that original fright.

HON. RICHARD W. GROUND: I think it is worth remembering that under the section we have already looked at, section 16 (2) the police officer, apprehending a juvenile and getting him to the police station, is obliged immediately to notify the Social Worker.

MR. TRUMAN M. BODDEN: I did say that.

HON. RICHARD W. GROUND: On the question of accompanying, one has to remember that juveniles run up to the age of 17 and some 17 year olds are not little children and some 17 year olds can be armed and extremely dangerous. It may not always be appropriate for a Social Worker to accompany police officers in hot pursuit or whatever. I think that is why the discretion is given to the Magistrate to say, where a Social Worker lays a complaint, the Social Worker thinks the juvenile is in need of care and protection, the Magistrate may well say to the police officer take the Social Worker along. Where the police officer lays a complaint or gets a warrant because they are out to arrest a juvenile who may be older or dangerous, then it would be inappropriate for the Magistrate to say take along. So that area of discretion is left, that is all.

MR. JOHN D. JEFFERSON, JR.: Mr. Chairman, he justified or supported my concerns. A juvenile is an individual up to the age of 17 years of age. I have reported to the police before incidence of police brutality or abuse and this is what I am concerned about. That is the only reason why I aired that particular concern.

MR. CHAIRMAN: I wonder if this point can be included in the guidance of Justices of the Peace because it is a Justice of the Peace who gives the warrant, or whatever the instrument is.

MR. TRUMAN M. BODDEN: I was thinking that if the Justice of the Peace used discretion, if it was a young child, then it would be good for someone else to go along. This does restrict it to either the person who lays the information or a qualified medical practitioner. Maybe we could widen that and add a Social Worker and whatever section 18 has in it.

HON. RICHARD W. GROUND: If I could deal only with the guideline point, because I think the other point is a point for the Member. The guidelines are done and published. They were done before this provision was mooted so this will not be dealt with in the guidelines. We can review them. I would rather wait and see how the Law operates for awhile and see what problems arise before pushing out amendments, otherwise it gets lost. Thank you.

CLERK: CLAUSE 31: Power to bring juveniles in need of care or protection before the court.
 CLAUSE 32: Powers of Court in cases where juvenile in need of care and protection.
 CLAUSE 33: Disposal of juvenile by order of Court.
 CLAUSE 34: Rights and powers of fit persons.

CLAUSE 35: Transfer of juvenile under care of fit person.
 CLAUSE 36: Escapes from fit persons.
 CLAUSE 37: Contributions.
 CLAUSE 38: Contribution Orders

MR. TRUMAN M. BODDEN: I am sorry, she is going a little bit fast. Those sections sometimes are three pages that she is calling and I got a little bit behind.

MR. CHAIRMAN: You have a point on which Clause?

MR. TRUMAN M. BODDEN: For example 37, I have three pages, if she could go a little bit slower because these sections are getting long.

MR. CHAIRMAN: Right, we will assume we have called 37.

MR. TRUMAN M. BODDEN: That is all right, what I had I can raise.

HON. RICHARD W. GROUND: I have just a small point on 39, which is 39 (1) in the last line in the green paper, where it says "in the form provided in the Schedule.". In fact it is provided in Schedule 2 and I would treat that as a typographical error if Members are happy with that.

CLERK: CLAUSE 39: Provisions as to affiliation orders.
 CLAUSE 40: Juveniles not to be used for begging or performing.
 CLAUSE 41: Cruelty to juveniles.

HON. D. EZZARD MILLER: Mr. Chairman, in his contribution to the debate the First Elected Member for West Bay expressed some concern about the term "or any drug". His concern was that it would cover medications. I have discussed that with the people in the Portfolio and they would prefer to retain it as it is, "any drug", but in the new Pharmacy Law put the onus on the doctor or the pharmacist in terms of adequate and proper labelling to clearly identify any side effects and contra indications of medications that people would take, because we do have a problem of people abusing prescribed drugs.

MR. G. HAIG BODDEN: Mr. Chairman, I am wondering if the section could not be straightened up by the addition of 'not prescribed by a doctor' after the word "drug", "under the influence of drink or any drug," not prescribed by a doctor or not prescribed by a medical practitioner.

HON. D. EZZARD MILLER: That is the exact point that we addressed and we would be more comfortable with it as it is. Like I said, strengthen the provisions in the new Pharmacy Law to provide adequate labelling and patient education.

MR. CHAIRMAN: Attorney General, would it be a reasonable defence in this sort of case that the drug was a drug properly prescribed and been taken?

HON. RICHARD W. GROUND: Not necessarily, because if a person was prescribed a strong sleeping drug which they knew was a strong sleeping drug and they nevertheless took a young infant to bed with them and rolled over and suffocated it they would have acted negligently.

MR. W. McKEEVA BUSH: Mr. Chairman, as the Mover has said or the Member responsible for the Bill has said, I did mention it and I still have some concern but I will be reasonable and not move an amendment.

MR. CHAIRMAN: And not ask to move an amendment. I think that was Clause 41. Anything else on 41?

MR. JOHN D. JEFFERSON, JR.: Yes, Mr. Chairman, I express my concerns on section 41(a), but I discussed it with the Second Official Member and the Member did confirm that in the case of a crime against a juvenile by an adult that the provisions of the Penal Code would probably kick into effect and that would be the Law under which he would be tried rather than under the Juvenile Law. I was concerned that someone could wilfully maim a child or something of that nature and he would be entitled to a two year sentence which I thought would be totally out of order.

HON. RICHARD W. GROUND: The Member did express his concern to me and I went away and looked at the section. What the section is aimed at is conduct which is likely to cause suffering or injury. It is not aimed at conduct which does in fact cause injury. If conduct does in fact cause injury then the person doing it will be prosecuted under the Penal Code or whatever is the appropriate Law for the injury which has been caused. This section is concerned with someone who negligently or recklessly or wantonly behaves in a way in which might cause a child injury and is felt that that sort of conduct should itself be a criminal offence even if often by sheer luck,

injury does not result.

MR. CHAIRMAN: You are content with that, are you?

MR. TRUMAN M. BODDEN: I had one small point in (2)(c): this is restricted to "a gas, oil or petrol stove, or open fireplace.". I wonder if the Member could say why that restriction and I am wondering whether the gas and the oil are part of the adjective for stove? Why restrict it to these two areas?

HON. D. EZZARD MILLER: Is the Member suggesting that we should include electric stoves?

MR. TRUMAN M. BODDEN: No, I just wondered whether you meant that if there is a container with gas or whether we mean a gas stove and ...

HON. D. EZZARD MILLER: I think gas and petrol must be interchangeable to a certain extent. I do not know whether the Attorney General has a legal comment on that?

HON. RICHARD W. GROUND: It comes from the wording of the existing Law, that is the source of it. I take gas there not to be interchangeable with petrol but to mean gas in the physical sense, propane or whatever, natural gas or something.

MR. CHAIRMAN: Do you have the Interpretation Ordinance Law there with you and does that define gas anywhere? I had assumed this meant gas in terms of a vapour.

MR. TRUMAN M. BODDEN: I understand the gas to mean propane, but I was wondering why only a stove? Or why only a fireplace? There are hardly any fireplaces in this country. There are other things that are explosive such as a container of gas? When I say gas container - petrol.

HON. D. EZZARD MILLER: Fireplace here means caboose!

MR. CHAIRMAN: Would that come under 41(1) anyway? As exposing the juvenile?

HON. RICHARD W. GROUND: It might, yes, the limbs of 41(2), are just specific ways that one may expose a juvenile. They are by no means exhaustive, but I think are intended to point to particular risks so that everyone is quite clear that anyone who exposes a child to those particular risks is going to get caught by 41(1). But it is by no means exclusive, there are other ways of doing it.

MR. CHAIRMAN: That is the point I am getting at, 41(1) could cover exposure to any type of risk.

HON. RICHARD W. GROUND: Yes.

MR. CHAIRMAN: Does that help?

MR. TRUMAN M. BODDEN: I just merely raised it, it seemed fairly limited.

CLERK: CLAUSE 42: Employment of juveniles: general.
 CLAUSE 43: Prohibition of employment of juveniles at night.
 CLAUSE 44: Employment of juveniles of school age.

MR. TRUMAN M. BODDEN: I just had one thing on this. It would appear that under 44(2)(a) a child could be at school from eight to three which is seven hours and do a further six hours which is thirteen hours. Agreed not work, but very much the same as work. I am wondering whether that six should not be altered?

HON. D. EZZARD MILLER: I am not following the point the Member is trying to make, Sir.

MR. TRUMAN M. BODDEN: The point that I was making is that under 44(2)(b), a child can work in the specific work for up to eight hours a day. Under 44(2)(a), he can go to school from eight to three, which is seven hours. He can then work another six hours which can put him up to nine or ten with or without a break in between school and work which is 13 hours. School is stressing, why only eight hours on the day off and the equivalent of thirteen on the day that he is at school? He has to be a lot more tired on the school day I guess is what I am saying, working 13 hours than he would be on the day that he worked eight hours on his day off. I wondered why the Committee, and it is unfortunate that perhaps we could have not had the Committee's reasonings in some of these, would have let a child work between school and work nearly double the amount of time on the school day.

HON. D. EZZARD MILLER: Is it not that he can only work six hours on a school day and they must be outside of school hours, so he can only work six hours for that day on any day that there is school. On a day that there is not school he can work up to eight hours.

MR. TRUMAN M. BODDEN: Yes, but he goes to school on the school day, right?

HON. D. EZZARD MILLER: Yes, but he still cannot work anymore than six hours for that day, because that is a day that school....

MR. TRUMAN M. BODDEN: Are you saying that the six hours includes the time that he is at school?

HON. D. EZZARD MILLER: No, I read it to mean that the total amount of time that he can work on any school day is six hours.

MR. TRUMAN M. BODDEN: What I am saying to you is that he has already worked from eight until three, he has already worked for seven hours. I mean school is work and then he does another six. He has to be far more fatigued and tired on a school day, having been to school for seven hours and worked for six hours. On the day that he does not have to go to school he can work up to two hours more making it eight hours, but five hours less than what he works on a school day. When I say work, goes to school and work. I wondered what the reasoning was?

HON. BENSON O. EBANKS: Maybe the (b) meant without over time.

HON. D. EZZARD MILLER: I am assuming that it means they are not considering school time as work time. The way the Law is intended is that on a day when the child is in school he cannot work eight hours for that day, he can only work six hours. On a day when there is no school, he can work a total of eight hours.

MR. TRUMAN M. BODDEN: Let me put this another way. I found that studying was just as mentally and up to a point physically fatiguing as other work. Secondly, homework is made compulsory on many school nights and a child who is entitled to work up to say 9:00 or 10:00 at nights, I do not really see how he could have the time to try to properly do school work. At this age surely the aim is to try to get the child through school and get him out. I wondered what the Committee's reasoning was on the very long hours on school days?

HON. BENSON O. EBANKS: Mr. Chairman, maybe I could help, Sir. I am sure that this will prove to be the exception rather than the rule and I would assume that the six hours here is put in to enable the odd person who really needs to work to help support himself and probably his family, to do that and still be able to go to school. I do not think that we have to worry about finding 75 per cent of our school children out there working six hours a day on a school day. I understand this to be put in there for those extreme cases where a person really has to work to keep the family fires burning and this permits him to do that legally and still remain within the Law.

MR. CHAIRMAN: I have a suggestion to make. We are around a normal break, I would like to put the question on Clauses 22 to 43 and perhaps Members could discuss this matter of juveniles of school age working outside school hours during the break and try and work it out and we will come back refreshed. So I will put the question then that Clauses 22 to 43 do stand part of the Bill.

QUESTION PUT: CLAUSES 22 THROUGH 43 PASSED.

MR. CHAIRMAN: Proceedings are suspended, we will resume on Clause 44.

AT 3:27 P.M. THE HOUSE IN COMMITTEE SUSPENDED

HOUSE IN COMMITTEE RESUMED AT 3:59 P.M.

MR. CHAIRMAN: Proceedings of the Committee are resumed.

CLERK: CLAUSE 44: Employment of juveniles of school age.

MR. CHAIRMAN: I believe when we suspended, we had just completed as far as Clause 43 and I exhausted Members to consider Clause 44 in the tea break. Is there anything to report? Nothing to report.

HON. D. EZZARD MILLER:

I think we can move to Clause 45, Sir.

CLERK: **CLAUSE 45:** Offences against employment provisions.
 CLAUSE 46: Application.

MR. TRUMAN M. BODDEN: Mr. Chairman, I just wondered why perhaps some of these sections, 42 through 45 should not apply to approved schools? I think like the hours of work, if that is a part there, surely should, I think, have some application. On the other hand the argument against that I guess, is that the approved schools that Executive Council approves would submit to Executive Council rules, which would perhaps become conditions of the licence to ensure that they stayed within these sections of the Law or whichever section were desirable. It would seem that why should a child in an approved school have to work 20 hours for example, taking an extreme situation, when another child does not have to?

HON. BENSON O. EBANKS: I would not think that this applies to hours so much but for example, to the working in agricultural undertakings. I believe that approved schools often have agricultural farms.

MR. TRUMAN M. BODDEN: Mr. Chairman, even though the definition talks about industrial undertaking, if the Member looks at what is page 10 on the white paper, it is section 2 on Industrial Undertaking, it does cover an extremely wide thing such as construction, it is not just the old agricultural and mines and quarries anymore.

HON. D. EZZARD MILLER: I think it would most likely be fair to say too that in an approved school programme, the person so committed would not normally be allowed to go out and seek employment at establishments. That is usually a very restricted and a very structured programme and any work done is usually done within the confines as part of the discipline and training or whatever it entails.

MR. ROY BODDEN: Mr. Chairman, that is not necessarily the case now. In California it is very interesting to note that they have a system where they have computer devices and many of these juveniles and also adults are tagged and that is how they monitor them. So, they send them out of the institutions and many of them they send to work in ordinary businesses within the community and half-way houses. What happens is that they have some monitor or a little beeper and they can, at any time, monitor their geographic locations so that it is not necessarily that they would have to be institutionalized for that matter. As a matter of fact they have found out that this system works better than keeping them within the institution because it affords them the opportunity to socialize with people and gain the kinds of experience they will gain when they are out of the institution.

MR. CHAIRMAN: I missed your opening few words. Did you say that applies to juveniles or was it a general statement.

MR. ROY BODDEN: Juveniles as well.

CLERK: **CLAUSE 47:** Restriction on committal to approved school.
 CLAUSE 48: Committal to approved school.
 CLAUSE 49: Escapes from approved schools.

MR. TRUMAN M. BODDEN: What I wanted to ask here, from what I understand of this section and following down is that the Court will make an approved school order and the Executive Council will then decide on which approved school the child should go. It was a lot of detail beginning from this section going down, I wanted to make sure my understanding of that was clear and if it was, why not the Court dealing with the order? They may be in a better position to decide whether the child is sent to approved school A, B or C or whatever.

HON. RICHARD W. GROUND: It is certainly under the scheme of the Bill as framed, it is the Governor in Council who decides the approved school. Members can see that from schedule 1, which is the Approved School Order which the Court makes. That commands the Commissioner of Police to detain the juvenile in a place of safety until the name of an approved school is endorsed on the order by the Governor in Council and then the Commissioner takes the juvenile to that school.

The Court makes the order in general terms, the Governor in Council then decides what the school is to be.

MR. TRUMAN M. BODDEN: My question on that, which would follow on the following sections, so I will not say anything much on those, was why does Executive Council make the decision on the approved school rather than having the Court make the decision? I do not even believe there is anywhere which states that the Court should recommend which approved school. They would have had the benefit of seeing the child, and the parents and I would think be in a better position to make that decision.

HON. D. EZZARD MILLER:

Does not 48(4) take care of that somewhat?

MR. TRUMAN M. BODDEN:

I think that is really dealing with detention pending the Order.

HON. RICHARD W. GROUND:

The Law does not specifically address this. The Law requires the Court which makes the general Approved School Order to send to the Governor in Council a record embodying all of the information in possession of the Court with respect to the juvenile. But then the allocation of the school follows as an Administrative act rather than a Judicial act and I suppose the analogy is, in bigger jurisdictions, not here, but in bigger jurisdictions as to what prison the prisoner should go to and the categorisation of prisoners and whether you send them to a low security or a high security and so on, is a matter in the United Kingdom say, for the Home Office rather than for the Court. So the Court may well not have that degree of information or experience or simply access to the administrative material to allow it to decide which is the appropriate institution to receive the child. I am speaking on this by analogy, I do not know if the Member would add to it, but I would guess that is the thinking behind the scheme.

MR. CHAIRMAN:

But in Clause 52 before any juvenile who has been so ordered can be sent to an approved school it has got to be one that is appropriate as can be for the purpose and Clause 52 requires that the approved schools are classified. I think this is the analogy the Attorney General is drawing. This is all very much more sophisticated than we have at the moment, it is quite an infrastructure that is going to be built up here before you can start feeding these children into the system.

MR. TRUMAN M. BODDEN:

I guess the only thing I could ask, since Executive Council has taken that decision, that they also do mandatory visits to these schools. I think it is very important because the difference between school A and school B could well mean the question of reformation or non-reformation or development of the child or whatever.

MR. CHAIRMAN:

being institutionalised shall we say.

I entirely agree, it was just the thought of Executive Council
Could I ask a point from the Attorney General?

MR. JOHN D. JEFFERSON, JR.:

Not a bad idea, Mr. Chairman.

MR. CHAIRMAN:

Under the present system do these things come to the Governor so, or is it the actual Order for a child to go to an approved school? That comes to the Governor, not the Governor in Council at present, is that right? That is what I seem to remember.

HON. D. EZZARD MILLER:

I think it is a matter for your discretion at the present.

MR. CHAIRMAN:

But it comes from the Magistrate to the Governor at the moment, so we are now talking about a much more sophisticated arrangement.

HON. D. EZZARD MILLER:

I think it is fair to say that any student put in an approved school, the Social Services Department should be monitoring its progress on a regular basis because there is also provision in this Law, which is not in the old Law, to allow the Governor to remove the person if rehabilitation sufficiently has taken place and so on.

CLERK:

CLAUSE 50:

Power to declare place an approved school.

CLAUSE 51:

Power to declare school approved school on application of managers.

MR. JOHN D. JEFFERSON, JR.:

My question, Mr. Chairman, is what criteria will be considered in arriving at a decision on an application for the designation of an approved school? What will you be looking for?

HON. D. EZZARD MILLER:

I think one would look at the type of programmes that the school offers, the type of discipline it offers, the type of structure that the school has, what kind of success rate they have had and try and match the school you are approving to the particular problems of the child if they are acute and peculiar. All of that would be specified in regulations and so on.

MR. JOHN D. JEFFERSON, JR.:

What about the idea of locally, I am saying we do not have any at the present time locally. There are established reputable schools of this nature, but it would probably be much more difficult to arrive at a decision with regard to an application from a local group or whatever because there are not established standards.

HON. D. EZZARD MILLER:

I think the problem a new school starting would not have a track record that you could assess, but one could certainly look at the types of programmes, the educational standard, the management and kinds of things like that.

MR. ROY BODDEN:

Mr. Chairman, I would like to ask the Member if attention would also be given to what we call professional support services, counselling, clinical testing, those kinds of things?

MR. JOHN D. JEFFERSON, JR.: Mr. Chairman, I just have one comment with regard to the Law. I am glad that we have gone through it now, but it would have made me much more comfortable if there was some mandatory provision in the Law that these schools that are designated as approved schools are visited on a frequent basis to ensure that the standards are maintained. So that we do not run into the situation like we ran into in Jamaica. I know the Law really tied the Member's hands in that he did not have an alternative of an option, it had to be Jamaica. But now that there is flexibility, it would have been good if somehow there was a mandatory provision of the Law that says, all right, the school must be visited at least semi-annually or have a school inspector visit them just to ensure that the environment which our kids are being held continue to be up to standard.

HON. D. EZZARD MILLER: Mr. Chairman, I hope the Member is going to support an increase travelling budget and subsistence budget for me in the 1991 budget. I think that the key difference here, rather than in Jamaica, is that we are dealing with institutions preferably the North American market. Most of those institutions are monitored by Federal Regulatory bodies from which we can get reports. I give everybody the undertaking that I will try to ensure that Social Services Department monitors these things on a regular basis.

MR. CHAIRMAN: I was about to put the amendment on Clause 57. I was taking that point as being a suggestion for a regulation to be made under the amended 57. In that case I will put the question on the amendment.

QUESTION PUT: AMENDMENT TO CLAUSE 57 PASSED.

QUESTION PUT: CLAUSE 57 AS AMENDED PASSED.

CLERK: CLAUSE 58: Application of Poor Persons (Legal Aid) Law and Mental Health Law.
CLAUSE 59: Repeal and savings.

QUESTION PUT: CLAUSES 58 AND 59 PASSED.

CLERK: Schedule 1 and Schedule 2.

MR. TRUMAN M. BODDEN: Mr. Chairman, I do not know if you will regard this as clerical or not but a very telling thing in that schedule is the draft was in 1987, and throughout the forms it is a Juveniles Law 1987, so I do see the urgency of getting it through, Sir.

MR. CHAIRMAN: We will take that as a typographical error.

HON. D. EZZARD MILLER: That just shows that the Committee did some very good work, Sir.

QUESTION PUT: SCHEDULE 1 AND SCHEDULE 2 PASSED.

CLERK: A Bill For A Law To Repeal And Replace The Juveniles Law, Law 16 OF 1975.

QUESTION PUT: TITLE PASSED.

MR. CHAIRMAN: That concludes proceedings in Committee on a Bill entitled The Supplementary Appropriation (1987) Bill, 1990 and other Bills and the House will now resume.

HOUSE RESUMED

MR. PRESIDENT: Proceedings of the House are resumed.
Bills - Reports.

REPORTS THEREON

THE SUPPLEMENTARY APPROPRIATION (1987) BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I beg to report that a bill shortly entitled The Supplementary Appropriation (1987) Bill, 1990, was considered by a Committee of the Whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

THE SUPPLEMENTARY APPROPRIATION (1988) BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I beg to report that a bill shortly entitled The Supplementary Appropriation (1988) Bill, 1990, was considered by a Committee of the Whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

THE SUPPLEMENTARY APPROPRIATION (1989) BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I beg to report that a bill shortly entitled The Supplementary Appropriation (1989) Bill, 1990, was considered by a Committee of the Whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

THE CUSTOMS BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I beg to report that a Bill shortly entitled the Customs Bill, 1990, was considered by a Committee of the Whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for its Third Reading.

THE CUSTOMS TARIFF BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I beg to report that a Bill shortly entitled the Customs Tariff Bill, 1990, was considered by a Committee of the Whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for its Third Reading.

THE JUVENILES BILL, 1990

HON. D. EZZARD MILLER: Mr. President, I beg to report that a Bill shortly entitled the Juveniles Bill, 1990, was considered by a Committee of the Whole House and passed with one amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.
Bills - Third Reading.

**BILLS
THIRD READINGS**

THE SUPPLEMENTARY APPROPRIATION (1987) BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I move that a Bill entitled The Supplementary Appropriation (1987) Bill, 1990, be given a Third Reading and passed.

QUESTION PUT: AGREED. THE SUPPLEMENTARY APPROPRIATION (1987) BILL, 1990, GIVEN A THIRD READING AND PASSED.

THE SUPPLEMENTARY APPROPRIATION (1988) BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I move that a Bill entitled The Supplementary Appropriation (1988) Bill, 1990, be given a Third Reading and passed.

MR. PRESIDENT: I do hope Members will forgive my earnest endeavours to expedite the business of the House.

QUESTION PUT: AGREED. THE SUPPLEMENTARY APPROPRIATION (1988) BILL, 1990, GIVEN A THIRD READING AND PASSED.

THE SUPPLEMENTARY APPROPRIATION (1989) BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I move that a Bill entitled The Supplementary Appropriation (1989) Bill, 1990, be given a Third Reading and passed.

QUESTION PUT: AGREED. THE SUPPLEMENTARY APPROPRIATION (1989) BILL, 1990, GIVEN A THIRD READING AND PASSED.

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QUESTION PUT: AGREED. THE CUSTOMS BILL, 1990, GIVEN A THIRD READING AND PASSED.

THE CUSTOMS TARIFF BILL, 1990

HON. THOMAS C. JEFFERSON: Mr. President, I move that the Bill entitled The Customs Tariff Bill, 1990, be given a Third Reading and passed.

QUESTION PUT: AGREED. THE CUSTOMS TARIFF BILL, 1990, GIVEN A THIRD READING AND PASSED.

THE JUVENILES BILL, 1990

HON. D. EZZARD MILLER:
be given a Third Reading and passed.

Mr. President, I move that a Bill entitled the Juveniles Bill, 1990,

QUESTION PUT: AGREED.

THE JUVENILES BILL, 1990, GIVEN A THIRD READING AND PASSED.

MR. PRESIDENT:

I am not sure whether Members want to proceed with the next item on the Order Paper or whether we should gain ourselves two and a half minutes.

ADJOURNMENT

HON. THOMAS C. JEFFERSON:

We will do something similar to what we did yesterday, Sir.

o'clock tomorrow morning.

I move the adjournment of this Honourable House until 10:00

QUESTION PUT: AGREED.

**AT 4:28 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M.,
WEDNESDAY, 5TH SEPTEMBER, 1990.**