

**FRIDAY  
28TH JUNE, 1991  
10:06 A.M.**

**MADAM SPEAKER:**

I will ask the Member for East End to say prayers.

**PRAYERS**

**MR. JOHN B. McLEAN:**

Let us Pray.

Almighty God, from whom all wisdom and power are derived:

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

Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, 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 Speaker of the Legislative Assembly, 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.

Let us say the Lord's prayer together: Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done in earth as it is in Heaven; Give us this day our daily bread, and forgive us our trespasses, as we forgive them 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.

**MADAM SPEAKER:**

Please be seated. Proceedings are resumed.

Questions to Honourable Members. Question No. 156, standing in the name of the First Elected Member for Bodden Town.

**QUESTIONS TO HONOURABLE MEMBERS**

**THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE**

**NO. 156:** What steps are being taken to ensure that Caymanians receive their fair share of employment in the hospitality industry?

**ANSWER:** In accordance with the Directives of Executive Council given to the Caymanian Protection Board, all vacancies advertised in the press indicate that qualified Caymanians will be given preference and this naturally includes the hospitality industry. The Board does not issue Gainful Occupational Licences unless the employer has demonstrated that he has been unable to recruit suitably qualified and able Caymanians to fill the positions.

Each week the Labour Office furnishes to the Board a current listing of registered job vacancies by category and employer as well as a listing of currently registered job applicants by name and type of employment being sought. The Labour Office does not register any non-Caymanian job seekers.

In January 1991 the Director of Trade and Labour issued a letter to the managers of all hotels, condominiums and restaurants, explaining Caymanians' rights to employment preference. This is constantly monitored by the Labour Office as an ongoing function.

**SUPPLEMENTARIES**

**MADAM SPEAKER:**

The First Elected Member for Bodden Town.

**MR. ROY BODDEN:**

I wonder if the Honourable Member could say if Caymanians will be considered for positions which are now filled by foreign nationals, mainly Filipinos, when their terms of employment are up?

**HON. W. NORMAN BODDEN:**

Madam Speaker, as the Member asked in the substantive question about a specific group of people, it depends on the category in which those persons are employed. But I feel reasonably sure that if when the terms for employment of those persons are up, if there are Caymanians who

can fill those positions, certainly, work permits for the Filipinos would not be renewed under normal circumstances.

**MADAM SPEAKER:**

The First Elected Member for Bodden Town.

**MR. ROY BODDEN:**

I wonder if the Honourable Member is in a position to say whether the wage scales of these foreign nationals are different, meaning lower than that normally paid to Caymanians?

**HON. W. NORMAN BODDEN:**

Madam Speaker, I am not able to say whether they are paid lower than the normal scale of pay being offered to Caymanians. I could probably investigate that and supply that to the Member, if he so wishes.

**MADAM SPEAKER:**

The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Would the Honourable Member say why the Department of Tourism is paying some \$5,045,000 to foreign companies and personnel - some of which appears to be in relation to local promotion that is paid abroad? What is Government is doing about giving the fair share of employment to Caymanians?

**HON. W. NORMAN BODDEN:**

Madam Speaker, the amount quoted by the Third Elected Member for George Town refers to contracts that are paid out for advertising and to public relation firms. I think when those contracts were being offered we were not able to find any local companies that could fill those positions or that were able to provide the services that the Department of Tourism required.

**MADAM SPEAKER:**

The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:**

Madam Speaker, it appears that some establishments are staffed mostly by non-Caymanian labour. Can the Member say if any attempt has been made to establish a ratio of Caymanian to non-Caymanian worker in the hotels and restaurants?

**HON. W. NORMAN BODDEN:**

Madam Speaker, the latest information that I have from the Director of Labour is that the ratio is generally 60:40 in the hospitality industry. That is, 60 per cent Caymanian and 40 per cent non-Caymanian. This relates to the hotels and condominiums. We do not have the statistics available for restaurants. For example, in the area of hotels there are 700 Caymanians or 58 per cent, and 500 non-Caymanians or 42 per cent employed. In condominiums, we have about 90 per cent Caymanian and 10 per cent non-Caymanian.

**MADAM SPEAKER:**

The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:**

As statistics are extremely vital in keeping a check or information on this particular area of activity in the country, that of labour and immigration, is there any system in place whereby when the Protection Board approves a particular work permit that information is sent to the Statistics Department which in turn makes that available to the Labour Office?

**HON. W. NORMAN BODDEN:**

Not that I am aware of, Madam Speaker.

**MADAM SPEAKER:**

The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Would the Honourable Member say whether it is not possible when granting the very large contracts that are granted by Tourism to foreign companies that they require, in accordance with what the Protection Board does, that Caymanians be employed wherever possible?

**HON. W. NORMAN BODDEN:**

Madam Speaker, the procedure that the Caymanian Protection Board follows in filling jobs which cannot be filled by Caymanians will certainly be followed by the Portfolio and the Department of Tourism. If in truth and in fact we had local firms to provide the type of services which the Department of Tourism requires there will be no reluctance on the part of those Departments to employ Caymanian firms to do the job.

I think the Public Relations contract which was awarded was handled through the Central Tenders Committee. It was advertised and there were various bids made for the contract, but in the final analysis a company in New York was awarded the contract. I do believe that had the Central Tenders Committee been satisfied that there was in fact a local company that could provide the service, it naturally would have gone to a Caymanian company which I certainly would have preferred to see.

**MADAM SPEAKER:**

The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Is it not a fact that when the contract is awarded to a foreign company they avoid the Caymanian Protection Law policy? Is it not also possible that the tendering require that they use local firms or Caymanians wherever possible, because I think this firm has even employed somebody else

who is foreign. What I am really saying is that there must be some way to say to them that if they must get a foreign firm then please employ as many local people as possible.

**HON. W. NORMAN BODDEN:** I understand what the Member is asking and that was followed in this instance as well. The position was advertised for a Caymanian representative, if you will, and various applications were filed. In the final analysis it went to somebody who I think is married to a person of Caymanian status other than a native Caymanian and the permit for that had to be, naturally, approved by the Board.

**MADAM SPEAKER:** Question No. 157, standing in the name of the First Elected Member for Bodden Town.

**THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS**

**NO. 157:** Will the Honourable Member say if the Government has received any requests for the operation of the Police Station in Bodden Town on a 24 hour basis?

**ANSWER:** The Commissioner of Police has not received any requests to operate the Bodden Town Police Station on a 24 hour basis. At the present time there is cover at this Station at all times as far as possible, with the exception of the period between 2:00 a.m. and 7:00 a.m. During this 5 hour period and at other times when, for one reason or another, an officer is not available at the Station, cover is provided by officers from Central Police Station (CPS) in George Town.

**SUPPLEMENTARIES**

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** May I request the Honourable Member to investigate the feasibility of this operation? My constituents are complaining to me that during the hours when the Police should be there, particularly on week-ends - and, namely, the periods from 2:00 a.m. to 7:00 a.m. - it is inconvenient, sometimes impossible, for them to get responses from the Central Police Station. Therefore, they request the Station in Bodden Town to be open round-the-clock.

**HON. J. LEMUEL HURLSTON:** Madam Speaker, as and when the resources become available and the need has been prioritised that station, and other stations, will be operated on a 24 hour basis. The need to operate it on a 24 hour basis at the moment has not been fully justified during those periods. If difficulty is being experienced in getting responses from CPS George Town, that matter can certainly be investigated.

**MADAM SPEAKER:** The Elected Member for East End.

**MR. JOHN B. McLEAN:** I wonder if the Member could say why this period between 2:00 a.m. and 7:00 a.m. is an exception and why there would not be a police officer at the Station? It was my understanding that this was one of the reasons why we voted for 22 new officers - so as to have this sort of time frame of operation at the various out-districts.

**HON. J. LEMUEL HURLSTON:** Madam Speaker, the Police Department, in requesting additional staff, put forward a case on the basis that there was increased activity and an increased volume of work to be done during normal hours. The extent of activity during the five hour period of 2:00 a.m. and 7:00 a.m. is not sufficient at the moment to merit or warrant 24 hour cover. There is one Inspector, one Sergeant and nine Constables to cover Bodden Town, East End and North Side. Subtracting vacation leave, illness, etcetera, the House can appreciate that there are limited officers to spread around the shifts.

**MADAM SPEAKER:** The Elected Member for East End.

**MR. JOHN B. McLEAN:** Madam Speaker, I wonder if the Member would say whether or not it is necessary at this time for us to have more police officers for the eastern districts so as to have 24 hour service for the public?

**HON. J. LEMUEL HURLSTON:** Yes, Madam Speaker. But in addition to requiring additional officers, the Police Department is not satisfied that the volume of work during those hours at the moment merit the deployment of officers on a 24 hour basis.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I wonder if the Honourable Member could explain what he means when he says "when the need is justified"? With your permission, Madam Speaker, I would like to relate that some of my constituents told me recently that they were plagued by a prowler who operated between these hours. It seems easy when people know that the Station is not being manned that that is the time that would choose to

commit some act of crime.

**HON. J. LEMUEL HURLSTON:** Surely, Madam Speaker, if such an incident is reported to the Police a particular and special operation can be mounted to respond to that type of incident. That is done by the Criminal Investigation Branch anyhow. The position is that radio dispatch control is available through CPS George Town and cars are patrolling all districts in the Islands and wherever an incident occurs the radio dispatcher is capable of finding a vehicle or an officer near enough to the incident to be able to respond very quickly.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, will the Member say if at the present time there are any sleep-in officers at the Bodden Town Police Station?

**HON. J. LEMUEL HURLSTON:** Yes, Madam Speaker. The Bodden Town Police Station does provide sleeping accommodation and there is usually a Constable on the premises at all times.

**MADAM SPEAKER:** The Elected Member for East End.

**MR. JOHN B. McLEAN:** Madam Speaker, I wonder if the Member could say whether or not the officer who is at the Station can be disturbed during the hours of 2:00 a.m. and 7:00 a.m.?

**HON. J. LEMUEL HURLSTON:** All officers can be disturbed if necessary. The necessity to do that is determined by the radio control room at CPS George Town.

**MADAM SPEAKER:** The Elected Member for East End.

**MR. JOHN B. McLEAN:** A further supplementary, Madam Speaker. The vehicle that the Member is speaking of, am I to understand that in each district throughout the hours mentioned here, there would be a vehicle in the vicinity that could be contacted?

**HON. J. LEMUEL HURLSTON:** There are vehicles that are dispatched on patrol around all areas of the Island on a 24-hour-a-day basis. The radio dispatch room at CPS George Town knows at all times where those vehicles are and is in constant communication with those vehicles on a 24-hour-a-day basis. It is those kinds of communications that enable the Police to respond.

**MADAM SPEAKER:** The next Question No. 158, standing in the name of 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 HEALTH AND SOCIAL SERVICES**

**NO. 158:** What is the daily average number of patients attending the hospital in Grand Cayman and the Faith Hospital in Cayman Brac?

**QUESTION NO 158 DEFERRED  
STANDING ORDER 23(5)**

**HON. D. EZZARD MILLER:** Madam Speaker, under Standing Order 23(5), I would ask the leave of the House to defer that question.

**MADAM SPEAKER:** The Honourable Member is asking the leave of the House to defer that question. Perhaps you could give us a reason.

**HON. D. EZZARD MILLER:** All of the information is not at hand to be able to answer that question.

**MADAM SPEAKER:** Good. That is reasonable. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. QUESTION NO. 158 DEFERRED FOR ORAL ANSWER.**

**MADAM SPEAKER:** Question No. 159, standing in the name of 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 HEALTH AND SOCIAL SERVICES**

**NO. 159:** Would the Honourable Member say what has been the total cost of the new Dental Clinic to date; is any money payable by Government and, if so, what is the amount?

**ANSWER:** The estimated total cost of the new Dental Clinic to date is \$714,835.59. Since the final accounts have not been completed, the Portfolio is unable to say what funds are still outstanding except that 5 per cent or \$21,254.00 has been retained under terms of the construction contract. Honourable Members are provided with an estimated breakdown as to how these funds will have been expended.

Dental Clinic Project Estimated Costs

	PWD Estimate	1990	PWD Cost to Date
Site Preparation		6,000.00	6,200.00
Building Contract			
External Works	445,988.00		450,000.00
Contingencies 7.5%	33,450.00		
Professional Fees	139,428.00		104,474.34
Furniture/Equipment	286,844.00		154,161.25
Total:		911,710.00	714,835.59
Additional Hospital Car Park Improvements			\$ 30,000.00

**SUPPLEMENTARIES**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, would the Member explain just what is meant by "the final accounts have not been completed"? because the Clinic is operational and has been opened and one would think that whatever money has been paid out would be known and whatever would be left would also be known at this time?

**HON. D. EZZARD MILLER:** Madam Speaker, before answering that question it appears that Honourable Members have not been given the second page to the answer which is an estimated breakdown of the costs. I apologise for that and would ask the Serjeant-at-Arms to photocopy and hand that out to Members for me, please.

But in answer to the question, the reason for that is that contracts of this nature are awarded here on a Bill of Quantities, and construction companies bid on quantities specified, in this case, by the Quantity Surveyor BCQS under the supervision of Public Works. At the end of the contract, for each payment, all of those quantities are re-measured and any variation in the quantities specified on which there were bids, has to be negotiated with the contractor. For example, in this case I believe they encountered some clay when they dug out for the foundation and had to dig deeper to find solid rock, so that would have increased the quantity.

Those are the kinds of accounts that have to be justified, plus there is a list (I do not know the term that they use in the industry, but I refer to them as a defect in the construction, they are not exactly as the drawing specified) which has to be argued with the contractor as to whether it is to fall to the subcontractor or the electrical contractor. As an example, the architect specified a 4 x 4 box for the call system and the electrical contractor installed a 6 x 6 box which means that when the buttons for the call system came it did not fit properly and they are now arguing about who has to pay for the little plate to make up that extra two inches all around it. Those are the kinds of small matters that have to be sorted out because the contract is not billed on a final price but on measured quantities.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say what the cost overrun on this particular project is? As I recall it was originally set at \$600,000. Is this indeed an overrun then, or was this really the figure, or within the range that is now shown here?

**HON. D. EZZARD MILLER:** Actually the sheet of paper which the Serjeant-at-Arms is photocopying has that information. Members will see that there is actually no overrun. The estimate prepared by the consultants in October 1989 was CI\$679,937. The estimate prepared by Public Works, on which the contract was let with figures supplied to this Honourable House earlier this year, was some CI\$900,000+. So there has been a substantial savings between what Public Works estimated it to cost in June 1990 and what it has actually cost.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Would the Honourable Member say how these defects, such as a 6 x 6 box for a 4 x 4 box, have arisen when he had IHC and Mr. Conti in there as consultant/architects at 10 or 11 per cent, and he had a local firm, I think that it was Mr. Bissell at another 5 or 6 per cent, and he had a Quantity Surveyor in at another percentage? How could this come about if you had three architectural firms in there looking at it?

**HON. D. EZZARD MILLER:** Madam Speaker, I believe that the minutes of the site meetings will record that most of the defects were identified a long time ago on preliminary inspections and certainly they were identified and recorded by IHC and Onions Bouchard.

**MADAM SPEAKER:** The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:** Can the Member say what the difference in size was between the estimates of Public Works and the actual construction? What I am trying to find out is what was the square footage of the building?

**HON. D. EZZARD MILLER:** The square footage of the building did not vary in the estimates. The building that was designed was built.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Would the Member say what the square footage of what Public Works originally designed was compared to the smaller sized building that we now have?

**HON. D. EZZARD MILLER:** The last plan designed by Public Works was some 50 per cent greater with two less surgery areas. But I must point out that these figures circulated here have nothing to do with the last plan that I vetoed from Public Works. These are Public Works' costings of the final plans prepared by IHC.

**MADAM SPEAKER:** The next Question No. 160, standing in the name of 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 HEALTH AND SOCIAL SERVICES**

**NO. 160:** Can the Honourable Member say: (a) how many persons were referred by Government for overseas medical attention since January 1988, giving a breakdown by date, number and costs; and (b) if the Government in the same period assumed initial payment of costs for persons referred overseas for medical care other than by Government? If the answer is in the affirmative, will he provide the breakdown by date, number and costs?

**QUESTION NO. 160 DEFERRED  
STANDING ORDER 23(5)**

**HON. D. EZZARD MILLER:** Madam Speaker, I would also request the leave of the House under Standing Order 23(5) to defer answering this question because the research necessary to complete such a detailed answer is not complete.

**MADAM SPEAKER:** I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. QUESTION NO. 160 DEFERRED FOR ORAL ANSWER.**

**MADAM SPEAKER:** The next Question No. 161, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT**

**NO. 161:** Would the Honourable Member outline the systems and procedures for auditing the accounts of various Departments of Government?

**ANSWER:** Madam Speaker, the Government's External Auditor is the Auditor General who is statutorily appointed under the Public Finance and Audit Law, 1985. This Law provides for his independence from Government and sets out his duties and responsibilities. The Auditor General's audit is divided into two main parts:

- (a) The Certification Audit: This is the financial and regularity audit which provides the Auditor General with the evidence and proof that he decides is necessary to form an opinion on the Government's Financial Statements.
- (b) Value for Money Audit: This is largely those studies and reviews of broader matters affecting the economy, efficiency and effectiveness of the Government's use and stewardship of public resources.

To assist in items A and B above, the Auditor General adopted in 1989, as a general principle, the audit methods, systems and procedures detailed in the Commonwealth Training Initiatives Public Audit Manual, which was prepared by the United Kingdom's National Office and Overseas Development Administration.

In 1990 the Auditor General adopted the International Organisation of Supreme Audit Institution's auditing standards which provide a framework for the establishment of appropriate procedures and practices to be followed in the conduct of a Legislative Audit.

The Government's Internal Audit Section, which was recently established, is defined as "an independent appraisal function within an organisation for the review of activities as a service to all levels of management. It is a control which measures, evaluates and reports upon the effectiveness of internal controls, financial and other, as a contribution to the efficient use of resources within an organisation". In addition, it will also undertake value-for-money studies to ensure that Government operations are efficiently carried out and effective in meeting their objectives.

The Chief Internal Auditor reports to the Deputy Financial Secretary, with a right of access to the Financial Secretary. The Chief Internal Auditor is responsible for ensuring that professional standards of the Chartered Institute of Public Finance and Accountancy and the Institute of Internal Auditors are maintained. These standards cover aspects such as independence, professional proficiency, scope of work and internal audit management and control. An audit plan has now been prepared, including cyclical reviews where the emphasis will be on the protective aspects. The approach will be systems-based auditing.

Secondly, National Systems Audits will review systems with similar objectives across different departments. Internal Audit Reports will be issued to Principal Secretaries, the Financial Secretary and the Auditor General.

#### SUPPLEMENTARIES

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could the Member say if regular internal audits are done for, or in, the Public Works Department which holds large quantities of goods and materials and is one of the biggest of the spending departments of Government?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, the programme of the Auditor General requires that the Public Works Department be audited on an annual basis. It is a test audit where they look at the payments and receipts and satisfy themselves accordingly.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I wonder if the Honourable Member can say whether these audit systems which he just outlined apply to the Government operations on Cayman Brac?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, it is my understanding that the systems which I mentioned earlier apply to all the Islands.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could the Member say when last an examination of the accounts in District Administration was carried out by the Auditor General?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, it is my understanding that a few months ago officers from the Auditor General's office visited the Brac and did some auditing of the system there.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Could the Honourable Member say whether physical inventory checks are also made at the time of the audit or just before?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I do know that the Auditor General's Department has looked with special interest at stores throughout the Government. It is not always the case that every audit done in a Department would actually look at stores or inventory. I think that the programme which the Auditor General establishes for the year would focus on areas in which he feels there are some weaknesses and to test the system to determine whether the systems are as efficient as they should be.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** In a time when the Government's attention and, indeed, the attention of this House, is focussed on the need for value-for-money and good management of money, is the Audit Department in a position with staffing, funds or whatever it takes to keep in focus and to do inspections or auditing, as much as is desirable or is necessary, in all Departments of Government?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I believe the answer to that is yes. In addition I think I should emphasise that the recent establishment of the Internal Audit Section will be a supporting element to the Auditor General. I believe that the Government will ensure that there are sufficient staff to carry out any exercise which is deemed necessary by the Auditor General or by Government.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I would like to ask the Honourable Member if, in the establishment of the Internal Audit Section, that section will have a permanent representative in the District Commissioner's Office on the Brac?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I do not believe that at this time we have envisaged the need for that.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** The fact that District Administration is separated from Main Administration in Grand Cayman by a considerable distance over water, and the infrequency of visits by persons from Main Administration to Cayman Brac, is there any means by which the Audit Department keeps a regular check, whether weekly or monthly on what is happening there, or does it consider that an annual basis is sufficient?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I believe that the allocation of work to a particular Department will depend on the assessment in each case by the respective Heads of Internal Audit, or of the Auditor General's Department, or by the Financial Secretary. It may be that there a need to make more frequent visits to Cayman Brac and it is something that we will certainly bear in mind.

#### DEFERRED QUESTIONS QUESTION NO 83

**MADAM SPEAKER:** The next Question which includes two which were deferred, No. 83, standing in the name of the Second Elected Member Cayman Brac and Little Cayman.

#### THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS:

**NO. 83:** Would the Honourable Member say who ordered the construction of the building directly in front of the Cayman Brac Police Station and whether it meets the Planning setbacks from the main road?

**ANSWER:** The District Administration ordered the construction of the building directly in front of the Cayman Brac Police Station as part of the 1991 Capital Building Programme approved in the Legislative Assembly.

Prior to the submission to Government of District Administration's Budget, it was discussed with the Elected Members and the Administrative Secretary, and the construction of this building was



clearly a part of these Estimates.

Prior to construction of the building, an application was submitted to the Development Control Board and approved on 9th April, 1991. In Cayman Brac and Little Cayman, setbacks are at the discretion of the Development Control Board.

#### SUPPLEMENTARIES

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could the Member say if at any time in discussion between himself and the representatives for the Brac it was ever stated that a building would be built in its present physical location which virtually obscures the front of the Police Station from the road?

**HON. J. LEMUEL HURLSTON:** No, Madam Speaker, I cannot recollect the location being discussed during the time of discussing the Budget.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say if there has been any concern expressed by the Police that their ability to see and observe the area of the road in that area and the ramp which is directly across from there has been virtually blocked? And could that building not have been situated on a north/south angle instead of where it is presently located?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, I believe that the area of land adjacent to this property is somewhat restricting and that there was perhaps limited alternatives in the siting of the covered parking which was the purpose for which this project was undertaken. The purpose is to provide covered parking for the Police vehicles and I believe that we were constrained in the options that we had in terms of the location.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, can the Member say what are the actual setbacks from the edge of the road?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, the structure is located approximately eight feet from the edge of the main road.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member give an undertaking to speak to the persons involved with the Planning Board on Cayman Brac to draw to their attention that this has set a precedent (it does appear that way to me as there has been much representation made to me about it), and that fairly similar considerations should be given to other persons who seek to build so close to the road?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, I will certainly bring the matter to the attention to the Development and Control Board.

#### DEFERRED QUESTION NO. 98

**MADAM SPEAKER:** The next Question No. 98, standing in the name of the First Elected Member for Bodden Town.

#### THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

**NO. 98:** Would the Honourable Member say what is the rate of recidivism for the following convictions: (a) Drug Offences; (b) Burglary; (c) Driving while intoxicated; (d) Assault; and (e) Disorderly conduct?

**ANSWER:** Recidivism has been interpreted as the commission of a similar offence on at least two separate occasions. "Spent" convictions as per the Rehabilitation of Offenders Act have not been included in the calculations.

The Royal Cayman Islands Police records show 2,314 adults and 38 juveniles as having criminal records (this does not include driving whilst intoxicated). In the categories cited by the

Honourable Member, the following number of persons have offended more than once:

(a)	Drug Offences:	Adults	389
		Juveniles	Nil
(b)	Burglary Offences:	Adults	76
		Juveniles	3
(c)	Assault Offences:	Adults	247
		Juveniles	1
(d)	Disorderly Conduct:	Adults	224
		Juveniles	Nil
(e)	637 persons convicted of driving whilst intoxicated of which 116, (18.2%) are "repeat offenders."		

### SUPPLEMENTARIES

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I wonder if the Honourable Member can say whether there are any provisions, mandatory or otherwise, for recidivists to receive counselling for these offences?

**HON. J. LEMUEL HURLSTON:** No, Madam Speaker, I cannot answer that supplementary with any degree of certainty. I believe that there are provisions in various statutes for probation and for community service orders which, by nature of their sentences, include an element of counselling. I am not aware of any other mandatory provisions.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** May I then ask the Honourable Member if there are any provisions made for rehabilitating people from these kinds of offences, other than prison?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, there are varying and various programmes that are aimed at offering assistance and alternatives to persons. In respect of drug offences in particular, considerable resources have been dedicated to this area and I believe we are all quite familiar with what those resources are.

**MADAM SPEAKER:** That concludes Question Time. We will now proceed with Government Business - Bills, Second Reading debate, the Pharmacy Bill, 1991, the First Elected Member for West Bay continuing.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READINGS

##### THE PHARMACY BILL, 1991

**MR. W. MCKEEVA BUSH:** Madam Speaker, on Wednesday when we took the adjournment, I was dealing with clause 20 - Grant of Licences, but I would refer back to clause 17. This clause deals with limitations of the sale of medicinal products. I had made the point that this Law was creating a whole scope of licences. I further made the point that stores were not going to be able to sell without a "product licence". The Bill goes on to say that:-

17. "...no person shall in the course of a business carried on by him-

- (a) sell, supply or export any medicinal product;
- (b) produce for sale, supply or exportation, any medicinal product;
- (c) procure the manufacture or assembly of any medicinal product for sale, supply or exportation;

unless the medicinal product concerned is subject to a marketing authorisation (hereinafter referred to as a "product licence") granted by the licensing authority in the Islands...", and I guess this is the important part for it goes on to say "...or in a State listed in regulations made under section 53."

I take this to mean that if aspirins are made in Hong Kong and

that territory is listed in the regulations, it will be all right for stores to sell. So it seems that as long as the State is listed in the regulation, the shop or store may not have to get a product licence. However, regulations are not yet made, as I understand it, or they have not come with this Law, and that gives us some problems. Section 53 says:-

53. "The Governor...", which is the Government in Executive Council "...may, with the advice of the Board, make regulations for carrying out or giving effect of the provisions of this Law and, without prejudice to the generality of the foregoing, such regulations may -

- (a) specify such States whose authorisations for marketing medicinal products are accepted within the Islands;".

So, the regulations to come will say what States are going to be accepted, and this gives us some problem because the Government should endeavour when they are bringing such important legislation to the House to have those regulations tabled with the Bill. We can easily pass a Bill without a regulation, bearing in mind that this Bill says the Governor "may", it says nothing about "shall". So, they can bring regulations if they want to. I hope that regulations will come to the House, or be made before the Law is assented to by the Governor or else nobody will be able to sell or trade too easily in these medicinal products. In looking at this we have to bear in mind that a lot of products made in the United States are made abroad. You get products made all over the world yet it is a US company. Other people, I hope, will take up those points.

I move on to the granting of licences. Clause 20 of the Bill says:-

20 (1) "If the licensing authority is satisfied that the applicant is a fit and proper person to carry on any business set out in section 17, it may issue to the applicant the licence appropriate to such business subject to such general or special conditions as the licensing authority may consider appropriate.

(2) A licence issued under subsection (1) shall be in the for, and shall be for such duration, as the licensing authority may decide.

(3) Where the licensing authority considers that the applicant is not a fit and proper person to whom a licence should be issued for the carrying out of any business specified in section 17, it shall refuse to issue the licence and such refusal shall not be subject to appeal to, or question in, or by, any court, and the licensing authority shall not be required to assign any reasons therefor."

I do not suppose a crazy person would have had a licence. I do not know what they are going to deem fit and proper; but what I am worried about is that supermarkets or stores may well be told that they cannot get a product licence to sell and they will have no recourse. They will not even be given a reason. But as I said earlier, under section 4 the pharmacies are treated differently because at least their reason for refusal of their licence is given in writing. I cannot see why any other person should not be treated in the same way as the pharmacies. That is why I say that this Bill is really in favour of the pharmacist and it is going to create some problems.

There has to be an appellate body for such situations. We are talking about a person's business and we should not create a dictatorship with this Law. My opinion is that natural justice dictates that there be appeals in these instances.

Clause 31 of the Bill deals with possession or sale of prescription drugs only. It says:-

31(1) "Subject to any exemption conferred by or under this Part a person shall not -

- (a) possess or, sell or supply by retail, a medicinal product of a description or class specified in regulations made under this Part (hereinafter referred to as "prescription only medicines") except in accordance with a prescription given by a medical practitioner, dentist, or veterinary surgeon;
- (b) administer (otherwise than to himself) any such medicinal product for human use unless he is a medical practitioner or a dentist or a person acting in accordance with the written directions of a medical practitioner or dentist."

I believe this will cause some problems. A doctor now may prescribe insulin for diabetes and say to a relative, "Give your mother this injection at such and such a time." That is practice. I know many people who administer that sort of medicine to a relative. But under this regulation the doctor will specifically have to write a letter authorising a relative to do so. Is that not true? Madam Speaker, the Member says that is not true. I will give way to him and he can explain to the House what is the fact.

**HON. D. EZZARD MILLER:**

It says "under the written directions of a medical practitioner." That is normally contained in a prescription that he hands the person to buy the bottle of insulin with. Insulin is a prescription medicine and the prescription will detail the instructions of how it is to be administered.

**MR. W. McKEEVA BUSH:**

Madam Speaker, we shall wait and see what will happen in this

country with this Law. This Law has my support, but there are certain clauses in which we will find are jungles in themselves. My reading of this is that he will specifically have to write a letter authorising a relative to do so. And this is not only my opinion, but legal opinion and professional - and when I say professional I mean doctors. I feel that this will create unnecessary administrative bureaucracy. Other Members will debate this Bill. Those are my concerns. When we go into Committee we will have a further opportunity of examining the Bill and for explanation on those points.

Generally, this Bill will create administrative bureaucracy. Some of the Bill is very necessary and that is why it has my support. I feel that we should have some sort of mechanism in this country to be able to check on medicines and on the sale of medicines. There has to be some regulation, I agree. But I am wondering whether or not we are taking a sledge hammer to kill a fly in some instances.

I repeat again that the Bill, in my opinion, writes a monopoly to pharmacists and we have to be careful when we are creating Boards to the extent that the only people that can serve on them are the people that are concerned or have businesses that they will licence.

Madam Speaker, the Bill has my support, generally.

**MADAM SPEAKER:**  
Elected Member for West Bay.

If no other Member wishes to continue the debate... The Third

**MR. JOHN D. JEFFERSON, JR.:** Madam Speaker, I rise to offer my support of the Bill before this House entitled the Pharmacy Law, 1991. I agree that some controls are necessary to ensure that those persons who are in a position to sell, manufacture or dispense prescription drugs to our people are qualified and enjoy a good reputation. In my opinion no one would be better able to review an application in any of these areas than a person who also has the qualifications in these areas such as a pharmacist.

I feel that we have been very fortunate in this country in that all health care practitioners are qualified persons with a genuine interest in providing quality health care service to the residents of our Islands. This is very fortunate. But I think that we need to put in place the necessary machinery to ensure that this is the position that we continue to enjoy, and not leave this so open that unqualified persons will be able to come in here to operate which might jeopardise the health of our people.

One of the questions that I have about this Bill is that it appears the only source of revenue for this particular body (the Board) will be the fees charged in these different areas. My concern is that in order for the Board to be in a position to meet its expenses... I trust that the respective fees in the different areas are not set too high because all that will happen is that the pharmacist, and the others who are required to have these licences, will only pass those costs on to their patients which could mean a significant increase in the cost of health care services in this country.

I also have a concern with regard to sections 14 and 20(3) of the Bill. I would just like to read these. Section 14 is entitled Refusal or Revocation of Licence and it says:-

14. "The Board may, for good and sufficient reason to be stated in writing, refuse to licence, or may revoke a licence for, any premises which in its opinion are, or have become, unsuitable for the purpose of carrying on a retail pharmacy business."

20(3) "Where the licensing authority considers that the applicant is not a fit and proper person to whom a licence should be issued for the carrying out of any business specified in section 17, it shall refuse to issue the licence and such refusal shall not be subject to appeal to, or question in, or by, any court, and the licensing authority shall not be required to assign any reasons therefor."

Madam Speaker, I think it is a common provision in most Laws that there should be an appeal body, where if you are not satisfied with a decision by any Board or any committee or any person, you have a right of appeal. I think that is really significant especially due to the fact that regardless who says what, this will be another politically appointed Board. People or applicants applying may be refused a licence or have their licences revoked for the wrong reasons, and I would just feel safer if there would be a body that that applicant could appeal to with regard to a decision that has been made by the Board.

The Bill, as I understand it, will not cover medicinal products such as aspirin and Tylenol which are carried by local grocery stores and also the small community stores. If it does, if those stores and those products are not exempted, I think that it would be an inconvenience to our people if they are not allowed to carry these products and when they do need them they would be required to go to a drug store to pick them up. I see no reason why it should cover these products. I believe most of our products are purchased from the United States. They have the Food and Drug Administration there which has very strict guidelines with regard to the manufacture and dispensing of drugs or medicines in general. I trust my understanding is correct in this area, and this was a concern that I had and I did ask the Member about it and he assured me that that was the position.

I think this Bill is a step in the right direction, and I trust that when it reaches Committee stage that we will be in a position to maybe offer some slight amendments or some suggestions for improving the Bill such as the right of appeal. I guess if the Second Official Member can tell me any good reason why there should not be a provision for appeal in this Law, then maybe I will buy it but I just feel much more comfortable when those kinds of provision are part of a Law of this nature.

Another concern I also had about this Law is covered I think in section 10 of the Law about what private practitioners are now doing as a general policy - dispensing medicines to their patients at the time that they see them. It appears that the Law does cover that situation because I think that is

also very convenient when you take time out to see a doctor to be in a position where you can pick up your prescription right there before you leave rather than having to get a prescription and go somewhere else and get whatever medicine is necessary.

I would just like to commend the Mover of this Bill. With respect to the Bill other than the questions that I mentioned, I want to assure him that he has my support on this piece of legislation and he can always count on the Members of the Backbench for their support when any Member of Council brings something that we feel is in the best interest of our people.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:**

Madam Speaker, I rise to give my full support to a Bill For A Law To Control Dealings In Medicinal Products And Poisons Having Potential Danger To Health If Misapplied, And For Matters Connected Therewith And Incidental Thereto. This is a Bill which I think will do much to preserve the health and welfare of the people of these Islands. I would like at this time to compliment the Member for bringing such a comprehensive Bill to this House to replace the present Pharmacy Law.

I feel it is something that we need as the medical profession has grown up on this Island. Back in the early days we had more of a dispenser or a pharmacy-type medical facility where the practitioner dealt directly with the medicines, therefore there was not the risk of it being handled by people not knowing exactly the needs of the patients. But today we have a very sophisticated medical system where we have specialists performing the examinations and prescribing the medicines, therefore as I look at the arrangements of the sections of this Law, I see where so many avenues that needed attention have been looked after; the establishment of the Pharmacy Board; meetings and procedures of the Board have been outlined; the protection of the members of that Board; the registrar of the Board; the funds of the Board; payments of allowances; licensing authority, all have been fully taken care of.

Under Part III of Pharmacy, only a pharmacist may conduct retail pharmacy businesses, it outlines who and what requirements there are. It also covers the licensing of premises, how licences can be refused or revoked and the penalties for the convention of any of these, the limitation and sale of medicinal products, etcetera. There are many very dangerous drugs, harmful to the human body and to animals that are now able to be purchased over the counter. Drugs are extremely beneficial when they are prescribed for the exact need, but when taken without the need, or to obtain the wrong results, can be very damaging to an individual or an animal and that is where I feel the very important aspect that this new Bill will perform.

Heretofore many of the medicines which we were able to purchase, even in supermarkets, would have on them "by prescription only" which was how the manufacturer meant for them to be distributed, but due to the lack of a Pharmacy Law covering that aspect of it, here in the Cayman Islands they could be distributed or dispensed without the aid of a licensed pharmacist.

The idea that not only will this Law be on the books but that it has provided inspectors to inspect and to see that the Law is carried out in the proper manner, is a big step forward. I am extremely glad to see that control will be put on the sale of poisonous drugs and chemicals within this country because as I said before, misused they can be very harmful and dangerous and with this Prescribed Poison List and also the control of the importation of products into these Islands, and to be able to handle these in a proper, legal manner, is I think a great stride forward.

Madam Speaker, as I look at the Miscellaneous and Supplementary in Part XI, it says:-

53. "The Governor may, with the advice of the Board, make regulations for carrying out or giving effect of the provisions of this Law and, without prejudice to the generality of the foregoing, such regulations may -

- (a) specify such States whose authorisations for marketing medicinal products are accepted within the Islands; (an important aspect is that the drugs that we are getting are really what they are generically based on).
- (b) specify descriptions or classes of medicinal products or poisons or any articles or substances required to be specified under this Law;
- (c) control, regulate, or prohibit the sale or supply, possession, export or import of any medicinal products or poisons or any article or substance of any specified description or class;
- (d) provide for the manner in which containers and packages of medicinal products may be labelled;
- (e) provide for the manner in which medicinal products may be advertised and the manner in which leaflets relating to the advertising of medicinal products or poisons may be made;"

This is very important because in the outside world today many

products are advertised to do what they really will not do, misadvertised I guess would the proper word to say and if this aspect can also be controlled

- "(f) prescribe such requirements as may be necessary with respect to -
- (i) the manner in which, or persons under house supervision, medicinal products or poisons may be prepared or dispensed;
  - (iii) the accommodation to be provided in any premises for the sale or supply of medicinal products or poisons;
  - (iv) the accommodation to be provided in any premises for members of the public to whom medicinal products or poisons are sold or supplied or for whom medicinal products are prepared, dispensed or assembled;
  - (vi) the safekeeping of medicinal products and poisons;"

This is very important because in the past most these somewhat dangerous drugs have been on shelves where they were readily available, not only to adults but to children and I think that this Law, with the inspectors being in place will provide the protection that we, the people of these Islands, deserve and need. I am also grateful to see the keeping of records relating to the sale or supply of medicinal products, in particular poisons.

- "(x) the supply of medicinal products or poisons distributed as samples;"

These are all very important aspects for the protection of our people and the continued good health of this nation.

- "(g) prescribe forms of any applications, notices, licences, certificates and any other documents required to be prescribed under this Law;
- (h) prescribe forms of any register, book or record to be kept for the purposes of this Law;
- (i) prescribe the fees payable upon application for any licence or certificate or for renewal of any licence or certificate required under this Law;"

Madam Speaker, I think the licences that have been outlined in the different section of this Bill are very appropriate. I think that they are necessary and it will enable us to be better protected.

It also says in section 54(2): "Any subsidiary legislation made under the Pharmacy Law, 1979, in force immediately before the commencement of this Law shall be deemed to be made under this Law and shall continue in force until amended or replaced by subsidiary legislation made under this Law." So it does mean that there will be a transition period but this Law does repeal the Pharmacy Law, 1979 which was a good Law in its time, but time has overtaken it and therefore, there is a great need for this Law in 1991.

So, Madam Speaker, again I congratulate the Member for bringing this for I feel it will be a great improvement to the health and welfare of our people. Thank you, Madam Speaker.

**MADAM SPEAKER:**

The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Thank you, Madam Speaker.

The principles and the general purpose of this Law, I can accept. But there are areas of this which have to be looked at very carefully and I will deal with some of these now and others I will deal with in the Committee stage of the Bill.

I want to first put right one of the things that the First Elected Member for Cayman Brac and Little Cayman said. He seems to be under the impression that provisions in this Law such as the restriction on poisons, the prescription of pharmaceutical drugs, the proper labelling, the proper safekeeping, the licensing and importation of poisons and pharmaceuticals is a novel thing just coming in. That is not so.

Since 1979, when the Pharmacy Law came out, these were all provided for; storage, labelling, the whole lot. So let us not let this House, or this country believe that there has not been place some legislation. I accept what he says that time has overtaken it but the Law did provide for much of this and the exhaustive list of the poisons and the pharmaceuticals subject to prescription are quite long.

What I do note however, is that since 1979, some 12 years ago now, the Law and the regulations have remained unchanged. So presumably we are not really a country that has been lawless in relation to these matters. This Bill repeats a lot of what was in the 1979 Law and it extends a lot of it, which I agree with. I am just trying to clear up, at least the impression that I got, was that we seemed to have been

going over this ground for the first time.

Now, the Bill itself is split into several parts and they deal with different aspects of pharmacy, drugs, poisons, etcetera. The sections that I find to be problems in this arise because of the fact that this Law is going to make it a criminal offence, when it comes in, for people who are now doing what regulations would make lawful, to be illegal until those regulations are made. That applies to where licences are necessary, for example to sell aspirin in a supermarket or store, until we get regulations that state which countries are listed as allowing exemption from this; we have then a blanket restriction put on all selling.

This Law also deals with areas that give the Pharmacy Board extremely extensive powers which deal really with far more than the previous Law did in relation to licensing. Because of this, I agree with the Third Elected Member for West Bay when he said that perhaps the time has come to have a right of appeal in relation to those. It is a different situation where you have prescribed, as the old Law did, specific people that fell within the area to import and you were not dealing with the multitude of licensing that is now going to operate. In any event, I think that it is a good principle and I think that the Member should insert something in there in relation to appeals.

What I was not certain of was whether persons who are going to get these licences were caught - I did not have the opportunity to look that up - under the Trade and Business Licensing Law, or whether they would be exempt because that, as I remember it, had a provision saying that people licenced under one Law are exempt if licenced under another. If that is the case then I would say that on granting licences relating to trade and business, as such, perhaps the principles laid down in the Trade and Business Licences Law should apply.

We have other sections of this that are quite wide in relation to regulations and there is even a provision in section 24 that gives the Governor the power to exempt and modify the provisions of an earlier section.

I come to the next principle that gives me a lot of concern to which I object in that this Law, while it may have a lot of sections in it, it is basically skeleton legislation from the point of view that nearly everything that is being done has to be prescribed. It is a different thing to make regulations to prescribe for example, what pharmaceutical products need a prescription or which are poisons because until that is done no one can be guilty of anything. It is a different thing to say someone cannot do something that they are doing now and that you are going to make regulations to bring them within the ambit of the Law. There is a difference between those.

I would just like to read from Smith on Constitutional and Administrative Law, Sixth Edition, from page 340 where it says:- "1. It is a primary function of Parliament to determine the guidelines of legislative policy. Parliament should, therefore, not delegate to Ministers power to make regulations on matters of general principle unless it lays down in the enabling Act standards delimiting the boundaries of the delegate's discretion. Skeleton legislation is justifiable only in order to deal with the state of dire emergency.". And as we saw in an earlier Law, "5. The power to impose or vary taxation is, in general, too important to be delegated by Parliament.". So what I am saying here, what hopefully the Member can do is to give some assurances that we are going to get fairly shortly, or alternatively we will see this Law not Gazetted and section 1 does give the right, that we will not have this Gazetted or come into operation until there has been prepared to be passed and published immediately after, the necessary regulations.

It is much better, especially where we are dealing with sections such as section 17 which need the regulations to make people who are doing certain things now legal within the ambit of the Law. It would be better if those could be scheduled in the Law and just passed, giving the Governor in Council to vary those as they wish afterwards.

The Bill is not that different from the same principle that was expressed in the Pensions Bill and the many areas lacking in it. So what I would be seeking from the Member in his winding up debate, or alternatively in the Committee stage of the Bill, is that we can be assured that he is going to hold the Bill back until he is really ready with everything else before he brings it into operation. Further, we have at present pharmacies that are operating under licence and I would have preferred to have seen in this a specific provision which stated that those which are now licenced and operational would at least, for a period of time, be able to continue and be operational.

The regulations that are referred to in section 54(2) really deal with poisons and pharmaceuticals. So what I am saying is when you are bringing a Law such as this which will materially affect people who are now in business then it is better to put a grandfather clause to leave them with some certainty, at least for a period of time.

I am happy also to see that we did not get a totally closed shop on the dispensation of drugs by prescription, but that there is preservation of the present practice that doctors may continue, subject to licence naturally - because everything has a licence under this, by the looks of it now - to dispense drugs to their patients.

I wondered why section 49 was put in and I understand the full import of it. It says:- "49. An inspector shall not be personally liable in respect of any act done by him in the course of his employment and in the execution or purported execution of any duty under this Law.". Normally, it would be better, I think, to have left that clause out and follow the route that the employer, the Government, would indemnify and stand behind the inspector or anything he may do, because that really gives quite a wide power to him, somewhat wider than if we had not had a specific provision for it. Normally, if you get an unlawful act by an officer of the Law or you get them overstepping their boundaries, they personally face the consequences and if it is in the course of employment then naturally the Government stands behind them. So I am always happier to see this exclusion from personal liability left out. It looks a lot better.

I find the aim of this good. I think the Member needed to deal

with certain areas of this and like I say, I support the principles behind the Law subject to those queries and there are one or two that I intend to raise in the Committee stage of the Bill. I am happy to support the Bill in principle as such, even though I am unhappy with certain areas of it and especially areas where we are having things such as the selling of aspirin over the counter under the Law made illegal, unless regulations are made prescribing certain countries. So I will be looking for undertakings from him in relation to those.

With that I am satisfied to support, in principle, the Bill.

**MADAM SPEAKER:**

The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:**

Madam Speaker, the Member in introducing the Bill which is before the House, said that it will be a replacement for the Pharmacy Law which had come into being in 1979 and that that Law needed to be replaced because it was out of date.

I cannot believe that statement. My opinion is that the Pharmacy Law, 1979, was more in keeping with the times than this Bill is today. Certainly that Bill has stood for 14 years and I would say to the Member what the prophet Jeremiah said, "Let not he that putteth on his armour boast, as he that taketh it off." Because we hear today that the Pharmacy Law, 1979, has stood virtually untouched, unamended and almost in the same state in which it was passed, although we know that the effluxion of time has had its toll on the Bill, yet for the past seven years the present Member for Health and his Government have been in the majority in the House and did not see fit, since 1984, to amend the good Pharmacy Law, 1979, until now.

So while I agree that we live in a changing world and it is time to amend or maybe even replace the 1979 Law, we cannot poke fun at it because the Law has served us well. This Bill, as mentioned by other speakers, sets out to continue to do many of the things that were already done in the old Law. But we know that in medicine and in electronics what is new today, in five years time will be obsolete. So we have to change our direction, we have to change our approach and we have to change our controls. But let us not be carried away with the idea that this Law will be the greatest thing ever to happen in these Islands.

I am unhappy with many sections of this Bill and I blame the previous Member for Health, who is the present Member for Education, with his long experience in these matters and the other elected Members in Council, for allowing some of the provisions that have crept into this Bill. They must all bear the blame. And if aspirins cannot be sold in Cayman Brac or Little Cayman, I will hold the First Elected Member for Cayman Brac responsible along with them, as I hold them responsible for the corner stores in North Side and East End.

I am unhappy with section 24 of this Bill which gives the Executive Council the power to change the Law. This should never be. Section 24(3) reads: "Regulations made under this section may provide that any of the provisions of section 23 shall cease to have effect, or shall have effect subject to such exemptions or modifications as may be specified." In other words section 24(3) gives to Executive Council not merely the authority to make regulations, but the authority to nullify the provisions of the Law. This could never be right. One of the great thinkers of ancient time, Aristotle, said that if a law is good, the law should provide for the things that it intends to provide for. And we should not leave it to other people. We put into the Law what the Law is to do and leave as little as possible to the discretion of people not charged with the construction of the Law. I am totally against that type of provision.

Section 17 of the Law came in for criticism because it seems to restrict the sale of certain products that are now sold freely over the counter, the little home remedies such as Pepto-Bismol and Alkaselzer. It is true that a proviso to the Law states that while normally these products cannot be sold, they can be sold if the supermarket or the corner store has a product licence issued by the licensing authority or have these products that have come with the blessing of the licensing authority in a State listed in regulations made under section 53. Now, I take that to mean, as one Member gave his opinion, that if aspirin is imported from a certain country, if that particular country is one of the prescribed countries listed in the regulations, it will be safe, it will be legal to sell those products without having a licence granted by the licensing authority. However, if that comes from a State not listed in the regulations, that product, although it is the identical product, could not be sold unless the seller held a product licence.

The Member who spoke just before I did, outlined the difficulty the Government is in with this situation because there are no regulations, so the importers do not know that if this Law is passed if they are safe in importing any particular product that they may have carried on the shelf. Because if the Governor gives his assent to the Bill and it becomes Law, as soon as we are finished with it here, what will happen to the shop that has imported these items and then finds out that the State from which he has imported is not one of those favoured by the regulations.

It seemed to me that the old Law was much better in that it prescribed in the Law, set out in the Regulations, products that could not be sold without coming under the control. The medicines or drugs would have to be prescribed by a doctor before they could be sold. Here, it seems to me that the Government has gone wild with its large array of regulations, Boards and fees and I think since they have lived in this straitened circumstance since they took over Finance Committee that the main purpose for bringing this Law is simply to try to raise some revenue and has nothing at all to do with the control of drugs, and the control of drugs is incidental to the raising of revenue by fees and licences because they are creating a new authority to collect licensing fees and they have taken onto themselves the right to set these fees.

The Third Member for George Town just quoted from one of the constitutional authorities that the matter of taxation should not be a delegated matter. It is too important! Every chance this Government gets it sets itself up as the regulator to assess and to collect the fees and taxes. I noticed in section 12 that a business will only be allowed to continue for five years after the death of the pharmacist. I cannot understand the reasoning behind this because it says that the new business, or the business once a



pharmacist dies, will be allowed to continue providing another pharmacist is appointed. Yet, it limits the time to five years.

So as far as I am concerned, this is a bad Bill and is in no way superior to its ancestor. While it may take care of certain matters which did not exist at the time of the introduction of the 1979 Bill, the Bill in itself is in no way superior and does not in any way do a better job today in 1991, than the previous Law did in 1979.

**MADAM SPEAKER:**

on the Honourable Member for Health to wind up.

If no other Member wishes to debate the Pharmacy Bill, I will call

**HON. D. EZZARD MILLER:**

Thank you, Madam Speaker. Let me first of all thank those Members who supported the Bill. I am quite pleased to hear that all Members support the principles and the intent of the Bill. The intent of the Bill is to improve, in the first instance, patient care available to the citizens of this country and to regulate the profession of pharmacy in its attempt to provide proper adequate care in the sector of the health field in which it operates. Now, Madam Speaker, I will try to deal with the concerns of Members as they were made and some Members have voiced the same concerns and I will try to deal with them at the same time.

The First Elected Member for West Bay's first concern was that this Bill was going to give pharmacists a monopoly. That is not so. One, the Bill does not give pharmacists a monopoly on ownership of businesses as is done in the legislation of most modern countries. In most of the neighbouring Caribbean countries only pharmacists can own the business. It does not put the pharmacist in any separate category from the other health professions. The pharmacist still has to get his professional licence from the Health Practitioner's Board. This Law only licences the facility and prescribes the requirements for such a facility to be licensed as a pharmacy.

Several Members adopted or interpreted the Bill that a product licence is something that everybody will have to apply to the Board for and be granted and they use aspirin as an example. The Second Elected Member for Bodden Town went as far as to talk about Pepto-Bismol and Alkaselzer. The only relationship that has to me is that this matter has been so contorted and twisted that it is beginning to upset my stomach so I might need some Pepto-Bismol or Alkaselzer for lunch. That certainly not the position of the Bill. They know that because they go on to read the section of the Bill that deals specifically with the product licence and it says that regulations made under section 53 will prescribe countries from which products can be imported as long as they have a product licence in that country. Here, I have a bottle of Anacin and it says on the bottom: Whitehall Laboratories, New York, New York, made in USA, product licence 0292-1021, anybody can sell that.

But, are they trying to tell me that we should allow what is going on to continue? For example, presently there is a company that manufacturers a certain combination of vitamins, supposed to stop aging and some Central American company stamps it "Made in Cayman", sells it to the cruise ships because it has no FDA approval from the United States. That is what this kind of thing is designed to stop. Should pharmacies be allowed to import Diabinese made in Mexico under licence that has not gone through proper testing to make sure that it has some of the active ingredient in it, to make sure it has the proper bio-availability, to make sure that when the person swallows it that it will be dissolved and not come out the other end the same way it went in? Should we be allowed to import pharmaceuticals from Bulgaria, with no idea of what we are importing? No, Madam Speaker.

If somebody wants to bring in something from one of the Central American countries, the African countries, or the Eastern European countries, they must apply to the Board for a product licence. They must demonstrate their successful clinical trials, they must demonstrate that it has been assessed by some reputable clinical laboratory and that it contains the ingredients that it says it does, that it has bio-availability of the product, that it simply dissolves in the intestinal tract. That is what that section is all about.

Wholesalers, should have to have a proper wholesale licence to make sure that the medication is being stored properly, to make sure that they are not taking medicines from expired bottles and putting it into new bottles and selling it. All of those kinds of things are important to the welfare of the patient. So let us put this thing behind us that the corner store is going to need to apply to the Board for a product licence for every bottle of aspirin that it wants to sell.

Madam Speaker, the First Elected Member for West Bay went on and made a big issue of the requirement of the product licence and the granting of the licence and the fact that the pharmacist had the right of appeal under section 14. That section does not refer to the pharmacist, it refers to the pharmacy and in that case it is quite simple to write down what the person has not complied with e.g. he does not have running water in the dispensary. Section 23 refers to the granting of licences to individuals and this follows the provision in the Protection Law. There are, in cases when you are dealing with professionals, reasons that cannot necessarily be documented in writing why you would not want to give that person a manufacturer's licence. Maybe the person has a medical problem or some other problem and it cannot necessarily be documented where it can stand the test of court. But it is just not the type of person that you would give a manufacturer's licence to make medication to sell to the public.

We rigidly control plumbers and electricians and the inspections are all there. And if the plumber puts your plumbing wrong, two pipes will plug up. If a doctor or pharmacist gives you the wrong medication here, it will put you in the Dixie Cemetery. It is very important, I believe, to be able to put the necessary checks and balances in place and controls on this type of profession.

As for his contention that section 31(1)(b) is now going to require your doctor to write you a letter telling you how to take your medication or have your medication administered, any time you go to a doctor he writes the instructions - most people, the layman, will consider it

gibberish, because they do not necessarily know what "noc", "tds", "qds" and "prn", etcetera means. But he writes it out on the prescription, they are his instructions. And we are going under Regulations and under the Law to improve those instructions because he is now going to have to put the patient's name, age, his signature, his registration number, the amount of medication he wants, the specific instructions that he wants and the number of refills. That is what the written directions in this clause talks about, the prescription that he hands you to go to the pharmacy to buy your insulin, and the pharmacist labels it to tell you to inject 10mm, twice a day. Not that he will have to dictate a letter and give it to his secretary to copy out in addition to the prescription. That is not the intention of the Law and that is not what the Law says.

I do not accept that this Law is going to create a whole pile of administrative bureaucracy. I believe that whatever administrative bureaucracy this Law creates is well-justified in the protection that it offers the patient. And that is who we are concerned about here, the quality of care that the patient receives. As I said earlier, he inferred that the pharmacist gets his professional licence under this Law. That is not so. The pharmacist who is licenced to practise as a pharmacist must be issued with a licence by the Health Practitioner's Board, as presently the case. This Bill licenses the facility in which it is practised. The Third Elected Member for West Bay raised some points on sections 14 and 23 and I have dealt with those. I hope that the explanation I have given will assist him in increasing the support that he has offered for the Bill because we have the same concerns at the Portfolio and the Governmental level that he has.

I thank the First Elected Member for Cayman Brac and Little Cayman for his support.

The Third Elected Member for George Town offered support in his usual convoluted way. But I accept his support but I will have to take issue with a few of the things that he raised. He talked about aspirins and we have dealt with that. He made the point that the 1979 Pharmacy Law did put some controls in place. I have not denied that. All that I said was that it was outdated in 1979 and maybe if he had asked his Chief Pharmacist at the hospital for input on the Law before it came to Parliament, it would have been brought up to date. But when you take an antiquated piece of Jamaican legislation and try to adopt it, that is what happens. I can assure this House that he did not ask his Chief Pharmacist at the hospital at that time to comment on the Bill. Nor did he ask any of the private pharmacists because we were all surprised to see the Bill before Parliament and then I get all of these lectures that I must take time to study the legislation and that I must ask everybody for their input. He did not even ask the professionals (whom he was paying) to give him the input much less anybody else. It was a step in the right direction in 1979, I have not denied that, but there were several sections that could have been improved. And as for the Second Elected Member for Bodden Town charging me for being in Parliament for seven years and doing nothing about it, I was given this Portfolio two years ago, and the Bill is here today. If he checks the Hansards of the House, he will see that one of the things that I asked for very early in my term in this House, was a review of the Pharmacy Law.

The Third Elected Member for George Town said that he hoped that this was not intended to replace the Trade and Business Licensing Law. It is not intended to replace that, and you will still need a Trade and Business Licence. Now he said that it is skeletal legislation. Now we know that this is a Catch-22 situation for me because if I bring draft regulations they chastise me because they are drafts. They cannot accept the Government's draft regulations because we might change them. They know that I cannot make regulations in Executive Council until the Bill is Law and has been assented to, so if I bring them in a draft form they chastised me for bringing them. If I do not bring them in a draft form they still turn around and chastise me.

Suffice it to say that the 1979 Law did not have many pages of regulations accompanying it. I do not think that they accompanied the legislation to Parliament either. We all set higher standards for others than we set for ourselves and I am endeavouring to meet these high standards that they have asked me to comply with. He said that there were many areas lacking in the Law but unfortunately he did not find very many to criticise so I can only assume that that was just more political verbiage knowing that there was not really that much wrong with the Law, but he had to put it out to his public that he is trying to get the vote for himself in 1992 in that fashion.

He suggested that we should grandfather people. If there is anything that I hate in legislation that is set down to improve something, is to grandfather those that already operate and then you cannot touch them. There is no point in putting the improved legislation forward unless everybody has to comply.

He read the Bill and he knows that section 1 of the Bill says and I will quote:- "This Law may be cited as the Pharmacy Law, 1991, and shall come into operation on such date as the Governor shall, by Notice published in the Gazette, appoint.". That means, and he knows what it means, right? But no, he said that it was going to come into Law as soon as we pass it and that he wanted people to have the assurance that I was not going to make criminals out of them before they got the regulations.

That section is put in there specifically for me to give people a period of time to comply with the Law. And I will publicly state, as I have stated to them privately, that I intend to give them one year from the date that this Law is passed in Parliament and assented to by the Governor, and the regulations are published, to comply with the Law.

He was very concerned about the wide powers of the Inspectors and the clause which indemnified them from personal liability. But all that these inspectors can do is what is specified in the Law. That clause will not protect them if they go out and try to do something that this Law does not authorise them to do. Anyway he wound up back where he started by saying that the principles of the Law were good and that he basically supported the legislation.

The Second Elected Member for Bodden Town spent a lot of time talking about how good the 1979 Law was and how it had served us well and such things. He blamed me for not having it done before I got the responsibility to do something about it. He made his little pitch to the

shopkeepers that they should oppose me because they will have to get product licences and whatnot, and how this is just designed to make life difficult for everybody and that it is typical of the present Government to want to increase bureaucracy and make life difficult for its citizens. We know the Election is in 1992, and that was a pretty speech to start off but it was totally unfounded. There is nothing in the Law that he can use to substantiate most of the things that he said there. He even went on to say that this Bill is not really interested in controlling the profession or protecting the public but only to get revenue for the Government. Now I can understand why that Member will have that hope and aspiration about the Bill. Because when you hear from question time his wish list for Bodden Town, I agree with him we are going to need to collect some serious fees if we are going to comply with his list. But that is not the intention of the Law. Most of the fees in this will be very nominal and they will be set by the Finance Department based on the time that it takes the Civil Service to grant a licence. He knows that where this Government sees the need to raise revenue, it is not afraid to do so when it is absolutely necessary we do that.

I agree with Honourable Members that the Bill might not be perfect in every aspect. They might find some minor areas for improvement in the Bill. And if they can come forward with amendments that appear to the Government to be reasonable and are improvements in the situation, we will accept them. But the Portfolio and the Government are comfortable that the Bill achieved what it set out to do in the first place and that is, that it will improve the quality and the accessibility of medication needed to improve health care in the Cayman Islands.

I commend the Bill to the House.

**MADAM SPEAKER:** The question is that a Bill entitled The Pharmacy Bill, 1991, be give a second reading. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it. The Bill has been given a second reading.

**AGREED. THE PHARMACY BILL, 1991, GIVEN A SECOND READING.**

**MADAM SPEAKER:** This would be a convenient time to suspend until 2:15 p.m.

**AT 12:46 P.M. THE HOUSE WAS SUSPENDED**

**HOUSE RESUMED AT 2:18 P.M.**

**MADAM SPEAKER:** Please be seated. Proceedings are resumed.  
Second Reading, The Health Services Authority Bill, 1991. The Honourable Member for Health and Social Services.

**THE HEALTH SERVICES AUTHORITY BILL, 1991**

**HON. D. EZZARD MILLER:** Madam Speaker, I wish to move the Second Reading debate of a Bill entitled A Bill For A Law To Establish A Health Services Authority To Administer The Health Care Facilities In The Cayman Islands And To Make Provision For Matters Connected Therewith And Incidental Thereto.

Madam Speaker, the object of this Bill is to place the management of the Health Services and its related facilities under the management of a Board. This represents another step in completing the recommendations for improvement in the health care systems in the Cayman Islands, as accepted by Executive Council in January 1990.

Before I deal with the Objects and Reasons of the Bill, this Bill had its genesis as I said, in the recommendations which Government accepted in January 1990. It tries to take a holistic or a total approach to the management of the Health Services. This Bill was produced with the help of Doctor John Kahn who was seconded to this Government through the kind efforts of the Pan-American and World Health Organisation office in Kingston and its Resident Director, Mr. Sam Amah.

The Bill follows somewhat the Bermuda model with most of it being tailored and modified to suit the Cayman situation. The reason why we solicited the help of Dr. Kahn was that we wanted to hear first hand what the problems were associated with the administration of the Health Services in Bermuda, as represented in the legislation that we were using as a model. We wanted first to avoid any pitfalls or problems that that legislation may have been causing in Bermuda and also to make improvements in areas in which we thought we could.

The Bill before the Assembly has been circulated to the professional organisations both the Law Society and the Caymanian Bar Association. It has been circulated to the Cayman Islands Medical and Dental Society who, at one of their monthly meetings, actually voted unanimously to accept a motion moved by one of the private physicians to endorse the provisions of the Bill.

Now, Madam Speaker, I will deal with the provisions of the Bill and then I will respond to the input that we received from the various organisations such as the Chamber of Commerce Committee which they established to review the Bill, what we accepted and what we could not accept.

The first clause in this Bill, unlike the Pharmacy Bill which we discussed and approved in the Second Reading debate earlier, and just so that Member's attention can be brought to it in case they overlook it, says:- "This Law may be cited as the Health Services Authority Law, 1991, and shall come into operation of the first day of January, 1992.". That is assuming of course that Parliament passes the Bill,

the Governor assents to it and there is no disallowance by the United Kingdom Government. But we feel certain that all of those things will fall into place.

Clause 2 deals with Interpretation. Clause 3 deals with the establishment of the Cayman Islands Health Services Authority and the vesting of property. The property that will be vested in the Health Services Authority is contained in the Schedule to the Law and is basically those properties on which health facilities presently exist and some of those in fact, like the North Side District Clinic, the West Bay District Clinic and the Little Cayman Clinic, they refer only to the area on which the actual building is placed on the parcel of land and not the whole parcel of land. As most Members are aware in all of these locations there are other Government buildings such as Town Halls and schools on the same parcel of land. So we are only vesting that particular piece of the parcel that is concerned with the health care facility. It also includes Block 15C Parcel 28, which is the parcel that has been decided as the site for the new Hospital.

Clause 4 deals with the use of the seal and how documents will be authenticated by the Authority. Clause 5 deals with the constitution of the Authority and it says:-

5(1) "The Authority shall consist of -

- (a) the Principal Secretary to the Portfolio of Health and Social Services, *ex officio*;
- (b) the Medical Officer of Health, *ex officio*;
- (c) the Chief Executive Officer, *ex officio*;

Here we are talking about the Chief Administrative Officer of the Health Services Authority, who prior to this Law coming into effect was called the Chief Medical Officer, the Head of the Department, so to speak.

- "(d) the Chairman of the Medical Staff Association of the George Town Hospital, *ex officio*;

Here again, we are not talking about the President of the professional organisation, the Cayman Islands Medical and Dental Society, but this Law provides for the establishment of proper medical staff organisations at the Hospital, its various sub-committees that deal with the specialties and we are talking here about the person that is elected President of the Hospital medical staff. I could here report that they have had such a meeting and they have in fact elected a President, a well-known young, Caymanian doctor who works at the Hospital.

- "(e) not less than six nor more than eight other members appointed by the Governor."

This was one of the points raised by the representation we received from the Chamber of Commerce. They felt that they should have some input into the selection of the people who would be appointed to this Board and wanted them from various organisations and they were worried about the kinds of people that the Government would appoint.

Well, I have spoken to some people and just to give the Chamber of Commerce and the listening public an assurance of the quality of people that we would be putting on this Board, these people have agreed to serve if asked. Of course I cannot appoint them until the Law is in place. We are talking about people of the calibre of Mrs. Karen Thompson, Mr. Eddington Powell, Mrs. Edna Carter, Mr. Eddie Ebanks, Miss Andrea Bodden, Mr. Rex Rankine, and Pastor Al Ebanks. They are of the calibre of people that we would be looking to appoint. And if you look at those names you can see that most of those people are professionals in their own right or certainly have close ears to the community and could represent a broad base of the community.

Clause 6 deals with meetings of the Authority. Here it says:- "6 (1) The Authority shall meet as often as may be necessary or expedient for the performance of its functions and shall in any event meet not less than ten times in any one year.". It goes on to provide that certain members can call a meeting. Three members of the Authority can cause a meeting to be held, etcetera.

Clause 7 deals with the Authority to have general management of health care facilities. It lays out under subsection 2 the duties of the Authority, and they are:-

- 7(2) (a) "to administer the health care facilities generally in an efficient manner and in such a way as to promote the health of the patients of those facilities;
- (b) so far as funds at its disposal permit, promptly to make available at the health care facilities modern methods of treatment of the sick and infirm;
- (c) to co-ordinate the administration and operation of the health care facilities;
- (d) to make recommendations to the Member on the development of the health care facilities and the health care services in the Islands and on such matters as the Member may refer to the Authority for advice;

- (e) to give effect to any directions given by the Member under section 25;"

Section 25 provides that the Member may give general directions to the Board for health care provision.

- "(f) subject to the approval of the Medical Officer of Health, to provide staff and services to him, and to assist in providing statutory public health programmes;
- (g) to provide public health care programmes as determined by the Member and under the direction of the Medical Officer of Health, utilising such funds as may be specifically appropriated for those purposes by the Legislature."

I would like to explain this a little bit, Madam Speaker, because while it is fully intended that the Health Services Authority should be self-sufficient in meeting its expenses for health care provision, in particular the treatment and cure of disease, it has to be recognised that the Government has a special obligation to the public to continue its public health programmes, such as inoculation and the Well Babies Clinic. That kind of public health prevention-type of programme, I believe for some time, will have to continue to be funded directly from Government's general revenue through annual provisions in the estimates.

Now it might be possible in years to come, after the introduction of National Health Insurance, to try and involve the insurance companies in some funding aspect of this prevention through education in that, if a lot of these diseases are prevented, the insurance companies will not have to pay for the cure and treatment of those diseases which is always, without exception, more costly than the prevention. An ounce of prevention is worth a pound of cure, a stitch in time saves nine, that kind of thing.

Clause 8 defines the Chief Executive Officer. Clause 9 allows for the Authority to appoint Medical Directors, both for the George Town Hospital and Faith Hospital in Cayman Brac. This Medical Director will fulfill most of the role of what has been the prior purview of the Chief Medical Officer. He will be the person who will be responsible for the clinical supervision, as it were, within the various sections of the Hospital. He will make sure that the doctor has in fact visited the patients and that the patient has not been laying there for five or six days and the doctor has not gone to see him. He will be generally responsible for working with the various heads of sections, to ensure that physicians privileged and credentialed to work in the institution are in fact offering quality patient care. He will be an officer of the Authority, so that he will have the necessary authority and cannot be unduly influenced by the various medical staff associations.

Clause 10 provides for the establishment of a proper Medical Staff Committee. As I said, we have in fact drafted all of these regulations and guidelines from an administrative point of view. Of course they have to now be vetted by the Legal Department and put into "lawyers law", because we layman cannot write lawyer's language, "is", "as", "was" and "but" mean different things to lawyers than they mean to me. But the medical staff at the Hospital and in the private sector have accepted the introduction of a medical staff organisation and fully endorse the benefits it will give to all physicians in this country. Because the one thing that this will do will be to remove that "them" and "us" type of attitude where you have the Government physicians on the one hand protecting their areas for whatever their benefits are and the private physicians operating in their own sphere of activity.

This medical staff organisation will handle things like privileging and credentialing. In other words if "Dr. Joe Blow" who is a general practitioner or family practitioner wants to admit patients to the Hospital, he will apply to the relevant Medical Staff Committee to be privileged to practise in the George Town Hospital and he will provide them with his qualifications etcetera, proof that he is registered in the Cayman Islands by the Health Practitioners Board, his certifications to prove that he is a qualified family physician and he will be privileged to admit patients and treat them within his specialty. He will be credentialed to treat people in general practice medicine. He will not be allowed to do heart surgery. That will be the purview of the cardiovascular surgeons and we will be able to control what people do within their specialties. This Medical Staff Committee will approve these and make recommendations to the Board that "Joe Blow" be privileged to work in the Hospital and be credentialed as a general practitioner.

Clause 11 provides for the system of appeal from a refusal by that Committee to licence you or to appoint you. Clause 12 gives the Authority permission to set up various clinical services. In other words, we will have a Department of Surgery, a Department of Obstetrics/Gynecology, a Department of Internal Medicine, a Department of Paediatrics, etcetera.

Clause 13 allows for the officers and staff of the Authority and provides for those people who presently enjoy certain benefits under the Civil Service to have those benefits continue. Clause 14 again, deals with the Medical Staff Committee. Clause 15 deals with regulations to fix fees. Here I would like to point out a subtle but very significant difference in this section of the Law. I believe that Members have received a draft copy of fees to be charged under this Law. In addition to the copies of those fees, Members should have received a copy of a motion, it is a letter from myself addressed to all Members and copies of a motion that I will move in September which is basically the fees, as they exist today, under the present Health Services Law.

It appears that Members have not yet been circulated the copies of the draft Fees Regulation. I am sure the staff will circulate them as soon as possible. But basically they are the fees that were approved in 1990, with the three incremental improvements up until June 1991. There are no increases in the fees.

The other changes are that where the old fees call for a 50 per cent surcharge on visitors it has been taken out because we are now charging reasonable fees at the Hospital and

to add another 50 per cent to visitors would be rather onerous. It retains the fact that people in Cayman Brac and Little Cayman will only be paying 50 per cent of the fees and it also provides for a better definition of who is entitled to free medical care.

Right now there is some differences in opinion as to who is entitled to free care. Under the old Regulations for instance, children were only entitled to out-patient treatments. It is proposed here to make all the services for children free because there is always an argument as to when do you admit a child, if you continue to treat him as an out-patient it is free but if you admit him the parents cannot afford pay and therefore the case will get worse. So we have changed that to say that all health care for children up to the age of leaving school, as defined in the Education Law, will be free. Again, the Regulation for Anti-Natal Services eliminated IUDs and that is one of the cheapest forms of contraception, so we have included those in these new Regulations.

The categories of people who are entitled to free care have been defined under a new section in the Law and the Regulation section 9. I really apologise that Members do not have these but you will see them. "On presentation of an identification card made by the Authority and signed by the Chief Executive Officer or his designee, the following categories of patients shall be treated locally without charge.". Now here again, we are trying to put a system in place where we can identify the person who is entitled to free care. They will have to have an identification card that is prepared by the Health Services Authority and present that in order to get free treatment. He will no longer to be able to walk up and say, "I worked at Public Works in 1942 and therefore I can get free health care." The onus is on the individual to produce this card and prove that they are free. Those categories are as follows:-

"(a) Public Officers and their dependents, as provided in the terms of their employment;"

We have to write it that way because some contracted officers have it for their spouses and their children, some might only have it for their spouses.

"(b) members of the Veteran's Association of the Cayman Islands and their spouses;

(c) members of the Seamen's and Veteran's Association of Cayman Brac and their spouses;

(d) persons receiving a pension from Government and their spouses;

(e) serving members of the Legislative Assembly and their spouses;

(f) patients who are being investigated or treated for AIDS, tuberculosis or malaria, so certified by the Medical Officer for Health;"

Now we only refer to spouses in there because children are automatically taken care of under another section of the Law. But the point that I want to make is that these Regulations have to be brought to Parliament and the Member for Health has to move a motion that they be accepted so that the public and everybody will have a chance to know what the fee increases are going to be. This is different than the other section of the Law which provides that Regulations are subject to the negative resolution. My understanding of that is that I will bring the other Regulations, lay them on the Table of Parliament and within six months, I think is specified in the Law but I will explain that when I get to it, unless somebody moves a motion to reject them, they will stand as passed.

Clause 16 deals with the fact that the Authority must meet its expenses out of its fees. It says:-

16(1) "So far as is practicable, the Authority shall administer the health care facilities and programmes to ensure that its expenditure will be within the financial resources available to the Authority by the collection of fees, appropriations by the Legislature, and any other source, including allocations for the replacement of plant and the provisions for depreciation of assets.

(2) The Authority shall not, without the written approval of the Governor, exercise any power of borrowing."

Clause 17 deals with the powers of the Authority.

17(1) "The Authority shall have power -

(a) to receive all funds or gifts in kind given or bequeathed to the health care facility, or to the Government of the Islands for the purposes of the health care facilities, or given or bequeathed by words showing an intention that the funds or gifts should ensure to or for the benefit of the health care facilities; and subject to the provisions of this Law, the Authority shall apply all such funds or gifts or, if such funds are invested, the income derived therefrom, to furthering the purposes of the health care facilities in such manner as the Authority thinks fit; and

(b) to acquire by purchase, gift or demise, and hold in their corporate capacity, with the

previous sanction in each case of the Governor, but not otherwise, any land in the Islands required to further the purposes of the health care facilities or programmes;

PROVIDED that the powers conferred by this subsection shall not be exercised in any manner inconsistent with any condition or direction imposed or given by the donor or attestor with respect to any such fund of gift."

Clause 18 deals with how the Authority may apply its funds and Clause 19 deals with the accounts of the Authority and it says:-

"The Authority shall cause proper accounts of its financial affairs to be maintained.

(2) The accounts prepared for the purposes of subsection (1) shall set out -

- (a) the accounts for each health care facility;
- (b) the income and expenditure of each health care facility and programme and, where an activity can be shown separately for accounting purposes, the income and expenditure arising from such activity;
- (c) such other matters as the Member may specify.

(3) Without prejudice to the provisions of subsection (2), the Member may give general or special directions with respect to the accounting procedures of the Authority and the Authority shall act in accordance with such directions."

Audit of accounts. Members will be happy to see that this Bill appoints the Auditor-General as the Auditor and subsection (2) of clause 20 says:- "The audit shall be completed not later than the end of the sixth month after the close of the financial year.". Subsection (3) allows the Member to require an interim audit on any specific matter, other than that general audit, in case we believe anything is going wrong that we need to check on in short order. Clause 21 provides that:-

"The Authority shall as soon as possible, after the end of each financial year, forward to the Member -

- (a) a report on the operations of the Authority during that year and on the Authority's policy and programme for future years;
- (b) a copy of the accounts prepared for the purposes of section 19 certified by the auditor.

(2) The report prepared for the purposes of paragraph (a) of subsection (1) shall set out -

- (a) any directions given by the Member to the Authority during that year;"

So if the Member, under section 19, gives any specific directions related to the accounts of the Authority, those must be clearly set out and reported in the report to the Member.

"(b) the scales of salaries and wages paid to officers and employees of the Authority.

(3) The Member shall cause copies of the report and accounts of the Authority forwarded to him under subsection (1) to be laid before the Legislative Assembly at its next meeting after receipt by him of the report."

So if the Auditor-General has six months to do the report and the Authority has to deliver that report and the audited accounts to the Member as soon as it is practicable after they receive it, there should really be no reason that Parliament should not have these said reports tabled in the September Session of any year following the financial year, assuming that the financial year coincided with the calendar year.

Section 22 provides that the Member may require:-

"Without prejudice to the generality of section 21 the Authority shall forward to the Member.." (the Member for Health) "...such returns, statistics or other information as the Member may, by notice in writing, require."

"Inspection of premises of health care facilities.

23. At the request of the Member, the Chief Engineer of the Public Works Department, or any officer of the Public Works Department authorised by the Chief Engineer in that behalf, may, at all reasonable times and upon reasonable notice being given to the Authority, enter into and inspect all premises within the control and management of the Authority, and the Chief Engineer shall report to the Member upon the state of such premises and

the Member shall forward a copy of each report to the Authority."

Now this inspection only pertains to facilities that are owned and operated by the Authority. Section 24 deals with the disposal of premises no longer required by the Authority. It says:-

"(1) The Authority shall each year review its requirements for premises, and any premises in the possession of the Authority which are no longer required for the purposes of the Authority shall be disposed of in accordance with this section.

(2) Premises which were transferred to the Authority by the Government for no consideration or for a nominal consideration shall be transferred by the Authority to the Government for no consideration or for the same nominal consideration, as the case may be."

In the case of the Schedule of Properties which will be vested in the Authority, if for instance in years to come - and most of the District Clinics will fall in this category, because it is not possible to rebuild, redesign or remodel most of those District Clinics to provide the kind of facility which will convert it to a proper District Medical Centre offering various services other than a clinic on those locations. So for instance, if we decided to build a new District Clinic in Bodden Town we would have to get additional property to put the District Clinic on. The Authority then, by this Law, has to return the present property to Government for no consideration, as we are getting it in this instance.

"24(3) Premises other than those to which subsection (2) applies shall be offered to the Government for purchase at a fair market value. Any appraisal of real property in relation to this subsection shall be made according to the principles of valuation used by the Portfolio responsible for lands."

So if the Authority goes out and buys a new site to build a District Clinic on and in years to come that District Clinic has outgrown that site, the first option that the Authority has on that is to offer it to Government to purchase it at fair market value.

"24(4) If Government does not wish to purchase the premises offered to it under subsection (3) it shall notify the authority in writing within twenty-one days of the receipt of the offer, after which the Authority may dispose of the premises on the open market to the Authority's best advantage."

If the Government does not want to buy the property it has to notify the Authority within 21 days in writing and the Authority can then dispose of the property on the open market.

Section 25 is the section that allows the Member to give general directions. "The Member may, after consultation with the Authority give such general directions in written form as to the policy to be followed by the Authority in the performance of its functions as appear to the Member to be necessary in the public interest."

Section 26 refers to the licensing of private health care facilities.

This says:-

"26 (1) The Member may, on an application being made to him, after consultation with the Authority, grant a licence for the operation of a privately owned health care facility at which patients are kept overnight, or at which obstetrical deliveries, or surgical operations, or health care programmes are carried out."

That section is necessary to ensure good quality care for our citizens.

" (2) If, upon an inspection of the premises by the Authority's nominee it is found that the premises are no longer suitable for the purposes specified in subsection (1), or are no longer being used for those purposes, the Member may, on the advice of the Authority, cancel the licence."

That is to allow if someone who has an overnight facility does not have for instance, proper infection control and infections get out of hand and everybody that they are operating on has been coming down with staphylococcus infection, we can send an inspector in there.

"26(3) Before a licence may be cancelled, pursuant to subsection (2), the Member shall give to the licensee fourteen days' notice in writing specifying the faults or defects which would justify cancellation of the licence, and calling upon the licensee to correct those faults or defects within a period of time specified in the notice, failing which the licence will be cancelled."

So we have to give them due notice that we intend to cancel it and we have to tell them exactly what they need to do to correct the problem so as to not have their licence in jeopardy.

"26(4) Any person who operates a private health care facility without a licence granted under subsection (1), shall be guilty of an offence and liable on summary conviction to fine of five thousand



dollars and five hundred dollars a day during which the facility is operated without a licence."

Section 27 are regulation-making powers and the regulations will provide prescribing anything which needs to be prescribed by the Law. Here again, in spite of the medical fraternity representation that the Governor should not be allowed to prescribe because he is not medically qualified, we are not talking about prescribing medicaments. We are talking about the right to prescribe regulations.

- "27(1)(b) prescribing professional and other qualifications required by officers of the Authority;
- (c) prescribing the conditions under which medical and dental practitioners shall be admitted to the health care facilities to practise their professions;
- (d) prescribing the conditions under which students shall be admitted to the health care facilities to study their professions;
- (e) prescribing the duties to be performed by the various officers and committees of the Authority;
- (f) prescribing the composition, procedure and functions of each Medical Staff Committee;
- (g) prescribing a code of standards for the construction of premises licensed under section 26(1);"

So the regulations will clearly say what has to be complied with to get a licence for a health care facility. Basically, we are going to adopt what are published standards by the United States Department of Health, with modifications for local conditions.

- "(h) prescribing the conditions under which medical practitioners employed by the Authority may be permitted to undertake paid employment outside the jurisdiction of the Authority;
- (i) generally for the purpose of giving effect to the provisions of the Law.

(2) Regulation made under this section shall be subject to negative resolution within three months of the laying of the regulations before the Legislative Assembly."

Now what that means in practical terms is that in September I will bring to this Honourable House hopefully, a great stack of regulations that are presently being put into lawyer's language, lay them on the Table of the House and any Member and any member of the public can study those regulations. They will remain there for three months within which period of time any Member of this House can move a motion to reject any or all of those regulations. If nobody objects then they will become regulations under the Law.

Section 28 refers to the rules of the Authority. It says:-

- "(1) The Authority may, with the prior approval of the Member, make rules –
- (a) setting out procedures for the admission and discharge of patients and for patient's identification;
- (b) for the conduct and control of patients;
- (c) for the conduct of visitors;"

For example, under this section we will be able to make rules that no smoking will be allowed either by visitors or patients on the Hospital compound. No cigarettes will be allowed to be sold on the compound, etcetera.

- "(d) for the control and supervision of clinical work and the use of the facilities of the health care facilities in the course of such work;
- (e) generally for the efficiency, good order and management of the health care facilities.

(2) Any person who fails to comply with any rule made under subsection (1) shall be liable to a penalty of fifty dollars."

Section 29 simply repeals the Health Services Law, 1974 but

provides that any regulation, for example the present fees regulation, will remain in effect until those regulations are repealed by regulations made under this Law.

Madam Speaker, the Government, the staff of the Hospital, the medical fraternity in this country support this piece of legislation. It will introduce flexibility, it will introduce greater accountability, greater responsibility by the health professionals and all in all it will, we believe, raise the standards of health care and its provisions in the Cayman Islands by a substantial amount.

I commend the Bill to Honourable Members.

**MADAM SPEAKER:**

The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:**

Madam Speaker, the Bill before the House seeks to change the health system of these Islands in a very dramatic and what I believe would be a costly way from a Government-run system to that of one administered by a supposedly independent authority. If the purpose for creating this Authority is to have a health system independent of the Government, if that is the philosophy, then this Bill falls short of that purpose. The Authority cannot be independent with so much need of the Government for finances and it cannot be independent with the Member having so much say in the affairs of the Authority.

The contradictions in this Bill, as far as its independence is concerned, is very evident when the Bill says the Authority shall have "charge and management of the health care facilities" but the provision of public health care programmes are determined by the Member "utilising such funds as may be specifically appropriated for those purposes by the Legislature." Insofar as money appropriated by the Legislature, the Authority will have to do as the Assembly sets out and I agree with this. I am in full agreement with this because I do not agree with the scheme of things as being put forward in the philosophy of this Bill and it is my opinion then, that even though we have a lot of talk about an independent Authority, these provisions make the Bill hypocritical in its philosophy.

Under this Bill all of this country's health personnel, I guess close to the region of 300 civil servants, it is proposed now to be seconded to the Authority which means that the Government is still responsible for pensions, gratuity, and other benefits. And the seconded officer, according to the Bill, is still subject to be disciplined, presumably under the Civil Service Regulations.

I have a fundamental belief that health care must remain fully in the hands of the Government. That has been my belief and I will always have it. What I am about to mention is not political, it is a fact. With the pressure on civil servants in this country from the elected Government and with pressure on members of the Health Personnel Department by the Member of Health, I believe that long-standing civil servants are going to be jeopardised by this Authority.

**HON. D. EZZARD MILLER:**

Madam Speaker, on a Point of Order, that statement has to be incorrect. The Member for Health has no line of authority over any civil servant.

**MADAM SPEAKER:**

You are asking for a Point of Elucidation. There is no Point of Order there. I am sorry, Honourable Member.

Please proceed.

**MR. W. McKEEVA BUSH:**

Madam Speaker, I do not know if the Member is saying that he does not have any now or whether he will not have any when the Authority comes into being. Maybe he can clarify that for me.

**MADAM SPEAKER:**

Would you like to reply to that Honourable Member? He is giving way.

#### POINT OF ELUCIDATION

**HON. D. EZZARD MILLER:**

Yes, Madam Speaker, I am saying that the Member does not have now, nor will he have any direct authority or line to pressure professionals or anybody else in this Law. Nor has it ever existed.

**MR. W. McKEEVA BUSH:**

Madam Speaker, so well I know, that there is none now and I think that the Authority is being created to get around that. And woe be unto those civil servants when it is created because we cannot get genuine information now from Departments because of the fear of being victimised, and civil servants will tell you that. The next time I come across it, I am going to complain because in the line of duty from this House, we should be able to get information to debate on matters as important as what we are dealing with. Civil servants run scared, especially in that Portfolio. I say no more. The Member has the right to respond. He has already said that he does not have any line of responsibility. I am telling you what I find and what I know other Members have found.

Although the Bill says that the Auditor-General shall audit accounts, the Authority's independence is meddled with in an even more conspicuously offensive manner when the Authority allows the Member to give special directions with respect to the accounting procedures of the Authority and the Authority then shall act in agreement with the Member's orders.

That is found in clause 19 of the Bill dealing with the accounts of the Authority. It says:-

"(1) The Authority shall cause proper accounts of its financial affairs to be maintained.

(2) The accounts prepared for the purposes of subsection (1) shall set out -

- (a) the accounts for each health care facility;
- (b) the income and expenditure of each health care facility and programme and, where an activity can be shown separately for accounting purposes, the income and expenditure arising from such activity;
- (c) such other matters as the Member may specify.

(3) Without prejudice to the provisions of subsection (2), the Member may give general or special directions with respect to the accounting procedures of the Authority and the Authority shall act in accordance with such directions."

Madam Speaker, that must take away the independence that we are hearing so much about. Usually when it is the other way around, when the Member is looking for something he says "it may", for instance, the Bill this morning. But, it is not a "may" in this Bill, it says "shall". So whatever he tells them to do they will act or must act in agreement with the Member's orders. The independence of the Authority is even more doubtful because the Executive Council will fix the fees that will be charged to the people for medical care and the Assembly will agree or disagree with those fees as the Member said just now.

The Member, as we know, recently increased the Hospital fees to the point where it is unbearable. Those fees were not brought to the House. But as I said, I can agree that the fees must come here, that is what I want, because I believe that the Government must have full control of Health Services. The Member has just given us the Health Services Authority Regulations and except for the fees, I do not disagree. In fact a great improvement is for school children, but the Member has already set up the drastic increase in fees, expecting to get the Bill passed today and then bring these regulations in September. That is an insult to the procedure that he is talking about. I think the whole approach has been wrong because the Member should have first, in my opinion, gone about looking after his National Health Insurance Plan. That should have been the procedure. We have a saying, I will not say that famous Caymanian saying but I will say the Member is working "backforemost".

It is evident with all of this interference, which the Member will say is necessary, that the Authority will not be independent and the distinct possibility is there for the prevention of the Authority to make a profit or break-even, as he is hoping. What is the purpose for the creation of the Authority? The Member said it will give him more accountability, more flexibility and raise standards. Do we need to create more red tape and more bureaucracy to get better health care in this country? I do not think so and it is not my philosophy.

Madam Speaker, dealing specifically with clause 11 of this Bill which deals with the appeal from termination of appointment, this says, "Any person aggrieved by a decision of the Authority to terminate his appointment under section 10(4),..." which says:-

"The Authority may by notice in writing, terminate any such appointment for good cause before the expiration of the period of the appointment" (that deals with medical staff, but section 11(4) continues) "...may, within seven days after service upon him of a notice terminating his appointment, appeal to the Grand Court by notice in writing asking for a case to be stated by the Authority as to -

- (a) the procedure of the Authority leading up to the termination;
- (b) the legal justification of the decision;
- (c) the basis of the opinion of the Authority as to the fairness of the decision;
- (d) any other matter affecting the decision; and the Grand Court may make an order confirming, quashing, reversing or varying the decision or any part thereof, and may make such other order as appears to it just."

I think that this is unnecessary and will prove to be cumbersome. This clause will send - I hear them laughing, Madam Speaker, but they must wait to hear what I have to say next - this clause will send labour disputes to the Grand Court for it to make a decision on the termination of someone's appointment. This is taking the matter or question of dismissal of staff out of the ambit of the Labour Law.

They laughed just now when I said that it was unnecessary to take it to the Courts because I know what they are saying, that the Court is the highest body of justice. It may sound good, as all of what he was saying sounded good; practicality is another matter. It may sound good to say that a dispute is being sent to the second highest court in the land but is this really needed when we have a Labour Law and a Labour Department with a competent Labour Director? Our courts, and this is something to bear in mind and it is not going to get any better, are already terribly overloaded and arbitration of this kind, as I say, will prove very cumbersome for our courts to deal with. I think that this is unreasonable.

Clause 11 is even more obnoxious when we read that those employees will only have seven days to make an appeal to the Grand Court. It is irrational for the Member to believe that someone can get a lawyer and set out his case in that time frame because such matters are time consuming and the lawyer's hands are full. Not to say that that is the time in which the case must be heard, but the time in which he must make an appeal.

Our Labour Law has in it seven sections dealing with unfair dismissal in which is set out the proper course to be taken in these Islands when employees are dealing with a dismissal at which they are aggrieved. Our Labour Law also sets out that a person so aggrieved makes a complaint within a time frame of 90 days to the Director of Labour. After the employee is notified of the Director's decision, the employee has 14 days to appeal to the Tribunal and then the Chairman of the Tribunal shall fix a date for the hearing of the appeal being not less than one month or more than three months from the date of his receipt of the notice of appeal. But the Labour Law goes even further than that. If the employee is not satisfied with the findings of the Tribunal, he can appeal to the Grand Court on a Point of Law, and that is the way it should be.

I see where the Bill is seeking the Court to adjudicate on the legal justification of the decision and that should be where it goes, but when it comes to the basis of the opinion of the Authority as to the fairness of the decision, then I am concerned with the philosophy here. My philosophy and one held world-wide, is that labour related matters should be dealt with by people of practical experience in the field. I am concerned that the philosophy which is being represented by this clause of the Bill is a wrong one for labour relations.

My opinion is that labour arbitration should be as informal as possible and as uncluttered as possible with legalities and the ordinary confining rules of evidence and precedence which govern proceedings in a court. I think that the Member is making the position more complex by taking the case, first of all, to the court. In that type of situation we may reach a situation where so many other countries have reached in labour arbitration matters where legal proceedings can drag on for years, by the end of which time it is possible that the parties concerned have settled their differences without benefit of the procedures of the law. It is absolutely essential, in my opinion, when dealing with labour relations to have the matters acted upon quickly and on practical grounds. And as the Bill indicates, the Member is prepared not only to send legal problems to the Court, but also to send matters which might very well be an economic and a social problem of a very special character, which courts cannot often consider objectively.

This aspect of the Bill represents the introduction, into the field of labour relations, of a concept which really has no place there. It can only lead to delay, confusion, and frustration. If the purpose of this clause is to remedy grievances, it will not do that. I say, in these matters, let the Labour Law apply to adjudicate on labour problems which the practical experience of its enforcers are capable to perform on the basis of the kind of life and activity to which it has authority to direct itself.

I am very displeased to see that the Authority can borrow any amount of money with the approval of the Governor in Council, without an affirmative resolution of this Legislature. Section 16(2) says: "The Authority shall not, without the written approval of the Governor, exercise any power of borrowing.". That should read, "subject to affirmative resolution", meaning that it should come to the House. But it does not say that. I have to wonder whether that clause is not ultra vires the Finance and Audit Law which says in section 28 that:-

28(1) "No public officer shall give a guarantee involving any financial liability upon the Government unless such guarantee is given -

- (a) for the purposes of and in accordance with the provisions of a law or a resolution of the Legislative Assembly; or
- (b) with the prior approval of the Finance Committee."

It would seem to me that all that they need to do is to write their proposals down and send them to Executive Council and then the Authority can go and borrow \$25 million on the power of the Governor and Executive Council.

The Law for the Authority is even different for other Authorities in this country for instance, on the financial procedures of the Port Authority section 4(6) says:

"Before taking any action.....(of borrowing or raising loans).....the Authority shall publish in the Gazette a prospectus showing -

- (a) the amount and the particulars of the proposed loan;
- (b) the rate or rates of interest to be paid;
- (c) the classes of person who may subscribe;
- (d) the proposed application of the amount raised;
- (e) provisions for repayment of the loan."

That is the Port Authority, that is the route that they have to take. This Authority that we are trying to create says nothing along those lines. I should point out also that the Members responsible for the other Authorities in the

country cannot give any special instructions when it comes to the accounts, they leave it in the hands of the auditors. Why have we deviated from that well-known road? The way money has been wasted in this country speaks ill of that provision.

Looking at clause 26 where the Member may grant a licence to a private facility which means, I guess, private clinic or private hospital, I have to wonder why the Member deems it necessary to get involved to the extent where the discretion is left solely in his hands because as I said, now that it is in his hands it says, "he may" and if somebody has to depend upon him to get something he says, "he may" make the decision to grant the licence after consultation with the Authority.

I would have thought that the Member would want or the ideal situation would be for the Member to be part of an appellate body because if a clinic operator is not satisfied with his decision, who does he appeal to, Executive Council? That cannot be because the Executive Council would have to depend upon the Member for his advice and then the appeal would be from Caesar to Caesar. My argument is, if we have an Authority charged with the responsibility to see that there are proper and fair health programmes in this country, carried out by competent people, why does someone have to apply to the Member, who is not a doctor and may not be competent to adjudge whether a clinic is operating properly or not? This can leave room for victimisation especially if a Member himself has some interest in a pharmacy or has an interest in some clinic in this country. The Member should not put himself or anybody else in that position.

The Government is introducing this legislation on the grounds that the cost of medical care has been growing too rapidly and this Authority will help reduce expenditures in the years ahead and improve management. I doubt that that is going to happen. If they want to deal with growing costs, then I believe they are taking the most counterproductive method of dealing with increased health costs because the Bill will increase costs and aspects of health and because of the bureaucracy it will create. All that bureaucracies do is spend more money and make it more difficult for people to operate. This country is getting to the point where our competitive position in a lot of sectors will be eroded because of this building of empires and bureaucracy.

If we want to do something about reducing expenditure, let us start by doing something more. For instance, in geriatrics if you want to reduce costs, I often see many indigent old people in the Hospital that could very well be cared for in the Pines Geriatric Wing for less than what is costing to keep them in the Hospital, people who have had a stroke or are bed-ridden but cannot be sent home because they have no one to care for them properly in their condition. I do not believe that it will cost per month in the Geriatric Wing of the Pines, (which the Government sponsors), what it is costing them for a month in the George Town Hospital. This Geriatric Wing is a good, low-cost programme, which can reduce the expenditure of the high-cost programme that our Hospital has become. That is the route that they must take.

He says that he is going to introduce a National Health Scheme to share or offset the cost. As I said, that is a route that we should have explored first. Some time ago we heard all sorts of things being thrown around such as they were gearing health costs to the annual growth in the economy, I do not know whether that position has changed now, but I do not think that we are spending an undue percentage of our Gross National Product on health care, for instance. Our Gross National Product is \$539 million and health costs in relation to the GNP is 1.78% of the GNP in 1987, 1.83% in 1988, 1.71% in 1989 and 1.81% in 1990. I do not think that we are spending an undue percentage. In relation to our annual Budget we are only spending in the region of 10%.

For the health of the nation, my philosophy is that is not a big worry. My opinion is that we would have a great worry about the expenditures on medical care if we were spending inordinate sums of money on medical care. It is true that Government is subsidising now to the extent of 97 per cent of this expenditure. As I said, I believe that some kind of national health insurance is necessary to cut down on that subsidy. The ultimate instrument for the delivery of health care is a comprehensive national health system or service. I think it proper procedure to examine for this country whether and to what extent the principle of national health insurance would be applied to the delivery of health care.

My philosophy has been (and is now) that health care is a fundamental right of the citizen and capacity to pay at the time of receiving care should be totally irrelevant. The policy must be to find mechanisms to let those people that cannot afford to pay, pay.

We have heard the proposal of solutions for problems before the whole situation has been examined and the problems carefully identified. I believe that plans and programmes should be formulated not for problems seen in isolation, but only after careful selection of priorities, careful definition of objectives and selection of efficient techniques. The most important thing is, those techniques must be as simple and as inexpensive as possible. This is not the route in which we are headed in this country. I do not believe that careful examination of the problems has taken place because I do not think that the International Healthcare Corporation (IHC) Plan has done anything near to what is necessary to find out where the problems are.

Madam Speaker, when we go to develop health care facilities and services we should not try to develop an expensive service for the privileged few. I do not believe that that is where the Member wants to go but the route that we are going might end us in that spot.

This Bill does not have my support. If we continue in this direction, the way the Member has started, as I said, putting the fees up first, getting this Law, then coming in September and expecting us to agree with fees, the poor will get poorer, the sick will get sicker, the poor get sick and the sick get poor. I cannot support the Bill because I think it will create more fiscal, financial and technical problems.

The Member said that Government has a special obligation to continue to fund public health policies such as inoculation. My philosophy is not that they have a special obligation but that they have a fundamental obligation to continue to fund all health care and to set it up in such a manner that

its bureaucracy does not stop people from getting the required health care.

I urge the Member to review his route, to hasten in reviewing a National Health Scheme and to withdraw the Bill before us. It cannot do anything else other than to create a bureaucracy unheard of in these Islands and to create more costs for the people of this country. Instead of Government subsidising 97 per cent of \$11 million, it will be subsidising 60 per cent, probably 80 per cent of \$20 million or \$25 million.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Thank you, Madam Speaker. This Bill which is dealing with setting up a Health Services Authority for the Cayman Islands is faulty in many areas. The Bill itself seems to be attempting or will actually set up a separate Authority under which the health care facilities of the Cayman Islands will be placed and operated. While I am a person who believe that matters that can effectively and economically be dealt with in the private sector, and should be dealt with there, I get somewhat worried when we get an Authority such as this, which is a hybrid - it is really not Government nor private sector - it seems to me that the aim of it is to put a more considerable amount of power in the hands of the Member for Health and Social Services.

The Bill is one that has considerable problems in the Bill itself but I believe that the operation and the practical side of this will cause even more problem still. If the view of the Member is that he needs to have some independence or policy and guidance of the Hospital then that can be dealt with in another way. But here he is seeking to remove the facilities, to remove staff and to set up a substantially autonomous and needless to say quasi-bureaucratic Authority.

What is really going to be achieved by this, in practice, I do not know because it seems that to isolate a large department of Government and place it under an Authority which is really placing it into a body corporate - limited liability corporate body - is in my view, going to add considerably to the cost of the operation of the health facilities.

The constitution of the body corporate, the Authority, is made up of the Principal Secretary, the Medical Officer of Health, the Chief Executive Officer, the Chairman of the Medical Staff Association and not less than six other members appointed by the Governor. So in effect, what you are going to have here is either civil servants or private persons appointed by Executive Council, which we know has to be a paper placed by him to Executive Council and his recommendation of who they should be. So it seems to me that this is not going to do what one would have hoped it may have done, which is to move the Health Services beyond the ambit of political influence, if that is indeed the basis upon which it is put up.

But when we go on to look at this, section 5(2) says, "A person appointed to be a member of the Authority shall hold office during the Governor's pleasure." This is strange because the Governor is the Governor in Council, not the Governor in his discretion. So it seems to me that as the Executive Council pleases, it will appoint and it will fire the Authority. To take that even further section 5(3) says: "There shall be a Chairman and a Deputy Chairman of the Authority, each of whom shall be appointed by the Governor from among the members of the Authority and each of whom shall hold office as such during the Governor's pleasure..." during Executive Council's pleasure. So basically you have an Authority that is going to be totally under the control of Executive Council. So let us not hold this out to be an independent Authority because I will tell you at a later stage what I believe the reason behind this whole thing is.

So the first strike against this is that you are going to have what was a Department of Government which was in many respects independent of political molestation, becoming an Authority that sits with all of its major members there at Executive Council's pleasure. And we know very well that when you have the right to hire and fire you can exert a reasonable amount of control over directions in which that Authority will go. Therefore, I see that as the first major problem.

If the Member needs advice from a Board, set up a Board and let them advise him and leave the hospitals where they are. So we move on to the mechanics of this and I have very little to say in relation to how the Authority will work and the quorum and that sort of thing. But then we move on to what is a further significant section in this, section 7 which is the authority to have general management of the health care facilities.

In section 7(2) it says: "It shall be the duty of the Authority - (e) to give effect to any directions given by the Member under section 25;". And the Member has power under section 25 to give general direction as to policy. So what he is not capable of doing now under the Constitution and the way that Government is set up, which is to personally give direction to a Department on major policy issues, it seems to me here that he is first circumventing Executive Council and he has the power, which is normally what comes at a later stage in our Constitution, to begin to give general directions of policy emanating directly from him without the benefit of the other six Members of Executive Council. That once again, goes toward showing that the aim of this Bill is for the Member to gain control and power over this vital arm of Government.

I object strongly to that aspect of it because if the Authority is there to be manipulated policy-wise and to start carrying out directions coming directly from the Member, then it once again, has lost all effect of independence and I do not believe that that is right. If the Member wants to have that power to begin to dabble into administrative authority, then he must wait until a later stage, if and when, the Constitution so advances. I am not trying to say that this is unconstitutional, I am saying that it is a way, as I see it, of getting around the collective decisions that come from an Executive Council.

The next sections deal with the different Directors and that I have no problem with. Perhaps there should be specific Directors over the three or four areas of it. Then we have the power of the Authority to appoint the staff. Then there is a bit of a peculiar section, section 10(2) which says, "A

person appointed to the medical staff shall not, by reason only of such appointment, be an officer, servant or agent of the Authority for any purpose." I am not too certain what is meant by that, but if you have someone in the Authority acting with authority then there is the apparent authority which is going to bind the principle which is the Authority itself.

Then we begin the legislation that goes on to deal with the staff. He has fixed a time, not exceeding three years, for appointment of staff. The Authority has power to terminate before the expiration of the period of appointment by Law. That normally would be included in the agreement anyhow.

Section 11 gives the right of appeal to the Court in relation to any decision of termination under the previous section. So at least in this there is some appeal. But what this has done is to circumvent the Labour Law and to a certain extent the Civil Service Regulations. So we are going to have an Authority out there that will be drawing public funds because I will show that there is no way in the world that there can be a Health Services Authority that is going to be able to pay its way, and once again you see the drawing of power directly away from the Civil Service Regulations and the Labour Law - which entrench a lot of employees' rights. Plus you are going to have probably over 300 staff members that are either going to be working for the Authority, but with certain rights under the Civil Service, or are going to have to now be employed directly by the Authority under these "up-to-three-year" contracts. They are going to then be subjected to an Authority of which the Member, personally in his capacity as Member, has the right to give general directions to.

Now I noticed that in the green paper there have been considerable amendments to what originally came out. We have in section 13(2) the Governor, in his own deliberate judgement that is, not Executive Council, can approve the secondment of any public officer to service with the Authority. But once he is seconded, under subsection (3) it says:- "Any public officer seconded under subsection (1) shall, in relation to salary, pension, gratuity and the like and to other rights and to discipline, be treated as if he was not so seconded." So we have there a savings of civil servants who are transferred to the Authority presumably for a period of time and there is power for authorisation by the Governor of allowing persons to function under the Authority.

Then we have section 13(5) which says:-

"Without prejudice to the power of the Governor to approve the secondment of any public officer under subsection (2), an officer of the Authority, other than a public officer on secondment under subsection (2) or exercising a function under subsection (4), shall, for the purposes of any statutory provision, other than the provisions of the Penal Code, be deemed not to be a public officer or civil servant or otherwise in the service of the Crown."

So that you have in subsection (5) it seems to me that anyone who has been seconded, except for the penal provisions, is deemed not to be a public officer or civil servant. So what it does really, is to put directly under the Authority so that they can, subject to section 13(3), deal with the officers that have been seconded to them.

I notice in section 13(6) anyone who is employed cannot practise any other profession or trade unless the Authority gives its permission. So once again, you are going to have the further control even over part-time medical staff.

Then we have a good situation, a Medical Staff Committee which gives the staff some input into what is going on. But I query how effective that is going to be when you have the Authority, appointed by Executive Council, with the right to remove them at their pleasure and the Medical Staff Committee having to face this Authority.

Section 16 is one which appears to me to be that it is meant for the Authority to balance its budget. Now we know that Government, the Elected Members in Executive Council, cannot balance Government's budget. But if anybody in the world can tell me how a Health Service, of which I understand the Member said earlier, 59% of services or patients in it are free, is going to be financially independent and stay within these limits, is beyond me.

This Bill does not make sense with a provision like that in it, because we know what is going to happen is that Government is going to have to continue to pump money into subsidising the health care facilities and its programmes and that is money that is well spent if it is dealt with in the right way. Where the funds are wasted is when you see \$1 million put aside to do a plan for a hospital but the barriers that can stop and can bring out the unnecessary and blatant spending of public money, I am going to show, are no longer there for this Authority. So where we have a Government, that in the last two years have had extremely heavy deficits, estimated this year at some \$13 million and we have now a Department that has nearly 60 per cent of people not paying to use it, there is no way that anything is going to be achieved by this.

Here we have once again, the power being increased under section 16(2):- "The Authority shall not, without the written approval of the Governor, exercise any power of borrowing." Whatever this statutory corporation borrows, Government is morally responsible to repay. And what the Member is doing here is to put that Executive Council can authorise, the Authority can approve borrowings of the Authority, to unlimited amounts. That cannot be right. If we are going to be responsible and the Government is going to be responsible then if the Authority wants to borrow it must come back to this Legislative Assembly or go to Finance Committee. But the Member knows that in there if he does not get the vote of the First Elected Member for Cayman Brac, which comes often these days, then he cannot carry a resolution for the Authority to borrow. So the way to get around it is to bring it to this House, get it passed in a Law which perhaps, impliedly I guess, I have not looked at it, but it seems may have a conflict with the audit and the Law relating to borrowing, then he is now going to put once again in Executive Councils' hands unlimited borrowing which under the Audit Law is normally

restricted, as far as I can remember, to small amounts.

The Authority's powers are set out but in effect the Authority's powers, in the final analysis, are going to be subject to what the Member of Executive Council feels and how he gives his directions; how he as a Member, not Executive Council, gives directions and policies.

This I believe, along with the power to borrow, is the way that the Member is going to use to get around this Legislative Assembly and move on to build the \$20 million or \$30 million hospitals that we have let him come here and account for and try to justify. I do not agree with that. We are here as public servants and if we are morally responsible for what the Authority does, and we know that the Government will be, then alter that section to the approval of Finance Committee or the approval of the Legislative Assembly. I am not going to give blanket facilities here for the Authority to go out and just borrow and borrow because we know that the Member for Health and Social Services is one of the heavy spenders in Government and we have to live within our financial means in here.

Section 19(2):- "The accounts prepared for the purposes of.....the Authority.....shall set out - (c) such other matters as the Member may specify." Once again the Member, he features throughout in this. I would have thought that the Account General would be the one to specify what other matters should go into that set of accounts. Once again, section 19(3): "Without prejudice to the provisions of subsection (2), the Member may give general or special directions with respect to the accounting procedures of the Authority and the Authority shall act in accordance with such directions."

What does the Member really want? Executive Council is giving him an unlimited and uninhibited power to also deal with the accounts, not only to borrow through Executive Council but give specific and general directions in relation to the accounts. That cannot be right. We know what the Public Accounts Committee found in relation to the accounts of the Hospital and the IHC contracts, and there were in place at that stage the necessary audit rules. There was the Financial and Stores Regulations, were does it feature in this?

**MOMENT OF INTERRUPTION - 4:32 P.M.  
STANDING ORDER 10(2)**

**MADAM SPEAKER:**  
you be finishing soon?

Honourable Member it is now the Moment of Interruption would

**MR. TRUMAN M. BODDEN:**

No Ma'am.

**MADAM SPEAKER:**

Fine. I will now ask for the motion for the adjournment.

**ADJOURNMENT**

**HON. THOMAS C. JEFFERSON:**  
House until 10:00 a.m. Tuesday, 2nd July, 1991.

Madam Speaker, I move the adjournment of this Honourable

**MADAM SPEAKER:**  
until 10 o'clock Tuesday morning. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:**  
Tuesday morning at 10 o'clock.

The Ayes have it. The House is accordingly adjourned until

**AT 4:33 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. TUESDAY, 2ND JULY, 1991.**



**TUESDAY  
2ND JULY, 1991  
10:04 A.M.**

**MADAM SPEAKER:**  
Trade.

Prayers by the Honourable Member for Tourism, Aviation and

**PRAYERS**

**HON. W. NORMAN BODDEN:**

Let us Pray.

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

Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, 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 Speaker of the Legislative Assembly, 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.

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done in earth as it is in Heaven; Give us this day our daily bread, and forgive us our trespasses, as we forgive them 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.

**MADAM SPEAKER:**

Please be seated. Proceedings are resumed.

Questions to Honourable Members. Question No. 162, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**QUESTIONS TO HONOURABLE MEMBERS**

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT**

**NO. 162:** Would the Honourable Member say how many vessels were on the Shipping Register in the Cayman Islands immediately prior to the establishment of the Marine Survey Department and how many are presently on the register?

**ANSWER:** Madam Speaker, the number of vessels on the Shipping Register, prior to the establishment of the Marine Survey Department, i.e. 31st May, 1988, was 739. It should be pointed out that the data is unreliable for the following reasons:

- (a) owners not conforming with the legal procedures and informing the Registrar in respect of deletions following loss, sale or transfer of vessels;
- (b) many companies owning vessels have lost their legal ownership status for non-payment of fees and tonnage taxes.

As at 19th June, 1991, there are 551 vessels on the Register.

**SUPPLEMENTARIES**

**MADAM SPEAKER:**

The First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:**  
separate registry for small vessels which trade within the territorial waters of the Cayman Islands or is there just one registry?

Would the Honourable Member state whether there is a

**HON. THOMAS C. JEFFERSON:**

It is one registry, but I realise that there is some legislation being looked at at the moment to deal with smaller vessels.

**MADAM SPEAKER:** The First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:** Thank you, Madam Speaker.  
I wonder if the Honourable Member could give us any kind of a time frame as to when this legislation may be in place?

**HON. THOMAS C. JEFFERSON:** It is a little difficult to speculate on when the legislation will be in place, but I can say that the Department will be taking input from the public when the Government has given its blessing for it to do so and that could be proceeded with within the month.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, may I ask the Member if any comparison has been done with other small territories for example, the Isle of Man has, I understand, a much improved Shipping Registry now. Has any comparison been done to find out the reason why some countries, within the British Commonwealth seem to be improving their Registry, when ours seems to be declining?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I do not believe that this Government, at least I am unaware of any comparison being done, I do know that the Isle of Man seems to have gained a significant number of ships which moved from the UK Registry to the Isle of Man Registry and while the figures quoted indicated 188 ships less on the Register than prior to the establishment of the Marine Survey Department, I do know too, that quite a number of those ships would not have received any of our blessings given the state of their condition.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, will the Member examine whether it is in the interest of our Shipping Register to replace the present Director of Shipping?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I think that it is possible for us to examine anything that we wish to examine.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Thank you.  
Would the Honourable Member say whether there will be an amendment to remove the necessity for the Load Line and Solar Safety of Life at Sea Rules from the smaller vessels, as apparently in other countries only vessels over a larger tonnage than what we apply it to have the Load Line and Solar supplied?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I think it depends on what the Member is referring to. There is no legislation at the present time that governs fishing vessels. There is a Torremolinos Convention which has not been signed for example, by the country of Japan and therefore they cannot gain international agreement to implement the Convention.

In respect of smaller boats carrying passengers, I think any boat carrying a passenger would fall under the Safety of Life at Sea International Convention. There is some requirement that a boat in excess of 24 metres would also fall under those Conventions. Some vessels would not.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, in the reply given by the Member it was noted that the figures which he quoted may have been inaccurate for two reasons, or unreliable for two reason, is there any provision or guarantee whereby these same conditions here might not affect the number given for the vessels presently on the Register?

**HON. THOMAS C. JEFFERSON:** I think that it is fair to say that the complete exercise has yet to be completed. I would not like to quote a percentage because the percentage may not be accurate but it is close to 100 per cent.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, in recent times one reads in the newspaper that large fines have been imposed on some vessels on the Cayman Register. The most recent one was, I think, a ship somewhere in Canadian waters. Could the Member say if these ships which suffered these penalties are still on the Register or not?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, the ship in question which voyaged up the St.

Lawrence River did not utilise the best nautical knowledge in anchoring at a particular place, given that the engines were causing some trouble. Having begun to repair their engines the weather changed unfavourably to the craft and the craft dragged its anchor onto an area where it ran aground. It was the evidence at the time that the persons on board, particularly the skipper, were negligent. I am unable to say, off of the top of my head, if the ship is still on the Register but I doubt that it is.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, would the Member say if part of the problem encountered with ships remaining on the Register is that large amounts of money are requested of ships wishing to register, in paying the airfares of surveyors from our Registry here flying to various parts of world and also high hotel costs, that are added to this whole process? Is that having any effect on ships remaining on our Register?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I believe that whenever you make a change in the procedure that affects a person's pocket, it has some impact, probably not a favourable one. But I do believe that the charges which are being made in order to survey a ship has its arguments pro and con. If the surveyor travels club class or first class, it is likely that when he arrives he will go directly to the ship and begin working. If he travels economy class especially across the Atlantic, I believe that there is no way that he can begin working for at least 24 hours, in which case you run up a higher hotel costs than - and the two may equate, or they may not. It may be in favour of travelling at that higher class.

I believe too, without attempting to put down any other country, the requirements which we are asking the ships on our Register to meet are not, although the countries are also a part of the International Maritime Conventions, in force to the level that they should be. I think basically that is the problem.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Would the Honourable Member say why the surveyors approved by other Classification Societies such as Lloyds, American Bureau of Shipping, Bureau Veritas, or the European ones cannot be used where there are agents in the specific ports and thus avoid the high cost of these first class fares and hotels for people here?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I think that there is a move, to some extent, along those lines although not specifically as the Member puts it. We have recently been asked by the UK Government, that is the Marine Survey Department, to survey ships on their Register in this area. I believe that this will be the trend where other countries, being members of the International Maritime Conventions for example Hong Kong, may request that their ships voyaging in this area be surveyed by us and vice versa, therefore a need to try to minimise the cost to the owner of the ship.

I do know that recently there was a ship surveyed by our Marine Survey Department and the cost of that survey was probably 10 per cent of what it would have cost if the Classification Societies had to do it. So it is not always the case that the Classification Society will cost less.

**MADAM SPEAKER:** The Third Elected Member for West Bay.

**MR. JOHN D. JEFFERSON, JR.:** Thank you, Madam Speaker.  
The Honourable Member mentioned that legislation was being proposed for small craft being registered here. I wonder if the Member could advise us on some of the areas in which amendments are being looked at as far as small craft are concerned?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I think generally it is a move to have all vessels, I think I should say because if I say boats you may think of a 19-foot boat or a 14-foot boat, fall under some kind of legislation. But also that it does not fall under the International Maritime Convention Status, that is the requirements under the International Maritime Convention are not as strict in the proposed legislation as they are if they would fall under it. I hope I have made that clear, if not, ask again.

**MADAM SPEAKER:** The last question by the First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I would like to ask the Honourable Member if the Marine Survey Department will exercise discretion and flexibility in interpreting the regulations as it relates to small craft, for example plying the inter-Island route and those diving around our waters, until these regulations and amendments are drafted?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I think at the present time I have evidence to suggest that the Department is using discretion. There are vessels which we have surveyed without requesting that they put all the money down at one time but they have been allowed to pay over a period time instead. I believe that in respect to other vessels discretion has to be used with the best of judgement because in terms of allowing a ship to move out of the Harbour onto the high seas with passengers on board, there is only so much discretion that

you can use in that case because the vessel must be capable of providing safety devices for those passengers in the event of an emergency. I spent three and half years of my life on the high seas and I value the need for safety.

**MADAM SPEAKER:** We shall proceed to the next Question No. 163, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT**

**NO. 163:** Would the Honourable Member say what has been the cost of establishing and operating the Marine Survey Department to date and what has been the total revenue earned?

**ANSWER:** Madam Speaker, the total cost of establishing and operating the Marine and Survey Department to date is CI\$681,322.00. The revenue earned by the Department to date has been CI\$161,019.00, and by the Registry of Shipping \$322,108.00, making a total of \$483,127.00.

**SUPPLEMENTARIES**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say what is Government's position regarding the continuance of the Registry in the light of the fact that it is costing much more to set it up and operate it than it is indeed producing revenue?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I believe in any organisation which is recently established, there is an up-front cost whether the organisation is part of the public service or whether it is part of the private sector. In cases of the private sector the establishment cost or the organisational cost would be written off over a period of years because it is really the long-term cost involved and so the \$681,000 are costs for establishing the Register which, if you maintain it to eternity, you would not incur any more establishment costs but you would actually just pay the operational cost.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say if included in this \$681,000 is the sum which was paid to the legal people in England for preparing the laws and so on that relate to this particular exercise, which I understand was substantial?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, the answer there is, yes.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, can the Member say if the revenue is increasing or declining year by year?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I do not have the specific breakdown but I believe that given other data which I have available, the figure has to be increasing.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Thank you.  
Would the Honourable Member say whether he has told and whether the Chief Marine Surveyor understands, that the aim of this Department must be to make some money sometime, hopefully soon?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I guess being a Financial Secretary I shall have to agree. But I think the International Maritime Conventions which have been extended to us, there are one or two more which we actually needed in order to market the product which we have and that is the facilities of the Marine Survey Department. We are seeking to be categorised by the UK Government as a Category 1 Register which means that it is wide open you can register anything from 10,000 tons or less all the way up to a 1,000,000, if you can find it.

We are presently planning a promotion in the London market and we expect to accomplish that before the end of the year and I think that we will need some other marketing activity which will tend to bring to the attention of the owners and managers of ships, the facilities that are available to them in the Cayman Islands. I expect that we shall be successful.

**MADAM SPEAKER:** The next Question No. 164, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT**

**NO. 164:** Can the Honourable Member say whether any Customs Duty was paid on the materials or equipment brought into Cayman Brac to erect the "balloon" structure on the South Side?

**ANSWER:** Madam Speaker, Customs Duty has been paid on all materials and equipment imported into Cayman Brac to erect the "balloon" structure on the South Side. Total Import Duty collected in respect of this project as of 18th June, 1991, amounts to CI\$27,112.69.

**SUPPLEMENTARY**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say if any materials involved with this construction was exempted under the particular provision afforded Cayman Brac, that is a 5 per cent Customs charge?

**HON. THOMAS C. JEFFERSON:** Not to the best of my knowledge, Madam Speaker.

**MADAM SPEAKER:** The next Question No. 165, standing in the name of 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. 165:** Would the Honourable Member say whether Cayman Airways Limited is considering opening more business offices in George Town?

**ANSWER:** Cayman Airways Limited is in the process of opening a ticket office in the Westshore Plaza on West Bay Road.

**SUPPLEMENTARIES**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say what sort of feasibility study was undertaken to show that this would be a profitable concern?

**HON. W. NORMAN BODDEN:** Madam Speaker, I do not have the details of any feasibility study that was undertaken in connection with this project.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could the Member say what the cost per month will be of renting this office space in George Town?

**HON. W. NORMAN BODDEN:** Approximately, \$2,000 per month.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could the Member say what is the length of contractual time in this particular undertaking and exactly where are the offices located?

**HON. W. NORMAN BODDEN:** The contractual time is 5 years with an option to renew and it is located in the Westshore Plaza, just a few doors down from the Post Office that is located there.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, can the Member say why the company is

rushing to open this office at a time when they are just about to study the Report which has recently been received from the consultants that were looking at the profitability of Cayman Airways?

**HON. W. NORMAN BODDEN:** Madam Speaker, it is my understanding that the management of the company sees this as another sales outlet and since it is a developing area and an area that will attract considerable traffic or members of the public, I think they feel that the potential of developing more direct sales for the company is possible.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Can the Member definitively say that the rental of this office is not connected to the fact that the claimant to the Post of Managing Director of Cayman Airways is the son of the person who owns this plaza?

**HON. W. NORMAN BODDEN:** No, Madam Speaker, I cannot say.

**MADAM SPEAKER:** The next Question is a Deferred Question No. 86A, standing in the name of the First Elected Member for Bodden Town.

#### DEFERRED QUESTION No. 86A

#### THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

**NO. 86A:** Would the Honourable Member say what posts were introduced into the Civil Service over the past five years; what percentage of growth do these posts represent; and how many such posts are filled by Caymanians?

**ANSWER:** The number of posts introduced into the Civil Service over the past 5 years is 663. A list of the number of posts by scale and by Department is attached. This represents a growth of 48 per cent. The number of these posts presently occupied by Caymanians is 326.

Post	Scale	Post	Scale
3	TH 1-2	9	SS 1
3	TH 1-5	6	SS 3
37	TH 2-3	3	SS 4
1	TH 2-4	2	SS 6
17	TH 3-4	1	SS 8
3	TH 3-5		
5	TH 4-5	4	HSC
11	TH 5-6	7	HSD
8	TH 5-7	2	HS 1-2
25	TH 6-7	1	HS 3-4
14	TH 6-8	2	HS 1
8	TH 7-8	17	HS 3
10	TH 8-9	1	HS 4
4	TH 3	2	HS 7
3	TH 4		
13	TH 5	110	P 1
1	TH 6	22	P 2
1	TH 7	10	P 3
3	TH 8	4	P 5
4	TH 9		
		3	T 0
5	U	2	T 2
		2	T 3
61	E 1-2	1	T 4
1	E 1-3	18	T 1-4
1	E 2-3	1	T 1-3
24	E 3-4		
1	E 3-5		
7	C 1		
44	C 1-4		
3	C 3-4		
3	C 4		
39	AP 1-2		
34	AP 1-3		
10	AP 2-3		
19	AP 3-4		
4	AP 2		
2	AP 4		
1	AP 5		

(Attachment)  
New and Additional Posts

01	Governor's Office	None
02	Audit	8 Posts
03	Public Service Commission	2 Posts
04	Finance & Development	18 Posts
05	Banking Inspectorate	6 Posts
06	Customs	29 Posts
07	Insurance	2 Posts
08	Legislative	2 Posts
09	Marine Survey	9 Posts
10	Registrar General	5 Posts
11	Statistics	7 Posts
12	Treasury	12 Posts
13	Judicial	23 Posts
14	Legal	14 Posts
15	Internal & External Affairs	7 Posts
16	Broadcasting	5 Posts
17	Immigration	24 Posts
18	Police	49 Posts
19	Prison	21 Posts
20	Personnel & Management (including Computer Services)	38 Posts
21	District Administration	19 Posts
22	Tourism Aviation & Trade	None
23	Fire Service	40 Posts
24	Tourism	6 Posts
25	Trade & Labour	5 Posts
26	Education Environment Recreation and Culture	21 Posts
27	Education	49 Posts
28	Health & Social Services	17 Posts
29	Medical Health Services Department	14 Posts
30	Social Services	25 Posts
31	Communications Works	8 Posts
32	Agriculture	7 Posts
33	Mosquito Research & Control Unit	1 Post
34	Lands & Survey	15 Posts
35	Planning	23 Posts
36	Postal	9 Posts
37	Public Works Department	23 Posts
Total:		663 Posts

## SUPPLEMENTARIES

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** In cases where these posts are occupied by people from overseas at the level of Departmental or Section Head, what provisions are there for Caymanian understudies and for eventual Caymanian successors?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, wherever possible Caymanians are placed in positions to understudy expatriate officers on contract with a view to eventual Caymanianisation or succession. However, it is not always possible to find sufficient Caymanians of the level of education and experience necessary in all cases to be able to provide understudies for every post desirable.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, could the Member say what practical approach is being taken to create a situation where there are Caymanians able to take over the jobs, which it is apparent from this answer, are now on the basis of for every one job taken by a Caymanian there is one taken by a non-Caymanian, almost a 50-50 condition in the Service?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, we in the Civil Service have the same difficulty that persons in the private sector have in that for every five jobs being created in the Cayman Islands, we are only able to find one Caymanian. We are producing jobs at a rate faster than we are producing qualified Caymanians. That is an inevitable situation.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** Thank you, Madam Speaker.  
Given the Honourable Member's answer to my colleague's supplementary, may I ask the Honourable Member if any attention has been given to what I would call the enormous growth of the Civil Service in the last five years and also if there are any provisions in place or any provisions being discussed for the Government to arrive at a more manageable growth rate of the Civil Service in the near future?

**HON. J. LEMUEL HURLSTON:** The answer is, yes. Honourable Members may recall that as recently as November when the 1991 Budget was being proposed by the Honourable First Official Member, the Government announced that there would be a freeze on all new services and that freeze was going to be based upon the need to restrain the rate of growth in the public service.

In addition to that Members may also recollect that the Honourable First Official Member announced that where certain posts in the Service had been vacant and where it appeared that every reasonable effort having been made to fill them proved unsuccessful, that the financial provision in the Budget in respect of that post was going to be reduced to a token provision. The Civil Service has consequently been operating on that basis ever since and that is what is known as a "bare-bones" basis.

We have also introduced a new procedure for applications to fill existing vacancies and applications to create new posts and these new procedures include an examination by the Management Services Unit to ensure that due care and attention is paid to the question of value for money and the absolute essentials in approving any variation to the existing establishment. Wherever possible officers are being redeployed from other areas in order to fill the gaps.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I wonder if the Honourable Member could explain how this freeze is carried out so that Caymanian applicants for Civil Service posts are not unduly discriminated against?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, on the contrary, Caymanian applicants are given every preference for vacancies providing they have the relevant qualifications and experience.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I would like to ask the Honourable Member if in cases where there are overseas applications for posts these applications are brought before the Public Service Commission and processed in the same way as are applications made by Caymanians?

**HON. J. LEMUEL HURLSTON:** Yes, Madam Speaker, the procedure is that when vacancies are advertised, all responses, be they from Caymanians or non-Caymanians, are submitted. They are then forwarded to the Head of the Department in which the vacancy exists. The Head of the Department is called upon to prepare a short list of candidates to be invited for interview, an interview panel is established consisting of representation from the Department, the Public Service Commission and the Personnel Department and the interview panel conducts the interviews and submits a report with their recommendations to the Public Service Commission.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** Thank you, Madam Speaker.

In those cases where the Department Head is a foreign national, how are we ensured that the short list is not made up in such a way that it is skewed against the Caymanian applicant?

**HON. J. LEMUEL HURLSTON:** The Head of the Department is charged with the responsibility of trying to ensure that the best available candidate is given the opportunity for an interview. During the short-listing process the candidates with the highest qualifications and suitable experience are considered and listed for interview. There is no question of skewing at that point.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Could the Honourable Member say in relation to future posts whether the Management Services Unit or Organisation Management Unit is now going to be brought in to ensure that new posts are absolutely necessary before they are established?

**HON. J. LEMUEL HURLSTON:** Yes, Madam Speaker, I can confirm that is now part of the revised procedure.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, can the Member explain the abnormally high number of new posts introduced under P1 where 110 new posts have been introduced, E1-2 where 61 new posts have been introduced and TH2-3 where 37 new posts have been introduced?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, the only explanation that I can give is for the Member to refer to the final page of the attachment where the list showing the new and additional posts by Department is provided. One will notice from a quick review of that list that the fastest growing areas have tended to be the technical, professional and security skill areas. The medical areas have tended to attract a good number of new posts. The security services, Prisons and Police have attracted a number and the general executive branch of Government to which the Member referred, the E scale, has also seen significant growth during the five year



period.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I would like to ask the Honourable Member what the procedure is when a Caymanian working in a Department applies for a promotion to a post in that Department vis a vis a foreign national applying for the same post?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, the procedure is that the officer, whether Caymanian or non-Caymanian, seeking to apply for a promotion to an existing vacancy within the Service completes a prescribed application form and submits the completed form through the Head of the Department in which the officer is serving. The Head of the Department comments upon the application and the application is then forwarded and dealt with in the usual prescribed manner.

**MADAM SPEAKER:** That concludes Question Time. The next Order of Business is Government Business - Bills, Second Reading debate on the Health Services Authority Bill, 1991.  
The Third Elected Member for George Town, continuing.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE HEALTH SERVICES AUTHORITY BILL, 1991

(Continuation of debate thereon)

**MR. TRUMAN M. BODDEN:** Thank you, Madam Speaker.  
When the Legislature rose on Friday I was dealing with section 19 which deals with the accounts of the Authority. This section sets out what gives the Member for Health and Social Services enormous power not hitherto seen in Bills of this sort. This is set out in 19(2), which says:

"The accounts prepared for the purposes of subsection (1) shall set out -

- (a) the accounts for each health care facility;
- (b) the income and expenditure of each health care facility and programme and, where an activity can be shown separately for accounting purposes, the income and expenditure arising from such activity;
- (c) such other matters as the Member may specify.

(3) Without prejudice to the provisions of subsection (2), the Member may give general or special directions with respect to the accounting procedures of the Authority and the Authority shall act in accordance with such directions."

The difference with this and previous Laws is that the Member, as he does throughout in this Bill, features prominently. He has the power and he alone, not the Executive Council, not the Accountant General, not the Financial Secretary but he is the man who is going to mold the accounts and giving directions on it. When we get down to giving special directions, we are entering an area which, in my view, deals with administrative authority. That is something that must be reserved until there are ministers under a more advanced Constitution, in my view. This is all part and parcel of the move to take this Law and to circumvent the checks and balances that traditionally have been put in these Law.

While I am on this, the Member for Health boasts of being an expert in health. At present he is a non-practicing pharmacist and obviously a specialist in that area, but he is not an accountant. So if he applies his principle to himself why is he dabbling into the balance sheet and the accounts of the Authority? Leave that for those who are qualified to do it, the Accountant General, the Financial Secretary, or the Auditor General.

This is a very important part of this Bill because the Member for Health and Social Services has been known to circumvent the Finance and Stores Regulations and to directly grant contracts, as he did to IHC and Mr. Conti, disregarding set procedures that have been laid down. Now he has the power here to lay down specific directions, not just general directions. All that I can say is that it must be a move to put the power in his hands to do what he has done in the past, which is to hand out contracts without any regard to laid down and established rules for Government. So I guess this section could fairly well be referred to as the Conti Reserve section, the reservation being for the Member to begin giving his ministerial directions.

When you look back for example, at the Port Authority Law, it is very similar and on the same principle as this. It is establishing a separate corporation. What we find in this are several things. Where you have under the accounts for example, what the Port Authority Law says: "4 (7) The

Authority shall keep proper accounts of all its transactions to the satisfaction of the Financial Secretary....[not the Member for Communication and Works under whom it is]...and such accounts shall be made up to the 31st day of December of each year, and audited by the Government Auditors who shall report thereon to the Authority and the Financial Secretary."

This is a totally different thing in this Bill. The Member is the man blowing the bugle and beating the drum. He is a one-man all-powerful minister, so to speak, when it comes to this. The Auditing of it is by the Auditor General, so at least that is similar to the Port Authority. The Port Authority goes further and it says: "4 (4) The Authority may for the purpose of the performance of its function raise loans (a) from the Government; or (b) with the approval of the Governor in Council from outside sources." But then it goes on to lay down another check and balance which is so important when we are getting all of this power put into the hands of a politician Member of the Executive Council. The Port Authority Law has this check and balance in it. It says:-

"4(5) When the Authority raises loans under paragraph (b)..." that is loans other than from Government "...of subsection 4 it may, subject to subsection (6) and to any contractual obligations entered into by it or on its behalf -

- (a) create, issue, sell or negotiate debentures and other securities;"

But here we read in subsection (6):-

"4(6) Before taking action under subsection (4) the Authority shall publish in the Gazette a prospectus showing -

- (a) the amount and particulars of the proposed loan;
- (b) the rate or rates of interest to be paid;
- (c) the classes of persons who may subscribe;
- (d) the proposed application of the amount raised;
- (e) the provisions for the repayment of the loan."

So the check and balance firstly, they have kept in place - and I will go on to show that there are other Laws similar to this in which the Member has not been given this load of power to do as he wishes. So when they go to raise loans from outside, they have to notify the public because we have to remember that Finance Committee has now been watered down and it is quite easy for the Government and its single Backbench vote to put through Finance for these matters. It is now only a matter of Government deciding, it looks like, and along with its single vote from the Backbench it can do a lot of what it wishes.

I would suggest and naturally, the seven of us on the Backbench as a majority of the Elected Members can do nothing if Government does not wish to do so, but I would strongly recommend that they bring section 19 in accordance with the Port Authority Law or alternatively in accordance with the Water Authority Law. Let us look at another one of these similar Laws. This is a corporation, it is an Authority established and set out in section 8F (1): "The Authority shall keep proper accounts of all its transactions to the satisfaction of the Financial Secretary...[not the Member for Communication and Works. And it goes on even further] "...and in a form which shall conform with the best commercial standards and such accounts shall be made up to the 31st day of December of each year and shall submit the same with vouchers to the Auditor General to be audited, who shall report thereon to the Authority and the Financial Secretary." I could go on to other Laws and show that where these specific Authorities have been established, the checks and balances to ensure that the Government's money is not squandered by politicians, is in place.

I see this as a very dangerous precedent that the four Elected Members of Government approve of and have set out on an intentional course to circumvent the checks and balances that go toward ensuring that the Authority is not dictated to by a political Member of Executive Council. They cannot justify at this stage such a radical, such a vast amount of power being put into the hands of one Elected Member, the Member for Health and Social Services, especially looking at his record in the past, in relation to hospital matters and the Public Accounts Committee and its reports.

Having said that, we find that there is a section, as in the other Laws, that provides that the copy of the reports and accounts shall be laid before the Legislative Assembly. But that is too late, as we found out with the previous hospital contracts. When it is done and Government is contractually bound, it is no good looking after the fact and laying the accounts on the table of this Honourable House. You can merely see what has been done. The checks and balances in the other Laws make sure that the Member cannot spend the money unnecessarily, or waste it, or hand it out to contracts that may not be giving the public a dollar's worth of work for a dollar. While this is good, it does not replace the sections that have traditionally put into the Authorities and the corporations as they have been established.

I know the Member for Health and Social Services will raise this. He circulated a copy of this Bill sometime ago and to be very frank I would think that the majority of people probably did not comment on it. The reason is this: it is of no use commenting or sending anything in to the Member, this is a known fact from matters such as the Pensions Bill, because when you agree with him he accepts

it, but when you disagree then either he disbands the Committee, as he did with the Pensions Bill that was advising him contrary to his wishes, or he just simply ignores it. So he has set a procedure now where spending your time in trying to deal with the massive legislation which he circulates, some of it just before the Legislative Assembly. One is really wasting one's time because of the approach that he has taken in the past. And that approach is no different from what has been exhibited here at times and also the public, up until recently has seen the way that he takes very hard any objections, any disapproval of what he is doing or what he is bringing in. But there is good Law for what I have stated. I hope now that we will find the Bill remaining with the traditional checks and balances.

To move on from that we have in section 22 once again stating: "Without prejudice to the generality..." to the laying of this report on the table "...the Authority shall forward to the Member such returns, statistics or other information as the Member may, by notice in writing, require.". We go on to deal with the inspection of the health care premises and disposal of premises no longer required by the Authority, where it must be offered to the Government first.

Then we come to another section where once again the Member features, section 25. "The Member may, after consultation with the Authority give such general directions in written form as to the policy to be followed by the Authority in the performance of its functions as appear to the Member to be necessary in the public interest.". There is practically no section in this Law that does not feature the Member with power, power, power.

Section 26, and this is now dealing with private health care facilities that are to be licenced. these are operating facilities and I know that he previously stated that he does not like to put in grandfather clauses which confirm businesses or premises that are now in operation. Well, that has traditionally been done because it takes out of it the uncertainty of these private facilities coming under pressure from the Member and they have been operating and a period of time be it for a year, six months or whatever should be given by which the premises are automatically granted licence to continue, subject naturally to the inspection provisions of the Law. It is not good business and it is not traditionally the way things have been done, to put ongoing businesses, ongoing professional corporations in jeopardy.

Section 26 says:- "(1) The Member may, on an application being made to him after consultation with the Authority, grant a licence for the operation of a privately owned health care facility at which patients are kept overnight, or at which obstetrical deliveries, or surgical operations, or health care programmes are carried out.". Madam Speaker, it says "the Member", why not Executive Council? They normally have been the licensing authority on the political side. There are seven wise men sitting in Executive Council, why all of this power in the hands of one man, especially to give out licences that have traditionally been given out by Boards? The Protection Board, the Planning Authority, there are a lot of people and there is safety in numbers. This is what I object to throughout this Law. It is one geared to put unlimited and highly discretionary power in the hands of one man and that has got to be wrong.

It is a known fact that the Member has had his toss ups with doctors and private facilities from time to time. If he has a conflict, what is he going to do? Can you really tell me? There is only one person sitting there. If you have a Board then one person can come off and say, "I have a conflict, I am not going to speak and vote." But in this instance it is to him and to him alone. Conflict or no conflict the private health care facilities are purely in his hands and I would strongly recommend to the other three Executive Council Members that they remove the word "Member" and replace it with the words "Executive Council".

Section 26(2) once again the same principle is found. "If, upon an inspection of the premises by the Authority's nominee it is found that the premises are no longer suitable for the purposes specified in subsection (1), or are no longer being used for those purposes, the Member may, on the advice of the Authority, cancel the licence.". This is wild! This is really wild! Not only is the Member going to licence the private health care facilities but the Member, on the advice of the Authority, has the power to cancel a licence. He is the man with the authority and the power to cancel a licence. That cannot be right. It just cannot be right.

I am asking the other three Members and Elected Members (because this is politics and I would like to keep the three Official Members out of it) to look at these sections that I have raised and tell me honestly if it has not been in the past that the Executive Council itself, with the safety of seven Members, made these decisions. Is it not a great possibility that the one Member with the absolute power will do a much worse job and end up with many more conflicts and justice will really not be done?

Section 26(3) says: "Before a licence may be cancelled pursuant to subsection (2), the Member shall give to the licensee fourteen days' notice in writing specifying the faults or defects which would justify cancellation of the licence, and calling upon the licensee to correct those faults or defects within a period of time specified in the notice, failing which the licence will be cancelled."

Subsection (4) goes on: " Any person who operates a private health care facility without a licence granted under subsection (1), shall be guilty of an offence and liable on summary conviction to fine of five thousand dollars and five hundred dollars a day during which the facility is operated without a licence.". Well, first, on that I think there should be a maximum prescribed, preferably and specifically. The other thing is that I would rather see a minimum of fourteen days with a longer period of time if it is necessary instead of having specifically fourteen days because if it relates to specific equipment or specialised equipment maybe fourteen days may not be long enough and no damage may happen in the mean time.

But throughout this entire section the Member features in an all-powerful position and I submit, because he keeps saying that he is a specialist in this area, he is bound to end up as a professional pharmacist at times finding himself in a state of conflict. There is nobody on this little Island that can tell me they practice in a profession - agreed he is not practicing now - and from time to time conflicts do not arise.

So my suggestion for section 26 is that the Government remove

the word "Member" from the Bill and to put in the words "Executive Council" throughout, especially where you have him with an unlimited right to cancel the licences. I do not see any appeal in this. There are no appeal sections in this, so he sits, in an even stronger position than Caesar sat because at least Caesar sat in two different positions when he heard the appeal from Caesar. The Member just sits in one position with no appeal with total, absolute discretion and this is thrown out generally, if this is going to be the trend of Laws to come from this Government, businesses in this country are going to run scared. They have to run scared when you have basically what can be turned into a single discretion, a dictatorship, if it comes to that, by one man with absolute rights and no specific appeal. And we all know about the prerogative writs, but the use of prerogative writs where you have discretions being exercised, to deal with correcting it is long, costly and extremely limited.

Now from that we go on to deal with the sections that provide for the Governor making regulations and these are substantial and I must say the Member has put in a good section there, subsection 27 (2) saying:- "Regulations made under this section shall be subject to negative resolution within three months of the laying of the regulations before the Legislative Assembly." That is an improvement. Even though it comes after the fact, it is in a way that it can be corrected.

Then there is section 28 - Rules of the Authority. "The Authority may, with the prior approval of the Member, make rules...". Once again "the Member" and not Executive Council. I submit that this section should be amended once again to the words "Executive Council". And in the Committee stage I will specifically be asking these questions because I know if Government has its vote on this side, which we will shortly know, then to spend a lot of time on specific amendments is, to me, really just wasting this Legislature's time. In fact it should not go to that stage. If the eight Members on this side vote against this then let the Member go back to the drawing board, I think, and come up with something that is traditional and is not going to scare the daylight out of the private sector.

To go back in summary, I oppose this Bill. I oppose the sections that state that the members of the Authority sit at the Governor's pleasure and in this case, the word "Governor" has been defined as Executive Council, they hold office during Executive Council's pleasure, so therefore there is a vast amount of control that can be exerted rather than when you have a Board with people knowing they are in for two years, or three years, or whatever. The Member has been given specific power in 7(2)(e) where he can give directions as I mentioned further on, and the Authority has a duty to carry out the directions.

The medical staff coming under the Authority seems to me to be a circumvention of the Labour Law. I do not see any application of it to this because it sets out specifically in here that the appeal system, the system for hiring and firing staff and except for the seconded Civil Servants, the Member has totally circumvented the Civil Service rules. He is, in effect, going to set up an Authority totally separate and independent from Government.

The section that states that the Authority shall balance its budget is, to me, totally impractical. The Member admits that some 59 per cent of the people using the facilities do not pay. How does he really expect that the Authority can ever become independent financially? The borrowing power set out in section 16(2) where the Authority can borrow with the approval of the Governor in Council, I submit, should carry the restrictions that the Port Authority Law carries.

The procedures set out in section 18 of the Law circumvents the Finance and Stores Regulations which cannot be good for this country because this, even though it is a separate Authority, is public funds and the Government will have to continue to subsidise this for years and years to come. Specifically the sections of the Finance and Stores Regulations that ensured that the public got their money's worth for their dollar such as the tendering provisions of the Public Tenders Committee, are left out of this. These I believe should be made a part of this Authority.

The accounts of the Authority are fully under the direction, generally and specifically which is what I just spoke about recently, of the Member giving him an all-powerful position. He has the power to require matters to be altered on procedures to be carried out within the Authority and as such he sits, literally, throughout this Bill, in a position where a Member could be a little dictator if he so wished because there are no sections that bring in the safety in numbers that we have of the seven who sit in Executive Council. But in any event, this aspect, as I clearly showed under the Port Authority Law, the Water Authority Law is put in the hands of the Financial Secretary and not in the hands of the Member and of the Accountant General and of the Auditor General.

I do not understand where this came from and let me just say this, that I appreciate that the draftsman takes instruction from the Member so what I say is specifically in relation to the Member when I am referring to the unusual things that have been put into this Bill.

We have a situation where not only can the Member circumvent the tendering provisions of the Finance and Stores Regulations but we have a situation where he also features throughout, in giving directions and doing what he wishes with accounts. They are finally laid on the Table of this Honourable House but as I have said, that is too late. It is like saying that Finance Committee reports back to the House. When the money is spent the damage is already done and it is too late. It is a good provision but it does not provide the provisions of the Water Authority, the Civil Aviation and I could go on to name probably another two or three of these beyond the Port Authority where we have placed these provisions specifically in them i.e. the Housing Development Corporation which is slightly different but has similar provisions, and I chose to research the two that I thought were nearest to this Authority. Lastly, there is the all-powerful section which gives the Member the right to licence health care facilities and the absolute right to revoke the permit.

I am pleading with the Executive Council and the First Elected Member for Cayman Brac and Little Cayman because his vote is the vote that will carry this Bill through, to look at this Law as one in which all of the checks and balances known to previous Authorities and corporations established

by Government have been removed and that an absolute power has been put in the hands of the Member for Health and Social Services and that I believe that the final results of this are going to be a disaster and the approach that should be taken is to say "no" to this Bill and to say to the Member, "Would you please go back and produce something and bring it back at a later stage with the concepts that you have looked at but removing the powers that can give dictatorial powers to a Member if he wishes to exercise them under this Law."

Thank you.

**MADAM SPEAKER:**

The First Elected Member for Bodden Town.

**MR. ROY BODDEN:**

Thank you, Madam Speaker. I rise to register my observations on this Bill For A Law To Establish A Health Services Authority in these Islands.

In my usual frank and candid way I would like to begin with what I see as the positive aspects of this, and while I would have to say there are not many positive aspects, there are two that I would like mention. The first is that I can see this as an attempt by the Member to establish a more effective and for lack of a better description, modern way of doing things. However, I would like to caution that the attempt has fallen short because what has resulted in this Bill can best be described as a misguided effort to do good. The second thing is that the Member made provision for us on an individual basis to consult with him prior to this. Now I personally, did not avail myself of the opportunity to do that because I thought it would have been more effective to meet with us as a group as I am not convinced that any individual concern that I voiced prior to this point would have made an impact, seeing that this thing was well advanced as far as the drafting was concerned.

Significant also is the fact that the Bill, as presented here, is marked by an absence of any accompanying regulations. So that too, while being positive in the effort to enlist and illicit some comment, fell short for those reasons that I outlined.

I am not going to rehash the detailed arguments because those were very well articulated by my colleagues on this side, the latter being the Third Elected Member for George Town. I would just like to state some brief general remarks. My first concern is that if this Bill is allowed, this Authority will result in the establishment of a powerful and insidious medical cartel which is under the complete control and domination of the Member. And I cannot, in all good conscience, lend my support to that and I think that the arguments against this were clearly articulated by my colleagues on this side of the Bench. Those put forward by the Third Elected Member for George Town indicated the concerns which I share and I second those comments and the way in which they were expressed.

I am not sure that the power vested in the Member, if this Bill is allowed to pass, would not let the civil servants in this Portfolio and Department feel uncomfortable. More importantly, I cannot be sure that they, along with other people who may have reason to disagree with the Member, will not incur the wrath of his disposition. Without being more elaborate, I would like to say that human nature being what it is, I cannot, in all good faith, subject people to this kind of blind authority and power.

In the second instance it seems obvious to me that this kind of infrastructure is bound to be more bureaucratically binding and by inference, more expensive. I too, join with my colleagues in calling on the Elected Members of Executive Council to exercise their authority in removing the power and the authority given singly to the Member and spreading it out to the Executive Council, for this Bill defies precedent in that regard.

We have examples in the past of good Bills and good Laws which were based on the same honourable and noble intentions as this Member claims to have in drafting this, the significant difference being that the power and authority was not only vested in the Member, but was vested across the board in the whole Executive Council. It does not look good, nor does it make for good political management and administration for one person to put himself in such a controversial position as to be the ultimate arbiter of the fate of these people, particularly in sensitive dealings such as these, where there are bound to be conflicts, to be differences in philosophy and differences in ethical interpretations.

In conclusion I will feel better if the Member and the Executive Council would alter this Bill to read and to permit the power, which is now proposed to be vested in the Member, to be spread across the Executive Council. Significantly too, I would have been happy to have had some knowledge of the accompanying regulations because it makes little sense in trying to interpret this Law and trying to decide whether this is, or will be, a good Law without having some knowledge of what the accompanying regulations, or all of the regulations would have provided.

Thank you.

**MADAM SPEAKER:**

for Cayman Brac and Little Cayman.

If no other Member wishes to speak...The First Elected Member

**CAPT. MABRY S. KIRKCONNELL:**

Thank you, Madam Speaker. I rise to give my contribution on A Bill For A Law To Establish A Health Services Authority To Administer The Health Care Facilities In The Cayman Islands And To Make Provision For Matters Connected Therewith And Incidental Thereto.

Madam Speaker, before going into what I had planned to say, I would like to say that much has been said by previous speakers as to the significance of my vote and I will assure them that the vote I shall give will be my vote, after having given it very serious consideration and I will be doing what I feel is right for the people of this country and for generations to come.

Much has been said by previous speakers as to how many times the words "the Member" is referred to in this Bill. I would like to call to the attention of Honourable Members here today that in the Health Services Law, Law 19, 1974, section 3 reads:- "The Member is responsible for the

formulation and implementation of the Government's health policies.". The Member, as the Member charged with the responsibility for Health and Social Services, from the time that our Constitution in 1972 came to operation has had responsibility to shape the policy of Health and Social Services or whatever was in his Portfolio, for the nation.

This Bill before us today covers a large departure from what has been done but I would like to look back in the history of the development of our nation, shortly. For many years we operated a little dock here in George Town which was directly paid and operated by Government. It was not necessary at that stage for a sophisticated Port Authority but developments within our nation have made that necessary. Civil Aviation operated under the Portfolio of Tourism, Aviation and Trade just as a Department, but it became necessary as our aviation facilities and capabilities increased that an Authority be established for that service.

Likewise we have seen with the introduction of sewage disposal and piped, pressurized water system in certain sections of George Town and now Cayman Brac. It was necessary to create an Authority to take care of that development. It has been done and I am happy to say that as far as I can see, the Authorities are functioning properly and are doing a good job.

Therefore, I do not see why we should come today with such criticism for the establishment of a Health Services Authority here in these Islands. There is nothing more important to the preservation of life than good health and in order to do that it is also necessary to control the expenditure of this nation in providing that health facility. I had hoped that a National Health Insurance Scheme would have accompanied this Law to this Honourable House whereby we would have been more assured of the financing of a programme of health.

The Honourable Member has promised us that that will be here in March and I hope that we may be able to convince him to move it forward somewhat, because I feel and have always felt that this is a thing that is most necessary if we are really going to help our people. I think with the introduction of a National Health Insurance Plan it would eliminate the stigma that is placed on some of our indigent people and those that get free medical care, that they are a kind of a second class citizen. I do not feel that way, I feel we should be proud as a nation that we are able to provide for those who cannot provide for themselves. Once the National Health Insurance Plan is installed, each man or woman, boy or girl, will have a card and once that is presented there will be no question as to whether you are rich or poor or anything else.

But, now to go on to this National Health Authority. I have noticed the constitution of it, once it is formed, reads:-

- 5(1) "The Authority shall consist of-
- (a) The Principal Secretary to the Portfolio of Health and Social Services, ex officio;
  - (b) the Medical Officer of Health, ex officio;
  - (c) the Chief Executive Officer, ex officio;
  - (d) the Chairman of the Medical Staff Association of the George Town Hospital, ex officio; and
  - (e) not less than six nor more than eight other members appointed by the Governor."

And according the interpretation of this section the Governor will be the Governor in Council.

Madam Speaker, this Authority will have a solemn responsibility to providing and improving health care throughout the three Islands. It will be a full time job. "5 (3) There shall be a Chairman and a Deputy Chairman of the Authority, each of whom shall be appointed by the Governor from among the members of the Authority and each of whom shall hold office as such during the Governor's pleasure.". I think that is very clear. 6 (1) "The Authority shall meet as often as may be necessary or expedient for the performance of its functions and shall in any event meet not less than ten times in any one year.". It is clearly seen that this will be a working Authority and will be meeting frequently enough to keep the affairs in order.

It also says under the Authority to have general management of health care facilities

7(1) "The Authority shall, subject to the provisions of this Law and any other statutory provision, have the general charge and management of the health care facilities and any property, moveable or immoveable, appurtenant thereto.

- (2) It shall be the duty of the Authority -
- (a) to administer the health care facilities generally in an efficient manner and in such a way as to promote the health of the patients of those facilities;
  - (b) so far as funds at its disposal permit, promptly to make available at the health care facilities modern methods of treatment of the sick and infirm;
  - (c) to co-ordinate the administration and operation of the health care facilities;

- (d) to make recommendations to the Member on the development of the health care facilities and the health care services in the Islands and on such matters as the Member may refer to the Authority for advice;".

Madam Speaker, I would like to recall this particular section, section 7(d) where it says and I want to read that again:- "...to make recommendations to the Member on the development of the health care facilities and the health care services in the Islands and on such matters as the Member may refer to the Authority for advice;". I think that the wording of this subsection particularly shows us that the Member does not intend to be in complete control of this. He is responsible and rightly so, according to the constitution, but he says that he will seek advice from the Health Authority. That is the reason that we are here today proposing to form this Health Services Authority in order that the professionals, working everyday with the needs, will be able to advise the Member as to what is absolutely necessary so that he, as the man charged with the responsibility for establishing the policy, can establish policy that is proper and fitting.

Much has been said about the licensing of private premises. This is very important and is nothing new to medical care throughout the world. Facilities have always been licensed. This is necessary so that the person paying the bill is being treated in proper facilities and able to receive care that is in accordance with the requirements of our Government. I think this is fitting and proper.

I know of no other person better suited than the Member responsible to have this responsibility since, as I have previously said, the Health Care Service will be advising him on matters such as this.

14. "There shall be established a Medical Staff Committee for each of the following-
- (a) the George Town Hospital in Grand Cayman;
  - (b) the Faith Hospital in Cayman Brac; and
  - (c) and other health care facility or programme as the Authority may determine from time to time."

This Medical Staff Committee will serve a very useful purpose and I think the chain of command that will be established within this Health Service will make it very functional. I think, and I am not trying to criticise what we have had over the years, but I think that the Chief Medical Officer has had terrific responsibilities. Many times they have been practicing physicians in addition to their administrative responsibility and for a nation growing as we are growing I think that it is necessary that an Authority now have this responsibility.

Much has been said about borrowing but I would just like for one moment to say that when we hear criticism made in this Honourable House about politicians we should all realise that not one of us, as Elected Members, come to this House simply because we want to be here. All of us were elected by a majority vote in our constituencies and sent to this Honourable House. After being sworn-in there was a duly held Election for the Members of Executive Council, the majority of the four were seated as the Executive Council Members and His Excellency the Governor gave them responsibility. So I do not see why we should be so concerned with funds getting into the hands of politicians. They are the people chosen by the people of this country. They are directed by this country and if they do not do a good job the results of the polls from the following four years will tell. So, I do not think it appropriate that we should always infer that this should not be in the hands of politicians.

This Law plainly says:- 16(2) "The Authority shall not, without the written approval of the Governor, exercise any power of borrowing.". The Governor here again, being the Governor in Council.

Madam Speaker, the Cayman Islands have had great fortune in being able to have economic prosperity and with economic prosperity we have had an increase in population and an increase in contact with the outside world which brings all the diseases that are anywhere around the world; we are within contact with it within hours by air service. Therefore, I do not think that there is any Department within our Government that is more important than the health care of our people. It has, over the years, been a large expenditure of funds from Treasury and as we move towards making it more efficient, I think today we are taking a bold step in coming forth with a National Health Service Authority.

I look forward, in the not too distant future, of seeing the regulations for this Law that will make the Law functional. I caution the Member that the regulations must be very carefully thought out and be exactly what is needed for they are, in essence, the power behind this Law. But to say here today that the Cayman Islands does not need to move ahead in the health field, I think is not being fair. To say that this Law is a complete departure from the Health Care Services Law, 1974, is also not fair. The Member responsible, as I said earlier, had authority to make policy then, he has it today and he then, technically, in my opinion, is sharing that authority now and getting advice from professionals in a National Health Care Service.

As it was said, my vote will be the deciding vote and I sense this responsibility. It is not a comfortable position to stand here with but I do not hesitate to assume the responsibility for what I do at all times, whether in this House or out of this House and I am never ashamed of what I have done here. I look to Almighty God for guidance as I make decisions which are beyond my scope and with His care and His direct guidance, I support this Bill.

**MADAM SPEAKER:**

The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:**

Madam Speaker, it is expected that I would oppose the monstrosity which is before this House, the Bill which seeks to change the way the hospital has been run, which seeks to allow the Member absolute power to do certain things which he would not be able to do if the Health Services Law remained the way it is.

It appears to me that the present Government, knowing its demise is close at hand, is bent on doing what it has to do regardless of the cost before it gets out of office. I can only say to them, "Go on." And as the poet said:-

"Gather ye rose buds while ye may,  
Old time is still a-flying;  
For this same flower which blooms today,  
Tomorrow will be dying."

There is no use for Members to say that those who oppose this Bill do not want the Islands to progress, or do not want the Health Services to go forward. This is nonsense and in fact, so far nothing at all has been put forward that shows that this change will make the Health Services any better off.

Reference has been made to other statutory bodies which run the Port, the water and sewerage, and the airport but unlike those establishments, Health Services is far from paying its own way. The Port Authority, from its outset, has made money and a surplus has been paid to Government and the same could be said of some of the others, the Currency Board, the Airport Corporation, but we have heard the dismal tale from the Member about the hospital.

From his words we can only gather that it will be a long time before the hospital will be able to pay its own way. One of the reasons is perhaps that it does supply quite a bit of free service to the public, to school children, to civil servants, to the indigent and perhaps even to some people who do not pay all of their bills.

To believe that setting up an organisation like the one proposed here, creating an establishment run by the Member, will suddenly put us into a profitable position, is utter nonsense. We know that the feeble attempts by the Member to improve the revenue of the hospital has not given us any good results. For example, he changed the hospital fees from \$50 per day to \$100 per day and as far as I know, the hospital was no better off. He increased those fees again to \$150 per day and on the 1st of June this year he put the fees up to \$200 per day. So since he has been in charge the hospital fees have risen 400 per cent and still the revenue has not doubled. Despite his 400 per cent increase in fees, God knows what he will do when he will have his body politic to help him set and make recommendations for the new fees which can be set under this Law.

The most alarming part of this Bill is the total disappearance of the checks and balances which have made Government's finances secure. Here under this Bill we are vesting all of the Government's assets as far as health services go into this new Authority, giving them the power to borrow unlimited funds, whatever the market will bear without the sanction of the Finance Committee or the Legislative Assembly. He did put in the Bill, under section 16(2) that:- "The Authority shall not, without the written approval of the Governor, exercise any power of borrowing." So the only check on the borrowing of funds is the approval of the Executive Council of which he is a part and I may say, it appears to me, the leading part because he seems to get whatever he wants in Executive Council and of course when he comes here with the tag-team to back him up, he gets whatever he wants in the Legislative Assembly. So this is a fearful thing to see this new creature being given the authority to borrow without anybody except his close circle to say, "Nay".

One speaker, in dealing with this Bill, mentioned that a Member of Executive Council had authority under the existing Health Services Law to deal with the health services. This is true, the Member was mentioned in that Law. But what we have to remember is that what is proposed here is altogether different from what has existed for years because the role of the Member has been fashioned in a new mold. Only God omnipotent will have more power than the Member can exercise under this Bill. This is a fear that we have because judging from the performance of the Member in the past, we are not satisfied that he will use caution in swaying this power.

We know about how easily he has taken \$1 million to get ready the plans for the new hospital and we have recently been told that it is expected to borrow \$16 million to build the hospital and of course we know that this is a conservative figure and the true figure will be more like \$20 million. This is the fear that the Members have because we have seen how Government loans have ballooned under the present Executive Council.

Only a few years ago Government loans were small. Now we are reaching a stage where if we are not careful we will soon become like other Caribbean countries, other third world countries that find it difficult to pay the interest on the loans which they have amassed.

One Member, the Third Elected Member for George Town, dealt at great length the special powers, or I should say the extraordinary powers given to the Member under this Bill. And I do not intend to cover, at very great length, the same ground which he had covered but only to say that the Member's power given to him by this Bill, if the Bill is successful, allows him to enter areas which until a short time ago he would not have been able to enter.

The First Elected Member for Cayman Brac and Little Cayman took the Bill and tried to make us believe that the Member for Health was such a good boy and he had this Bill



which would have the Authority advising him or that he would be taking advice or recommendations from them. I read the Bill the other way.

If one looks at the section which the First Member for Cayman Brac and Little Cayman read, section 7, one will see that under 7(2)(d) the Authority can make recommendations to the Member but under 7(2)(e) the Authority has to give effect to any directions given by the Member. So while they can simply recommend, he is not bound to take their recommendations but he can direct and they must effect his directions.

Also if we look at section 25 we will see that: - "The Member may, after consultation with the Authority five such general directions in written form as to the policy to be followed by the Authority in the performance of its functions as appear to the Member to be necessary in the public interest." So do not let anybody kid you, it is the Member throughout the Bill who gives the directions to the Authority; the Authority which he has set up as part of Executive Council. They will have to listen.

There was a test case in court some years ago when the Chief Justice, Sir John Summerfield, said that if Executive does not like what the Board does, it should change the Members. So he will give directions and if those directions are not carried out to his satisfaction, he, as the prime leader of the medical services in Executive Council, will make a recommendation that the members on the Authority be changed.

The Third Elected Member for George Town dealt with the Member getting into the accounts, something that heretofore would have been the prerogative of the Financial Secretary. Section 20(1) "the Member may at any time require the auditor to examine and report". Here again, in my opinion, is the interference with the independence of the auditor.

In section 21 the Authority must send the Member the report. Under section 22 the Member may require certain returns. Under section 23 the Member may order inspections and to top it off, under section 26 the Member may licence certain properties. The Member for George Town dealt with this but it is so important it must be re-emphasised that the Member is becoming the sole licensing authority. If Dr. Tomlinson wants to licence his clinic he has to apply. And it says the Member may grant a licence after consultation with the Authority. It goes on to say that the Member may cancel the licence. I wonder if a licence with this kind of importance has ever been granted by a single Member of this Legislative Assembly or of Executive Council before? I find it obnoxious that such a section is in this Bill and I call upon the Members of Executive Council to remove it. The former Member for Health is a senior Member of this Legislative Assembly and knows better. He must bear the responsibility for the foolishness that is in this Law because if the new Member does not realise this it should be pointed out to him and he, along with the Member for Tourism and the Member for Communications, must bear the blame for this.

One Member, in speaking against this section, mentioned the conflict that is bound to arise in a small country. We know conflicts have arisen in the past. We know this Member has been at daggers end with people in the medical profession. This is no secret. This is a serious business and I call upon the Member for Education to use his influence to remove this section and to advise the Member for Health to make the necessary amendment to delete this section or to amend it.

Under section 28:- "The Authority may, with the prior approval of the Member, make rules." Can you imagine that? The Authority that is set up under this Law to run the Health Services cannot even make simple rules unless the Authority has the prior approval of the Member. And yet the First for Cayman Brac and Little Cayman tries to let us believe that the Member is under the thumb of the Authority. No! The Authority is in his pocket! There is one part of section 28 that baffles me. I notice that these rules cover such things as the supervision of clinical work and yet it goes on in 28(2) to impose a penalty of \$50 for non-compliance. I am wondering if the day to day administration at the hospital will now be subject to criminal activity and if the \$50 will be a fine imposed by a court of Law for the failure to shut the door of the poison cabinet, or if it will be deducted from the person's pay? This is not very clear. I suspect the Member will be able to let us know how the penalties for these administrative misdemeanors will be administered.

I already read section 16(2) where the written approval of Executive Council is all that is necessary for borrowing. But I would like Members to also turn their attention to section 18(a) and read the proviso: "...any expenditure or liability incurred by the Authority or any abatement of income provided for by the Authority shall be subject to the prior written approval by the Governor of annual estimates of revenue and expenditure, and annual supplementary estimates of revenue and expenditure submitted by the Authority in such form as the Member may direct;". So, I think the Member has put his sights way beyond simply getting a loan of \$16 million to build a new hospital and under the whole of section 18 he has certainly taken care of himself.

Now, it seems to me that when this new system is instituted, when this new body has been put in place, when the new Member has taken over and all of the controls are gone, even the civil servants, according to the section read by the Third Member, will hardly be civil servants anymore. We will become the most over-regulated city in the Caribbean just like the city of New York, was the most over-regulated city in the United States until its regulations and its bureaucracy made it bankrupt. We are heading that way and we are rushing like an avalanche.

So the next Government, God have mercy on them, will have the monumental task of dismantling much of the nonsense that is barely scraping through this House against the wishes of the public at large and against the majority of elected Members. We will find that this Bill will be amongst the many things to be corrected because a Bill like this, even if it goes into Law - which we know it will because the voice of the one man has spoken - will have to be corrected, and very soon.

I would ask Members to bear with me as I begin to look at another aspect of this Bill. Apart from setting up the Authority which can be made up of as many as 12 members,

there is also a provision for many important people to be appointed. Under section 9 the Authority shall appoint Medical Directors. There will be:-

9.       "(a)       a Medical Director for the George Town Hospital;
- (b)       a Medical Director for the Faith Hospital;
- (c)       a Medical Director of public health programmes who shall be the Medical Officer of Health; and
- (d)       such other Medical Directors as may be necessary for other health care facilities."

There is no limit put on them. We do not know who they are, we do not know how many there will be but we do know that there will be multitudes, like the fans on the seashore.

There is also to be Medial Staff Committees and perhaps this is a good thing. I do not fault this, but I cannot see why the Law has to make special provision for the medical staff if they want to have a committee unless it is so that the Member can have his control, can have his thumb on top of the committee.

We notice in section 7(2)(g) that "It shall be the duty of the Authority to provide public health care programmes", not what they would like but "as determined by the Member". I would say that 7(2)(g) would be a good section if it did not qualify the action by imposing upon it the image of the Member. Perhaps there are other matters which could be added to 7(2)(g) which would also be useful.

There are wide sweeping powers for getting rid of hospital staff. Found in section 10(4): "The Authority may, by notice in writing, terminate any such appointment for good cause before the expiration of the period of the appointment.". I suspect there will be a lot of others dismissed for bad causes too.

So in conclusion, Madam Speaker, I object to this Bill on the grounds that the Member has not found anything wrong with the existing system, only that it has been difficult to get around it. He has not given this House any sufficient reason for the switch which he hopes to make. His attempt and the attempt of the First Member for Cayman Brac and Little Cayman, to make this Bill look good have failed miserably.

**MADAM SPEAKER:**  
Elected Member for West Bay.

If no other Member wishes to continue the debate...The Third

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

Thank you, Madam Speaker. I rise to voice my opposition to the establishment of the proposed Health Services Authority for the purposes of administering the Health Care Facilities in the Cayman Islands. Madam Speaker, I think that access to quality health care is a fundamental right that should be enjoyed by every citizen of any country and it is a basic responsibility of every government. It must be the right of every citizen of this country to continue to enjoy quality and affordable health care services provided by Government.

I do not see the establishment of a Health Care Authority in any way greatly improving the quality of health care services made available in this country. One thing that it would do would be to greatly increase the cost of those basic services now made available to the residents of our country because the whole objective of establishing an Authority is hopefully to create a situation where the Authority carries itself. By doing that it means that the revenue of that Authority has to be increased to the level where it at least covers its basic expenses.

It is a known fact that there has been an annual shortfall in the health care area of several million dollars. In order to create a situation where at least a minimum amount of revenue is raised to cover expenses, doctors fees will have to be increased, room fees will have to be increased even further than they are now and the cost of basic services will have to be increased. Our people are already greatly upset by the present fee structure at the hospital. As a basic principle, before any increases have been put in place, what has to happen is that there is an investment to improve the present facilities that are made available to patients at the general hospital and the hospital in Cayman Brac.

I think that it is ridiculous and I have heard incidents where a patient is now paying \$200 to \$250 a night and the basic services that you would expect that kind of fee to cover, is not available. Basic things like washcloths, towels and soap are lacking at the present facility. So before the Member took steps to increase the fees to the level that he has increased them already, he should have seen to it that those improvements which funds were voted for last year, had been put in place and then people would not feel as bad if they had to go to the hospital and pay \$200 to \$250 a night and are in proper facilities and a proper environment.

It is my contention that before any move of this nature, that is the establishment of an Authority for the Health Services in this country takes place, what the Member should have done and not only explored but also put into place a proper national programme of health insurance.

*(Some Members, Hear, hear!)*

One goes hand-in-hand with the other. If you are going to increase the fees to the level where certain people cannot afford it (and we have a lot of indigent people in this

country), there must be provisions in place to pay for those services. The only way that can be done is that either Government does exactly what it is doing right now where it is determined that \$5 million or \$6 million is allocated for it in Government's Budget and pays it over to the Authority, or you make proper provisions for a national health insurance. In the case of a National Health Insurance Plan, Government's obligation would then be to pay the premiums necessary for the indigent people of this country.

A move to establish an Authority for any purpose is a very expensive venture in that all of a sudden rather than services or facilities being made available by other entities, the Authority itself is now responsible for those things i.e. accommodation for staff. In order to be in a position where they take care of basic benefits, that is salaries, other staff benefits, administrative accommodation, etcetera, in addition to that we have heard voiced over the past two or three years, a new hospital, the Authority would be required to borrow money for those purposes.

We are continuing to ask the same basic question: Where will the funds come from? The Member says he will borrow it. Yes, we can all go out and borrow money. Where are the funds going to come from to repay those loans?

In answer to a parliamentary question about a week or so ago, the Member mentioned that 59 per cent of the present users of our public facilities here in the Cayman Islands (the Government Hospital and I guess that includes Cayman Brac), 59 per cent of those users are not paying for those services. So even though fees are being raised, they are not accomplishing the objectives of raising sufficient revenue to cover expenses.

The sad part about all of this is that any borrowing for any purpose whatsoever by this Authority, will have to be guaranteed by the Cayman Islands Government which further increases Government's public debt. I heard the argument during the Budget Session that commitments of the Authorities are not a responsibility of Government, that is not so because the whole objective behind getting Government to guarantee those borrowings is that if the Authority is not in a position to do so, Government will have to pick up the tab. I assure you, Madam Speaker, that when the Authority is established for health care services in this country, Government will be called upon time and time again to pick up the tab because the Authority will not be able to repay those funds out its own resources.

The establishment of an Authority for such ventures as Port services, water services even the Currency Board, those things are viable and they make sense. These are strictly commercial ventures and one is then in a position, because one knows that there are a certain amount of people who will take advantage of those services, where one can charge the respective fees to ensure that the expenses are covered. And as has been mentioned before, the Port Authority, from day one, has been in a position where it has covered its expenses.

We have a few other Authorities which we are having a lot of problems with in covering expenses and require subsidies from Government on an annual basis. I assure you that the Health Authority will be one more Authority that Government will have to subsidise annually.

The result of establishing an Authority of this nature would be that the people who need it the most and can least afford it, would be the ones who are deprived of proper health care services in this country. We see it now in the United States. Health care services have become so expensive and there is such a large portion of the general population in the United States who do not have health insurance coverage that the people go without proper health care services because they cannot afford it. So, what they do is to continue to delay and delay because there are no provisions in place to ensure that if one is suffering from leukemia or whatever, that one has access to treatment for that ailment. The same position will be established in this country.

I feel, and there is a contention which has been supported by the First Elected Member for Cayman Brac and Little Cayman, that the whole objective of this exercise is to improve health care services made available to the people in this country. If that is so, and I do not agree with that, I feel if the Member is genuinely interested in doing that, what he should do is to get on with the improvements to the present facilities for which \$1.5 million have been voted in last year's budget.

**MADAM SPEAKER:**

Honourable Member, I am afraid that we have to stop now, the tape needs to be changed and this would be a convenient time to take the adjournment.

## ADJOURNMENT

**HON. THOMAS C. JEFFERSON:**

House until 10:00 a.m. tomorrow morning.

Madam Speaker, I move the adjournment of this Honourable

**MADAM SPEAKER:**

The question is that this Honourable House do now adjourn until 10 o'clock tomorrow morning. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it. The House is accordingly adjourned until tomorrow morning at 10 o'clock.

**AT 12:55 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. WEDNESDAY, 3RD JULY, 1991.**

**WEDNESDAY  
3RD JULY, 1991  
10:05 A.M.**

**MADAM SPEAKER:** Prayers by the Third Elected Member for West Bay.

**PRAYERS**

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

Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, 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 Speaker of the Legislative Assembly, 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.

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done in earth as it is in Heaven; Give us this day our daily bread, and forgive us our trespasses, as we forgive them 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.

**MADAM SPEAKER:** Please be seated. Proceedings are resumed. Presentation of Papers and Reports. The Honourable the First Official Member.

**PRESENTATION OF PAPERS AND OF REPORTS**

**HON. THOMAS C. JEFFERSON:** I beg to lay on the Table of this House:

- (i) **Minutes of Meetings of the Standing Finance Committee held 3rd, 4th, 5th, 6th and 10th December, 1990** (The Report having been laid on the Table 11th December, 1990)
- (ii) **Report and Minutes of the Standing Finance Committee (Meeting held on the 11th December, 1990)**
- (iii) **Report and Minutes of the Standing Finance Committee (Meeting held on the 18th April, 1991)**
- (iv) **Report and Minutes of the Standing Finance Committee (Meetings held on 25th and 26th March, 1991)**

**MADAM SPEAKER:** So ordered.

**MR. G. HAIG BODDEN:** Madam Speaker, I just wanted to ask one question if you will allow. I notice the Member has laid the Report of these Standing Finance Committee Meetings. I wonder if he would tell us if those Minutes have been laid or if they are not going to be laid? It is highly unusual to have the Report without the Minutes. In the first Paper he has laid the Minutes but he said the Report had already been laid.

**HON. THOMAS C. JEFFERSON:** Madam Speaker, the Report of the 11th of December has the Minutes attached to that Report. The Report covering the 25th of March and 26th of March has the Minutes also attached to the Report as well as the one on the 18th of April.

**MADAM SPEAKER:** Thank you. Proceeding with Questions to Honourable Members, Question No. 166 stands in the name of 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. 166:** Would the Honourable Member make a statement as to the specific duties and responsibilities of the Managing Director of Cayman Airways Limited?

**Answer:** The Managing Director of Cayman Airways Limited is responsible for the overall administration

and operations of the Company. He is required to assume and perform such reasonable responsibilities and duties as are consistent with his position and as may be assigned or delegated to him by the Chairman, the Board of Directors or any committee thereof. In carrying out such functions he is to endeavour, as far as is possible, to do so from the Company's administrative offices and will not absent himself from Grand Cayman for any extended period without advising the Chairman.

#### SUPPLEMENTARIES

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say if flying the aircraft for Cayman Airways is also part of his duties and responsibilities?

**HON. W. NORMAN BODDEN:** That was the understanding with which the appointment was made in connection with the Managing Director - that he would also fly a certain number of hours each month in order to keep his commercial pilot's licence current.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** One might assume that the duties of the Managing Director would be full-time. Could the Member tell the House how is it consistent for the Managing Director to be in the office managing the Airline and also flying the aircraft?

**HON. W. NORMAN BODDEN:** He is required to fly a minimal number of hours and the administration of the company's affairs are able to be carried on while the Managing Director is conducting flight duty. He, of course, is constantly in touch with the office and this does not appear to have posed any problem up to the present.

**MADAM SPEAKER:** Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say if the person who is flying and the person who is supposed also to be the Managing Director receives two salaries for doing two jobs?

**HON. W. NORMAN BODDEN:** Madam Speaker, there is only one salary assigned to the Managing Director's post. Of course, I believe the fact that he would also be flying has been taken into consideration.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I wonder if the Honourable Member would care to explain to the House what happens in cases where the Managing Director is needed for consultation, or to make a decision, when he is flying at the time?

**HON. W. NORMAN BODDEN:** Madam Speaker, while the Managing Director is on flight duty, as I said earlier he is in constant touch with the office. However there are other personnel in Cayman Airways, such as the Operations Manager who is able to make decisions if an emergency were to come up. But there is constant communication between the Managing Director and the office, even though he might be on flight duty at the time.

**MADAM SPEAKER:** Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Is it the case that Mr. Gonzales, who was the Managing Director before the present one, is still earning the salary of a Managing Director, with that being duplicated in the case of the present person who is supposed to be managing the Airline?

**HON. W. NORMAN BODDEN:** No, Madam Speaker, the salary that Mr. Gonzales is earning as Vice-President for North America is substantially less than what he earned when he was Managing Director here in Grand Cayman.

**MADAM SPEAKER:** The Third Elected Member for West Bay.

**MR. JOHN D. JEFFERSON, JR.:** The Member mentioned that the former Managing Director is now Vice-President of North America. I wonder if he could give us an idea what his responsibilities are?

**HON. W. NORMAN BODDEN:** Madam Speaker, the responsibilities, as I understand it, are dealing mainly with the marketing and administration end of Cayman Airways in North America. He is located at the Coral Gables office where the reservations centre is and he is able to administer more the marketing and sales

end of Cayman Airways business in the U.S.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, may I ask the Member if the specific duties of the Managing Director include negotiations for the leasing of new offices?

**HON. W. NORMAN BODDEN:** I would assume, Madam Speaker, that he would be involved in any negotiations of that nature, yes.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Can the Honourable Member say whether Mr. Gonzales is involved in any of the top level decisions of the company outside of North America?

**HON. W. NORMAN BODDEN:** Madam Speaker, to the best of my knowledge there is an arrangement where there is consultation and dialogue between the Managing Director here and Mr. Gonzales in Miami. I imagine, depending on the nature of the matter that has to be discussed, sometimes it might not relate directly to marketing, it might extend into other areas.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member tell the House how Cayman Airways manages to avoid a conflicting situation with the present Managing Director being also a pilot. For example, when as Managing Director he has to decide on matters which affect the terms and conditions of the pilots' employment - their salaries and the like. How is that not a conflicting situation in the company?

**HON. W. NORMAN BODDEN:** Madam Speaker, I could not say that that would create a conflict because there are other personnel, other Cayman Airways staff responsible for flight operations. I cannot see how as the Managing Director with part-time duty as flight crew could pose any conflict in the company or create any problem because, as I said there are other people involved in the decision making process within the company.

**MADAM SPEAKER:** The next question No. 167, standing in the name of 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. 167:** Would the Honourable Member say what is the current schedule of air service to Cayman Brac; have airfares been increased and, if so, when and how much?

**Answer:** Cayman Airways current schedule provides 7 round-trip flights per week between Grand Cayman and Cayman Brac using Boeing 737 aircraft. Flights operated by Island Air on behalf of Cayman Airways Limited total 11 round-trip flights per week between Grand Cayman/Little Cayman/Cayman Brac, plus 9 additional round-trip flights per week between Cayman Brac and Little Cayman. Airfares on the inter-Island services have not been increased.

**SUPPLEMENTARIES**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Is the Member saying that in the most recent schedule published by Cayman Airways, the number of flights to Cayman Brac by the jet aircraft have not been reduced?

**HON. W. NORMAN BODDEN:** I think the jet aircraft service to the Brac has been reduced probably by one flight. I think a flight on Thursdays has been withdrawn, but besides that there are seven flights.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Can the Honourable Member say whether these flights were reduced after he got the third jet?

**HON. W. NORMAN BODDEN:** No, Madam Speaker, the schedule was planned for the 18th of June (I think that is when the current schedule went into operation) and I do not remember exactly the date that the third jet went into service, but this was planned in advance.

- MADAM SPEAKER:** The Third Elected Member for George Town.
- MR. TRUMAN M. BODDEN:** When did you take the decision to lease the third jet? This was before the flight schedule was it not?
- HON. W. NORMAN BODDEN:** Yes, that decision was taken early in the year, I think when the company was considering the operation to Turks and Caicos Islands.
- MADAM SPEAKER:** The Third Elected Member for George Town.
- MR. TRUMAN M. BODDEN:** Therefore the company must have known it was getting a third jet shortly after the flights were to be reduced. They had gotten a third jet, but the operation of it was shortly after.
- HON. W. NORMAN BODDEN:** That is correct, Madam Speaker.
- MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.
- MR. GILBERT A. McLEAN:** Would the Member say when were the last airfare changes in Cayman Airways on the inter-island services?
- HON. W. NORMAN BODDEN:** I do not have the exact date on that, but I would imagine it has been quite some time ago. Probably a year or more.
- MADAM SPEAKER:** The Third Elected Member for George Town.
- MR. TRUMAN M. BODDEN:** Would the Honourable Member say whether he or the company is now considering changing the cost of the airfares by increasing them?
- HON. W. NORMAN BODDEN:** As the House knows, at an earlier meeting this year there was some consideration being given to increasing the inter-island airfares. However, as a result of various discussions that took place between Government and the airline, it was decided to maintain the status quo on the airfares for the time being. However, I could not make a commitment that airfares will not be increased to Cayman Brac and Little Cayman in the future.
- MADAM SPEAKER:** The Third Elected Member for George Town.
- MR. TRUMAN M. BODDEN:** Is it a fact that any serious increase or any reasonable increase in airfares will impact heavily on the tourism and the traffic to the Brac?
- HON. W. NORMAN BODDEN:** Madam Speaker, I could not say to what extent there would be an impact. It depends to some extent on the amount of the increase, nevertheless, the company will take that into consideration as will Government. Whenever there is an increase in any commodity there is a certain amount of resistance from the consumers. But to the extent that would impact on tourism depends on the amount of the increase, I would say.
- MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.
- MR. GILBERT A. McLEAN:** Now that the airline has three planes and this House has been told prior to this that it is going to have four, because it is taking on one in January of 1992, is any consideration being given to improving and increasing air services by the jet to Cayman Brac?
- HON. W. NORMAN BODDEN:** Madam Speaker, I would say that seven flights a week to Cayman Brac by the Boeing 737 is more than adequate air service based on existing market conditions.
- MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.
- MR. GILBERT A. McLEAN:** Just a follow-up on that to ask the Member if any thought is being given to making the hours a bit more convenient to the travelling public, particularly on week-ends, Fridays and Sundays when there is considerable local traffic?
- HON. W. NORMAN BODDEN:** In the last schedule change the hours for arrival and departure were considerably improved. This is constantly under review and I am sure that as soon as the company is able to offer an improvement in the arrival and departure times it will do so.
- MADAM SPEAKER:** The next question, No. 168 standing in the name of 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 HEALTH AND SOCIAL SERVICES**

**NO. 168:** Would the Honourable Member state if any official inspection is carried out at any time by any Department of Government on the conditions of apartments and other accommodation offered for rent to local people?

**STANDING ORDER 23(5)**

In accordance with the provisions of Standing Order 23(5), the Honourable Member sought to defer answering the question.

**MADAM SPEAKER:** I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. QUESTION NO. 168 DEFERRED FOR ORAL ANSWER.**

**MADAM SPEAKER:** Question No. 169, 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. 169:** Would the Honourable Member say what was the total cost of the public relations and advertising blitz tour, involving the Governor and the Member for Tourism and other Tourism and Cayman Airways Limited personnel, carried out in the United States of America?

**Answer:** The total cost of the public relations tours conducted by the Department of Tourism earlier this year, which involved the Governor and the Member for Tourism, Aviation and Trade, was CI \$8,406.48.

**SUPPLEMENTARIES**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could the Member say how much time was involved in this particular exercise?

**HON. W. NORMAN BODDEN:** I would say a total of six days.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Can the Member say if he has seen any results of this particular effort in terms of the numbers in that time?

**HON. W. NORMAN BODDEN:** Madam Speaker, it is difficult to say exactly what the results were, but I would venture a reply based on the improvements in our tourist/air arrivals the following months as compared to other destinations in the Caribbean. I would say that they were positive results because of the tours referred to.

**MADAM SPEAKER:** The Third Elected Member for West Bay.

**MR. JOHN D. JEFFERSON, JR.:** I wonder if the Member could say how many tours the Governor accompanied the Member on?

**HON. W. NORMAN BODDEN:** Only one, Madam Speaker. There was a promotion in south Florida which involved a promotion in Fort Lauderdale and the Governor travelled to Fort Lauderdale for the day only, travelling in the morning and returning to Grand Cayman that night.

**MADAM SPEAKER:** The Third Elected Member for West Bay.

**MR. JOHN D. JEFFERSON, JR.:** Are there plans to continue this tourism blitz including the



Governor?

**HON. W. NORMAN BODDEN:** There is consideration being given to conducting similar promotions in gateway cities. In Atlanta and Tampa it has already been done, but no definite date has been set for any promotions involving the Governor in other gateway cities at the present time.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** During the time of the promotional tour was there a clear indication that more interest was generated within the advertising and travel industry representatives there because the Governor of the Island was present?

**HON. W. NORMAN BODDEN:** Yes, Madam Speaker, I would say that there was considerable increased interest generated in those promotions which involved the Governor. I know in the Tampa area the *Tampa Tribune* carried an article on his involvement in that promotion, and there were also letters received from the media and from Caymanians living in the area as well.

**MADAM SPEAKER:** That concludes Question Time. We will proceed to Government Business, Bills, Second Reading Debate on The Health Services Authority Bill, 1991, the Third Elected Member for West Bay continuing.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE HEALTH SERVICES AUTHORITY BILL, 1991

(Continuation of debate thereon)

**MR. JOHN D. JEFFERSON, JR.:** When we adjourned yesterday I was dealing with some suggestions as to ways the Member could improve the quality of Healthcare services that are made available to our people in this country. I mentioned that funds were voted for improvements at the George Town Hospital, and that getting those renovations done would be a step in the right direction for Healthcare services in this country.

Another suggestion I would throw out is that focus be directed on the quality of care and services presently made available to our people. I was a civil servant for many years, and I can assure you that any time that I had to visit a doctor, and the mere fact that Government was offering a free service to civil servants, I automatically went to the George Town Hospital. Any time I decided to go to the doctor I could set aside a day for that purpose, which I think is ridiculous, Madam Speaker. Time is very important and I think personally that a lot can be done to improve this area of service. I think there has to be an emphasis on urgency and care. This could probably be improved by running or offering in-service courses in public relations, Madam Speaker.

I had an unfortunate experience about two or three years ago while helping a young boy who had broken his arm (through an accident). When we arrived at the hospital, there was no urgency displayed whatsoever. The young man almost fainted from the pain and there they were - rather than trying to get on with the job, they were asking for his name and how old he was, who were his mother and father, and that type of thing. Those things, Madam Speaker, are necessary, but you must give the most important things priority. You take care and administer the service first and then, if you need to take care of those details, you sit down with the young man or his parents and get that information.

I feel the other thing that is very necessary, if we are going to see any significant improvement in the quality of service that is made available through our public facilities, is that the salaries of doctors and qualified nurses and other qualified personnel must be raised in order to attract the right calibre of people to those posts. We seem to attract the semi-retired, the retired and those people who are at the end of a career who no longer have any great incentive and, as a result, we have numbers, but we do not have quality. I think if we are ever going to be in a position where we can offer the quality of service that our people expect we must do something in this area.

I am not surprised that this move is supported by the private practitioners operating in the Cayman Islands. I can assure you that as a result of the Government's taking measures to establish an Authority for Health services in this country (which, as I mentioned yesterday, is going to result in an increase in the cost of the service) will only generate a greater portion of business for private practitioners in this country because the fees are going to be comparable - the environment is very different than you will find at the hospital and you are in a position where you are taken care of promptly and by professionals. So I do not expect the private practitioners in this country to object to this move. It is going to mean money in their own pockets.

Madam Speaker, I agree with some of the previous speakers that the role of the Member in this particular piece of legislation is too predominant. Rather than its being named the Health Authority, I think it could be appropriately renamed the 'Member's Authority', because I went through the

Bill to see how many times the Member's name was mentioned and what his role was and it is alarming. Just to quote a few sections: section 7, subsection (d):

"7. (1) The Authority shall, subject to the provisions of this Law and any other statutory provision, have the general charge and management of the health care facilities and any property, moveable or immovable, appurtenant thereto.

(2) (d) to make recommendations to the Member on the development of the health care facilities and the health care services in the Islands and on such matters as the Member may refer to the Authority for advice;

(g) to provide public health care programmes as determined by the Member and under the direction of the Medical Officer of Health, utilizing such funds as may be specifically appropriated for those purposes by the Legislature."

I thought the whole objective of establishing an Authority for this purpose was to move the service outside, or as far as possible from the realms and the interference of politics, and put it on a footing which is basically independent and with limited input as far as the political arm is concerned. That will not be achieved through this exercise, Madam Speaker. In section 19 (2) (c): "The accounts prepared for the purposes of subsection (1) shall set out- (c) such other matters as the Member may specify. (3) Without prejudice to the provisions of subsection (2), the Member may give general or special directions with respect to the accounting procedures of the Authority and the Authority shall act in accordance with such directions."

Now, Madam Speaker, I do not think the present Member, nor any future Member of the Authority, or for Health, will be in a position where they are the all-knowing expert in every area. When you come to the accounting side of it we have special provisions in place to take care of those functions. We have the Auditor General and an Accountant General who are there to advise and recommend accounting procedures and systems for any Authority or any agency of Government in this country. They do not have to rely on the Member for that, Madam Speaker.

Section 20 (3) says: "In addition to, or in substitution for, the audit carried out for the purposes of subsection (1), the Member may at any time require the auditor to examine and report upon the accounts of the Authority or any part of those accounts and the Authority shall provide the facilities necessary for such examination." Madam Speaker, the role of the Member, as far as the accounts are concerned, is that he should see that the audit is conducted on time, within the three months (or whatever) of the financial year end. Once those accounts have been finalised I think it is the responsibility of the Member to make sure that those accounts are brought here and laid on the Table of this Parliament. That should be the role of the Member with regard to this aspect of the business.

Section 22 reads: "Without prejudice to the generality of section 21 the Authority shall forward to the Member such returns, statistics or other information as the Member may, by notice in writing, require." I have no objection to the Member being kept informed, but, then again, this should be just out of courtesy. As a general policy the Member should continue to be advised of what is going on in the Authority, but I think the role of the Member is much too predominant.

Section 25 reads: "The Member may, after consultation with the Authority give such general directions in written form as to the policy to be followed by the Authority in the performance of its functions as appear to the Member to be necessary in the public interest." Madam Speaker, the whole idea of establishing an authority is to make it independent. Employ the right people with the proper qualifications to manage the thing and then take an off-hand approach to the daily involvement of the Authority.

Madam Speaker, the last section I would like to quote is section 26 - (1), (2) and (3) which deals with the licensing of private health care facilities: "(1) The Member may, on an application being made to him, after consultation with the Authority, grant a licence for the operation of a privately owned health care facility at which patients are kept overnight, or at which obstetrical deliveries, or surgical operations, or health care programmes are carried out." Why should an application for the licence of a private health care facility be the responsibility of the Member? The Member is a politician, and any future Member will find himself in the same position. When a Member finds himself in that kind of a position, where he has to make a decision of that nature, he puts himself in a very unpopular position. I think that this particular function should be the responsibility of a board that is established for that purpose, and applications of that nature be forwarded to the board for its approval or refusal.

Subsection (2) says: "If, upon an inspection of the premises by the Authority's nominee it is found that the premises are not longer suitable for the purposes specified in subsection (1), or are no longer being used for those purposes, the Member may, on the advice of the Authority, cancel the licence." Again, Madam Speaker, Government is in the position where it is competing against the private practitioner for those services, so it is very important for everyone involved that there at least appears to be an objective and independent role as far as the Member is concerned. Subsection (3) reads: "Before a licence may be cancelled pursuant to subsection (2), the Member shall give to the licensee fourteen days' notice in writing specifying the faults or defects which would justify cancellation of the licence, and calling upon the licensee to correct those faults or defects within a period of time specified in the notice, failing which the licence will be cancelled." Madam Speaker, all good provisions, but it should not be the responsibility of the Member.

The Backbenchers are concerned about providing and improving the health care services made available to the people of this country and our contention is that this move

by Government does not, in any way, achieve that objective. What amazes me is that the First Elected Member from Cayman Brac knows better. In a private conversation, he voiced the same concerns we have - that before any move of this nature took place the Member should have made arrangements to put in place a proper National Healthcare Insurance Programme for our people. He should have been man enough to tell the Member, 'No, I am not supporting this until you put this programme in place.' I think the people of this country expect and deserve better from the Member - who is a senior Member of this House. It makes me wonder how far his support will go for this Government. I think it is wrong and, like he mentioned yesterday, he is the deciding vote and I think he should take that responsibility much more seriously than he does.

I also believe that as a result of this move, if Government is called upon to make a contribution as far as those services made available to civil servants are concerned, that Government will have to be in a position where it says, 'all right, in order to make sure that these services are made available to the Civil Service it is going to cost \$100 a visit to go to the Hospital compared to \$90 for civil servants to be in a position to go to a private practitioner.' Government will then have to be in a position where it weighs the cost of that service to its civil servants. Any Government, I do not care which one, will have to satisfy itself that its money, which is the money of the people of this country, is well spent.

Madam Speaker, like I mentioned before, to establish an Authority for port services, water services, or any other service of that nature, is fine. These are commercial ventures. Why is the Member for Education not bringing a Bill to establish an Authority for Education? It is the same principle, Madam Speaker. Every citizen of any country deserves the right and access to quality education regardless of whether or not that person can afford it. The same principle holds true with regard to health care services of any country. So, I do not support this move by the Member and I think we will find, after the Authority is established, that there will be an exodus of people who now visit the Hospital for services, because in order for the Authority to be financially viable, an increase in fees has to take place. There is no question about that. It will then put them in a much more uncompetitive position with respect to those services which are being made available through private practitioners in this country. What we will find is that the cost of the service as far as Government is concerned will not in any way decrease because Government will still be called upon to heavily subsidise the health care services in this country.

So, Madam Speaker, I do not support that move. In closing, I would just like to quote a verse of a poem which says:

The glorious lamp of heaven,  
The sun.  
The higher he is getting,  
The sooner will his race be run;  
And nearer he is to setting.

The sun of this present Government is fast setting and that is the only hope that the Backbench and the people of this country have, when we can go back to the polls and vote a Government into position which has the interests and welfare of our people at heart. Thank you.

**MADAM SPEAKER:**  
Cayman.

The Second Elected Member for Cayman Brac and Little

**MR. GILBERT A. McLEAN:**

Thank you, Madam Speaker. I rise to speak on the Bill which is before the House, "A Bill for a Law to Establish a Health Services Authority to Administer the Health Care Facilities in the Cayman Islands and to Make Provision for Matters Connected Therewith and Incidental Thereto."

A number of Members of this House have spoken on this particular Bill. I have noticed that other than the Member from the Government side who moved it, no one has made any comment whatsoever. Perhaps they are leaving him out on the limb on this particular one. However, that is not the concern of this side of the House, and certainly not mine personally.

First of all, some speakers have given the impression (and the Member in presenting it has also tried) that this is a very simple managerial and administrative exercise. That impression is highly misleading to the country as a whole. What is being proposed here is a radical change in the system which provides health services and the way this system has been administered in the Cayman Islands from the time that there were people in these Islands who had anything resembling a health facility. The change which is being proposed here is bringing about a cultural change in that, on the one hand, this is a brand new mechanism and system - modern to some extent in its approach, I admit, but it proposes to leave behind that with which the people of this country have always been familiar.

There has generally always been a Member responsible for Health, there has always been a Government Hospital, the George Town Hospital (and in later years the Faith Hospital in Cayman Brac), but what this Bill is proposing to do is to put new pilots in place to manage the George Town Hospital, the Faith Hospital in Cayman Brac, the Health Clinics and any other facilities that might come in the future. It is a radical change. It changes our whole cultural aspect in this particular instance. It specifically changes the management of the Hospitals. I am not here to say that the Hospitals have been wonderfully managed, but I do believe that the Hospitals have been managed properly to the extent that we have recognised good health services - although this is something that the Member responsible for the subject has denied on different occasions here in this House. I have criticism of the system, as do members of the public, but the management as it presently exists does operate the two Hospitals and for that matter even the Health Clinics.

This proposal is recommending and will bring about changes in

the appointment of medical staff now in these Hospitals. The whole system will change. One wonders if the persons now working there (and I think the First Elected Member for West Bay cited a number of over 300 staff involved with the operation of the George Town Hospital) will be considered civil servants or retain those benefits and so on, based on what is now being proposed for their appointments and their dismissals. Whether or not the staff is conscious of it or have taken the time to read this Bill, or whether they have received any assurances from the Portfolio responsible for Health, I do not know. But it is my opinion that as intelligent people they should become a bit concerned about what this Bill is bringing about.

There will be changes in the conditions of service of staff in the Hospitals. One in particular, I cite again - the process of dismissal, as apparently all persons will be on contract for a year, or at least their appointments will be on a yearly turn-over, at maximum of three years.

This proposal also changes the whole concept of medical services in these Islands. It has been suggested by at least two speakers that this is no big stuff. We have a Port Authority, Water Authority, Sewerage Authority, Currency Board and an Airport Authority, so this is really nothing, and that no great changes are being made. I do not know whether those persons are aware that by changing the organisational structure and the terms and conditions of service they will bring about changes or not, or whether they simply wish to give the wrong impression.

One of the most significant things about this proposed Authority is the fact that all of the other Authorities I have cited (the Port, the Water, the Sewerage, the Currency, the Airport) are not involved with freeness to the public. No one allows aircraft to freely land and take off and provide services for it; the Currency Board does not give away dollars to the poor or the needy; the Water Authority, you must pay for it; the Port Authority, when ships dock up they must pay certain fees and the people taking containers off and all the rest of it must pay certain fees. There is no 'freeness' involved.

In fact, these Departments of Government prior to going into the arrangement of Statutory Authorities were, in effect, paying their way. The Hospital services in this country have never paid their way, and we know why. It is because there is so much free service given. If I remember correctly, the Member informed this House that approximately 59 per cent of the service given is actually free. So, we are talking about an arrangement of taking that type of situation and putting it into a Statutory Authority. Only one of two things can be considered as I see it: either the Government is going to continue to put the largest part of money into that Authority and allow it, at far arm's length, to do what it chooses with it, or this Authority is going to attempt to extract from the paying percentage who go there for those services, enough money to pay for the overall situation. I am suggesting that if the latter is the case, that is a wrong concept.

The other Authorities are virtually guaranteed to make a profit by virtue of their function. What we are looking at here is the medical services of this country, which are heavily subsidised by the Government. I do not criticise that, because I share the view as expressed by the Third Elected Member for West Bay, that there is an inherent obligation on any state, on any Government, to provide the very best in medical services for its people. I am not attempting to say that over the years the Cayman Islands Government has not played an exemplary role in that particular respect, because I honestly believe for the amount of free medical services given or subsidised by this Government, it is truly outstanding on the world scene, given economics of scale.

There is no evidence whatsoever to show that by taking the Government services, the Hospitals and all the rest of it, the staff of these institutions, and setting them up in an Authority such as this, that there is any guarantee whatsoever that the financial position will change. It is one instance I believe where, instead of lessening the bureaucracy, it will be adding to it.

This proposed change is about people. If there were not people in the Cayman Islands, who would recognise a little land mass that is called the Cayman Islands? I subscribe fully to the efforts of Government to provide medical services, as I have said, and I believe, too, it must be done in the most efficient manner that is possible. But I see no such condition in the creation of this proposed Authority.

The Bill proposes the vesting of all of the properties, all of the Hospitals, the Clinics and so on, in the Authority. Then, when that is done, this Authority, or this Government, or the Member responsible for Health, assumes that 12 people (who will comprise or constitute this Authority) will have more interest in seeing that the health services are administered in a better manner than it has been before under the arrangement with the Portfolio and the Principal Secretary, the Chief Medical Officer and the Hospital Administrator. It must be that particular way.

A question that does not seem clear to me in this Bill is: Who appoints these Members of this Authority? It has identified three persons, whom I take to be in the present existing structure - the Principal Secretary for Health, the Chief Medical Officer (who seems as if he would have a name change to Medical Officer of Health), and the Chief Executive Officer (whom I assume is presently the Hospital Administrator) and the Chairman of the Medical Staff Association of the George Town Hospital. I will speak in some greater detail on the Medical Staff Association as I glean or understand it from this particular Bill.

It says, "(e) not less than six nor more than eight other members appointed by the Governor"...which will make a total of 12. I believe that in that number of six or eight lies a considerable revelation or hidden factor which has not yet come to pass, which is certainly a variable. Will these persons be specialists, or persons who are associated with health services? Will they be nurses, doctors, accountants, or managers? I wonder. Indeed, just what and how much will be their commitment to undertaking this massive exercise? Madam Speaker, these Members of the Authority will be paid such monies as the Governor may determine, so there is cost that heretofore did not exist. What that amount will be is not specified. It is left for the determination of the Governor, I would imagine, on advice from the Member for Health and, perhaps, from the Personnel Department, I do not know. That, again, is left without any precise statement. Minimum times are set for how many times per year it should meet.

Madam Speaker, the Authority shall appoint, on such terms and conditions as it may think fit, a Chief Executive Officer. As I said, I am assuming that the Chief Executive Officer is what equates now to the Hospital Administrator. Will the terms and conditions of the person who presently occupies this post change and, if so, what changes will there be? This person is supposed to be a full-time officer of the Authority and the Principal Executive Officer. Medical Directors - The Authority shall also appoint Medical Directors. Who are they supposed to be? What are their functions? These are pertinent questions, I believe, Madam Speaker, to this whole exercise. If we look at the definitions it says: "Medical Director means a person appointed as such under section 9;". But all section 9 says is that there will be Medical Directors. I am asking the question: Who are they? What are their responsibilities and what are their functions? There will be a Medical Director for the George Town Hospital; a Medical Director for the Faith Hospital; a Medical Director for Public Health Programmes, and there shall be other Medical Directors, as may be necessary, for other health care facilities.

Madam Speaker, I see lurking in the shadows of these unexplained statements the dark spectre of a now localised creature called IHC. I fear that particular entity because this exercise, I believe, stems largely out of recommendations that have come as a result of the intrusion of this particular entity into the health care of the Cayman Islands. How can we have Medical Directors when they do not tell us who these Medical Directors are? They are bringing about changes that have hitherto never been before, and there can be many of them. We hear talk of a new Hospital, \$20 million, \$30 million. All of this figures in, and should be the concern of responsible representatives of the people when looking at what is proposed here. I trust that the Member can give some explanation of these particular posts and what they are all about and what they are supposed to do. Certainly, again, I say there is an additional cost factor in this exercise.

I would like now to refer to the Medical Staff and read section 10(1) which says: "The Authority may, after consultation with the appropriate Medical Staff Committee, appoint a medical staff in respect of each health care facility.". What comprises Medical Staff? Is it doctors? Nurses? Technicians? Nurses assistants? Are all of these considered Medical Staff, or does it set just with doctors and perhaps nurses? What comprises the Medical Staff of each health care facility? Does it mean that the 300-odd people who are now working in the Hospital are going to be taken in and reappointed? because they already are appointed as civil servants. What is going to happen with them?

Medical Staff Committee - what is that? Again, what does the Bill say? "Medical Staff Committee" means a committee established under section 14; "All section 14 says is that:

"14. There shall be established a Medical Staff Committee for each of the following -

- (a) the George Town Hospital in Grand Cayman;
- (b) the Faith Hospital in Cayman Brac; and
- (c) any other health care facility or programme as the Authority may determine from time to time."

What is the Medical Staff Committee? Should there not be a clear definition of its function as it was set down for the Authority here as to what that Medical Staff Committee is about? How does the Member in good faith and reason bring this Bill here which talks about a Medical Staff Committee which is not explained and which obviously is one other aspect of this new organisational structure which he proposes to bring into place? It goes on to tell us that the medical staff will be subjected to certain conditions. They will be appointed for one year or a maximum of three years. Are we talking of doctors or are we talking of nurses? Is it the case that every year, for example, if it is doctors and nurses, that each year they have to renegotiate a contract or a renewal of their appointment? Is that good sound management in a situation where we find ourselves with a dearth of doctors and nurses? Or is there an unknown source for these once this Bill is passed?

Now, one thing that concerns me is (and I am reading 10 subsection (4)): "The Authority may, by notice in writing, terminate any such appointment for good cause before the expiration of the period of the appointment.". Before the end of contract, the Authority may terminate the appointment of medical staff. Again, we will know who they are when that is defined. 'Good cause', Madam Speaker. I know lawyers earn vast sums of money by the creation of terms which they alone can explain, with no disrespect to my good friend on this side of the House. I am wondering if examples should not be set down in here of what it is all about. Someone goes crazy, or if someone is convicted of some offence, or something of the sort. 'Good cause'. That term simply put that way, gives me some concern.

Now, what is open to a person in terms of appeal if his contract is terminated before he would normally be at the end of his time or appointment? The option open to him is that he can appeal to the Grand Court within seven days. Seven days is a very short time, particularly within the Government bureaucracy and the process which has to be followed. I do not necessarily believe that when the situation changes (as the voice from this side has made us understand it will) that this will mean that a person will be served a letter, instantaneously told to pack his bags and get out and everything will have gone the route it should go and give him enough time to appeal to the Grand Court. It means the he will have to go to look up a lawyer. Lawyers are not normally always available readily in many firms, perhaps most firms. You have to make appointments and all the rest of it. Apparently, if a person who is dismissed or terminated does not get his appeal within seven days to the Grand Court, then he cannot be heard. I think the time is unreasonable. There should be a longer time.

I can see no reason why so limited a time is suggested here. Why must these professionals, these doctors or nurses, be put into a very separate classification where the Labour Law apparently will not apply to them (although it is supposed to apply to the country) where they must take their

appeal to the Grand Court? The Grand Court then must ask the Authority to tell them what procedure led up to the termination and the legal justification for the decision; the basis of the opinion of the Authority to the fairness of the decision and other matters affecting the decision.

Trinidad was, as far as my knowledge serves, the first country that set up a Court to deal with labour - in the Commonwealth, that is. Their experience has proven that Courts and lawyers are not the best ways to examine the intricacies and the human elements that go into the process of the employer/employee relationship in organisations. I have no cause to believe that if there is to be an appeal the Labour Board should be excluded from that. That, to the best of my knowledge, is the Government's specialised unit or section that looks after matters which relate to termination for good cause and unfair dismissals and so on. I cannot see why the Grand Court has to be brought in on this particular act. If the persons are guilty of some criminal offence then, obviously, they will go to Court to be tried for it. But in the normal procedure of being terminated, why does the Grand Court have to get in on this particular act?

**MADAM SPEAKER:** Would this be a convenient time to take a suspension?

**MR. GILBERT A. McLEAN:** Yes, Madam Speaker.

**MADAM SPEAKER:** The House will be suspended for 15 minutes.

**AT 11:30 A.M. THE HOUSE WAS SUSPENDED**

**HOUSE RESUMED AT 11:47 A.M.**

**MADAM SPEAKER:** Please be seated. Proceedings are resumed. The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, when we took the suspension I was speaking briefly on the situation where, under this particular Law, persons would have to seek recourse to the Courts when their services were terminated prior to the normal expiry of their appointment. I would like to refer also to the section which speaks of Clinical Department and services. It is my understanding in the medical world where specialisation is the order of the day, that you will have a Head of Cardiology, a Head of Surgery, a Head of the various areas of specialisation, and I would imagine that this is what is being referred to here in this particular instance. It leads me to wonder if the Member for Health envisions creating a Hospital where an attempt is going to be made to create specialist areas within the Hospital, and what the number of these specialist areas will be; and indeed, if for the extent of our need in specialist areas it could be justified in terms of cost. I suggest that this also will be an area of cost that is not at this time the case, for if one is going to bring in a specialist in a particular field, it is natural that the cost is going to be more for the services, and so forth and so on.

The other area which gives me quite a bit of concern is where it is said that the Hospital will be run as a business, and I believe, a business for profit. I cannot agree with the situation, for example, in the United States, where high costs are attached for the service rendered by those persons, namely doctors, who are in a position to help the maladies and the ailments and the diseases of their fellow man. Anyone who has found it necessary to go to the United States for health services knows that the money they pay is excessively high and it continues to get worse in that country.

Just a few weeks ago, Madam Speaker, the Government of the United States was looking at ways and means of insuring so that all of its citizens were able to get medical care which was necessary. I remember seeing on television at that time the figure quoted was supposedly 31 million people in that country that did not have access to the health care services which they needed. But I would believe that some of the highest costs can be found in doctors' fees and hospital fees in the United States.

I am suggesting that the Member's idea for setting this up is to bring in an American system here - where this system is supposed to pay for itself and indeed make a profit - that, too, is against all of our known cultural norms. The profit motive in this, while not attempting to deny a doctor, a nurse, a technician or whoever offers medical services, the right to earn reasonable fees, this situation as set out here could be setting the stage for a runaway condition where doctors, and fees, could be extremely much higher than they are now.

Section 16 says, "(1) So far as practicable, the Authority shall administer the health care facilities and programmes to ensure that its expenditure will be within the financial resources available to the Authority by the collection of fees, appropriations by the Legislature, and any other source, including allocations for the replacement of plant and the provisions for depreciation of assets." That section also tells me that there is no such thing as this Authority, believing at any stage they are still not going to require Government's money. So if they are going to require Government's money to the extent that is presently paid, then what is the purpose of this particular change which is suggested here?

It says that the fees would have to come to the Legislature for affirmative resolution. Madam Speaker, the list of fees here in the Schedule the Member has provided us with did not come to the Legislature for approval. These are fees which have been fixed and which, if one compares them to the American situation, get fairly close to that in terms of some of the costs. Not that we should compare them to that, because I argue this is the Cayman Islands, and the United States is the United States, and within our social and economic setting we should be conscious enough to be aware that the resources in the United States are not here; that the many social programmes that pay for medical services are not here, to say the least. The Member did not attempt to bring into play a form of national health insurance which is essential when it comes to the

question of paying the high fees which are presently imposed.

Who determined these fees and why they were determined at this level, I am not sure. Again, I believe that 'Mr. IHC' had something to do with this. These fees are but the beginning and, certainly, if the two Hospitals and Clinics in this country are to be run as a business, if they are expected to pay, then the fees are going to be increased to those who are paying. It does not matter how high the fees go to those who are not paying. Will Government change its position in terms of providing health care for those who cannot pay when the fees escalate even higher?

There is a list of persons who would be given free treatment. I do not disagree with this, although I say, again, that I think in terms of generosity towards its citizens the Cayman Islands has one of (if not the most) generous policies towards health care services for its citizens. But the point to be made is that there are costs, and the costs continually increase. So what we are talking about in the final analysis is how much will it cost? Many people in this country at this time protest over the fees that are presently being charged. Those fees, I believe, will get higher if this Bill is passed. It is clear that this Authority - this group of 12 people - will be expecting Government to put annually into it monies which it will spend, and Government will be kept at two arm's lengths, or more, from its workings, except through the role the Member responsible will play.

On the question of money, the Authority cannot borrow without the approval of the Governor, but I do not see anywhere in that section where that has to come to the Legislative Assembly for approval. I wonder, if approval were given for \$30 million to build a hospital, whether that would simply be done by the Governor giving approval in Executive Council, with the Government underwriting that cost, without it coming to this Legislative Assembly for its approval?

There is something that I believe is totally contrary to what normally happens in Government, and that is: "19. (3) Without prejudice to the provisions of subsection (2), the Member may give general or special directions with respect to the accounting procedures of the Authority and the Authority shall act in accordance with such directions." For no reason that is evident to me, do I see good cause why that clause should be there. Why should the present Member, or any Member to come, give directions about the accounting procedures? I would imagine that if this Authority were to be set up it would seek the advice of Government's Auditors, or the Finance Department, or even an independent accounting firm to set up its procedures, and those procedures would be the procedures followed. I can see no cause, no justifiable reason whatsoever, for the Member, any Member, to do such a thing.

It also says in section 25: "The Member may, after consultation with the Authority give such general directions in written form as to the policy to be followed by the Authority in the performance of its functions as appear to the Member to be necessary in the public interest." I am not one who believes that the politicians of this world are people who find themselves in public office, elected by the people, who have inherent qualities of being thieves. So I really have no great trauma or fears about the elected representatives of the people administering that which is assigned to them constitutionally and through the Government administration. However, I believe that the national health policies would be something that would be decided on in Executive Council and that when it was decided there, where any Member - and I may say the present Member does have qualifications in one of the specialised areas of health care, but the next Member might be a farmer. So, what one should sensibly do is to put in place that which is sound and practical, so it does not matter who the Member is, the necessary information and assistance would be available to the Member at that time.

I also question why the Member should be the licensing authority. If it is to sign a licence, that it takes his signature, well fine. But why the Member to licence private hospitals? If this Bill proposes to set up an Authority that will be the "be all and end all", and if one is to assume that it will have the persons who have knowledge in the various fields of medicine and all the rest of it, would it not seem to follow that persons who wish to have a private hospital licensed would apply to the Authority for a licence? I can see no cause, again, why the Member should be the one to issue the licence. After consultation with the Authority why not the Authority to approve, and the Member sign the certificate if need be? I cannot see the purpose of that. Perhaps the Member knows, it is surely not clear to me.

Now, very significant are the provisions in this Bill for the regulations. I am suggesting that this Bill is very inadequate for the reasons which I have cited earlier. It does not explain, for example, what is the Medical Staff Committee, and what its functions are, or who appoints this Authority and all the rest of it. But very significant in this is the Regulations. Section 27(1) says: "The Governor may make regulations (a) prescribing anything which may be or is to be prescribed under this Law; (b) prescribing professional and other qualifications required by officers of the Authority..." "Officers of the Authority", we would wonder, Madam Speaker, what would the Chief Executive Officer's, for example, qualifications be? Why not in this Law say it will be someone qualified with a degree in Hospital Administration from a recognised university of the United Kingdom, United States or whatever? That has been left out. It leaves, therefore, the opportunity for questions, wondering who and what will be their qualifications?

Now, in (c) it says the Governor may make regulations: "(c) prescribing the conditions under which medical and dental practitioners shall be admitted to the health care facilities to practice their professions;" If there is one thing that I have heard from different doctors at different times regarding people who have had difficulties at the Hospital, it is the fact that if a patient goes there as the patient of Doctor X in the private sector, there is a problem at the Hospital about whether the nurse in there should see the patient; or whether the doctor can go to see him, and what are the arrangements for that and what approval they have to have. I have heard many, many such complaints, until fairly recent times. I am saying that the Member should have in place those type of things without having this Bill passed. They are the type of things that the Member should have seen about from last year when this House gave him approval for \$1.5 million which was supposed to make improvements in the present Hospital facilities. Those have not been effected completely and, again, Madam Speaker, this year he has one million dollars to draw the plans for a new Hospital. It is fine to have a

new facility, but these are the types of things which need to be in place now. It should not have to depend on the Governor or this House passing this Bill for the Governor to write regulations saying what the arrangement is between the Hospital and doctors who go in there to make use of the facilities.

I particularly like this one: "(d) prescribing the conditions under which students shall be admitted to the health care facilities to study their professions;" I believe that is a good thing. There used to be a programme where nurses went through a year's study, practical training and then went off to Jamaica and qualified in the theoretical part of things. I understand that does not exist anymore, but we could also envisage perhaps, one of these days, some actual internship of doctors. Who knows?

The Governor may also: "(e) prescribing the duties to be performed by the various officers and committees of the Authority;" Now that comes back to the point that I made earlier that this Law should prescribe the duties and the functions of these committees. It should not be left simply to regulations. When you are talking about Staff Committees, Medical Staff Committees, Medical Directors and all of that type of stuff in the various committees it should be prescribed in the Law. It is a serious deficiency for it not to be there. The Governor shall: "(f) prescribing the composition, procedure and functions of each Medical Staff Committee."

That Medical Staff Committee, Madam Speaker, is obviously going to be a very important body because that is going to appoint the Medical Staff in respect of each health facility and still there is no clear definition of Medical Staff - what or who it includes. My argument and contention is that these duties and functions should clearly be set down in the Law. That way it will not be changed every few months to suit any particular persons or set of events. It would have to come back to this House to be changed if it were in the Law.

Job descriptions, functions, duties and responsibilities, should be here now so that the Members of this House in considering this Bill would know exactly what the Member is talking about. Here is another point that touches on a very sore condition that has been for many years: "(h) prescribing the conditions under which medical practitioners employed by the Authority may be permitted to undertake paid employment outside the jurisdiction of the authority;"

Madam Speaker, I think everyone who has had any knowledge or association whatsoever with the Government Hospital, and has some knowledge of the fact that the persons employed at the Hospital are employed on set salaries and they are not allowed private practice, look at their colleagues in the private sector whose only limitations on earning is the fact that they do not get the business. I am aware of some instances where some medical practitioners have been very unhappy about it. This is crucial, Madam Speaker. Not to a time down the line when this Bill is passed, but now. The conditions need to be determined right now for doctors practicing as to what they will be allowed to do in terms of working, otherwise for themselves, for salaries other than what Government is paying them.

We should not have to wait for regulations in the next six months on that one. It should be clearly set up now and I say to the Member that these are the things that he needs to address as the person responsible for this particular subject and these particular services in this country.

We look at section 28, Madam Speaker. "The Authority may, with the prior approval of the Member, make rules- (a) setting out procedures for the admission and discharge of patients and for patient's identification; (b) for the conduct and control of patients; (c) for the conduct of visitors; (d) for the control and supervision of clinical work and the use of the facilities of the health care facilities in the course of such work; (e) generally for the efficiency, good order and management of the health care facilities in the course of such work;"

You know, Madam Speaker, these are the things that should be in our two Hospitals right now. I do not know if the Member does not get any representation, or, if he does, that he does not listen to it, but I most surely do. The number of instances where I have heard complaints about the conduct and control of patients - Mr. 'Joe Blow' is sick and he is so sick his wife is not satisfied that he is getting the attention he needs. She is concerned, she wants to take him off the Island for attention overseas and Doctor X will not let them come out of the Hospital, and so forth and so on. These are the things that need to be defined right now. They are the problems that we have in the medical services and they are on-going.

Madam Speaker, the things which this envisages should be right now in effect in this country. These are the problem areas, these are the areas that at least seven of us on this side have been preaching a particular sermon about to the Member, hoping to get his attention on what needs exist now in the Hospital. Fix the facilities that we now have, give the services, define and set down these rules now so those working there, members of the public who go there, are assured of what the rules of the Hospital are. It should not have to wait for an Authority.

I have supported certain Bills which the Member has brought to this House and, indeed, I have commented and commended his courage in bringing them forward. Just this meeting he has brought forward a Pensions Bill. I think it was the proper thing to do, to get the input of this House and the public. But this particular Bill I do not support because there is nothing in this that shows there is going to be any greater efficiency in the management of the health services of this country. There is nothing which shows that there is going to be less cost because of this; there is nothing which shows that by setting it up it is going to pay its own way. Indeed, it seems quite clear to me that Government is going to be expected to continue to put many millions into it each year and I fear that the loose way that this is set up, without correct definition, places the Member in a position where he might exert too much personal direction or control. It also seeks, or provides, I believe, a means by which IHC can continue with its advice, which takes no cognizance of our particular social and economic conditions, and would turn our health care system into the health care system of the United States.

The Member, I believe, would be better off and could help this country more if he brought to this country a national health insurance programme that could assist the people of this country to be placed in a position where they could pay the fees that are presently levied by Government in



providing the medical services in this country.

Madam Speaker, this Bill, I believe, is not in the best interest of this country at this time. There are too many things outstanding that need to be done to improve the present facilities. Setting it up in this fashion will not improve those and, to say the least, it is too much too soon.

Thank you, madam Speaker.

**MADAM SPEAKER:**

The Honourable Member for Education.

**HON. BENSON O. EBANKS:**

Madam Speaker, I rise to support this Bill. I did not intend to speak, but after listening to the Second Member for Bodden Town, who indicated that I did not support the Bill, I thought that I should go on record as saying that I do.

Now, I would enjoy replying to much of the criticism that has been levelled against this Bill but, in the interest of time, I am not going to do so. The Honourable Member for Health is quite competent and capable of defending himself and the provisions of this Bill. Therefore, I am going to leave that to him. I am sure he is going to enjoy doing so. I will just go on record, Madam Speaker, as saying that I can understand why maybe the seven Members who spoke, or six, whoever it was who spoke against this, would see problems with it or read more into it than is there.

For example, Madam Speaker, much was made out of the cancellation of the licence. What it says about the cancellation of the licence in 26 (2) is: "If, upon an inspection of the premises by the Authority's nominee it is found that the premises are no longer suitable for the purposes specified in subsection (1), (that is as being a Clinic or whatever it was licenced for) or are no longer being used for those purposes, the Member may, on the advice of the Authority, cancel the licence." It is not that the Member can get up one morning and say that the ABC Clinic should be cancelled. And furthermore, Madam Speaker, if one goes then to 27 (1)(g) it will be noticed that there will be regulations: "prescribing a code of standards for the construction of premises licensed under section 26 (1);" So that, it would be reasonable to assume, the premises for which the licence would be cancelled would have fallen below the code of standards which as set for places licensed under 26 (1), licensed as Hospitals or clinics as the case may be.

Similarly throughout, Madam Speaker, these are the types of, shall I say, embellishments and exaggerations that have been placed on the provisions in the Bill. Section 25 which reads: "The Member may, after consultation with the Authority give such general directions in written form as to the policy to be followed by the Authority in the performance of its functions as appear to the Member to be necessary in the public interest." Knowing what I do about the operations of Executive Council, I have no fear that this is putting too much power in the Member's hands. What that section really means is that the Member, after consulting with Executive Council, will give these instructions because it is a matter of policy and in directing policy the instructions to Executive Council Members are that one must do this bearing in mind the collective responsibility policy.

So, I have no fear about that, Madam Speaker. The Member cannot go off on some tangent, contrary to the wishes of the Council as a whole and, as I said, I believe that the system envisaged by this Bill is a good one, that it will bring benefits to the provision of health services in Cayman.

I happen to know, Madam Speaker, that it works successfully in Bermuda, and I believe that we are going in the right direction by introducing and supporting this Bill. I am going to leave it for the Member for Health to reply to the specific charges that have been made against the Bill and I believe that when he is finished the Members who have opposed this will see the Bill in a different light and, in fact, I would not be surprised if, when the matter is put to a vote, they vote yes.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

If no other Honourable Member wishes to speak, I would ask the Member responsible for Health and Social Services to reply.

**HON. D. EZZARD MILLER:**

As the Honourable Member for Education said, I will attempt to answer their criticisms. I am certain that all of their criticisms can be properly and adequately answered. I will not enjoy it because it is an unnecessary and onerous task. I have never heard so much rubbish, misinterpretation, misinformation, and outright negativism in any debate on any subject in this Honourable House during my short tenure here, than on this Bill. There is so much negativism amongst the seven Backbenchers - you could not get enough 'positive' amongst the seven of them to light a bicycle light. They are not concerned about the health care of the nation. They are not concerned about access by the public, because if they had any genuine concern for the public they would have accepted the invitation that I sent to them on the 11th of April.

One Member in speaking (and I will deal in some detail with him when I get to it) reiterated that he did not make any input because I had not invited them collectively. You see their concern? Their concern is keeping their coalition together. They could not venture to make individual representation. Just for the record of the House, I will read what the letter said, and this particular one is addressed to Mr. Roy Bodden, MLA:

"April 11, 1991.

Dear Roy,

Enclosed please find the draft bill for the new Health Services Authority which I intend to bring to the Legislative Assembly in June 1991. I am willing to discuss this important

legislation with you in further detail at a mutually convenient time.

I would appreciate your input on this legislation and invite you to make any comments to me at the Portfolio by April 30, 1991.

Yours Sincerely, D. Ezzard Miller."

If they wanted to meet with me collectively, I would have met with them collectively. All they had to do was call and ask. I assumed that I would have to meet with them collectively, but they had no interest in trying to ensure that the provisions of the Bill were good for the people. They were only interested in doing what they have done here for the last several days and in trying to make the public believe that we are trying to inflict on them something that they should not have. Not one of the seven of them has made one single positive recommendation to change the Bill. They got up, in their usual fashion, and chastised the Member. That is their style. But they offered nothing of any significance in the form of input. They copy-catted what each of the seven of them has said and spent their time repeating it.

Now I will try to deal with their concerns on an individual basis. The first speaker was the First Elected Member for West Bay, who claims to be my 'shadow minister.' In keeping with standard procedure, it was mid-day when it came to what he had to say.

*(interjections)*

**HON. D. EZZARD MILLER:**  
39(c), please.

Madam Speaker, I would draw your attention to Standing Order

**MADAM SPEAKER:**  
there is undue interference at the moment - just commentaries. If it is disturbing, you can bring it to my attention again.

I am quite aware of that, Honourable Member, but I do not think

**HON. D. EZZARD MILLER:**  
Members are speaking.

It does say that the Members shall maintain silence while other

Now, that Member went off on a tangent about independence of the Health Authority. I did not say it was intended to make an independent Authority, I said it was to improve management, cost effective management, increased accountability and identify responsibility. He claims that introduction of this legislation is going to be very costly, and that from his point of view, Government must maintain total control of the health services. He went on about the pressure on civil servants by the present Government and bemoaned the fact that for this Sitting of the Assembly he could not get his usual information from the mole in the Department. That is what happens when you do not know how to use information people give you and you go so far that you identify them. All I have to say to him is that he cannot get much from a man who comes to work at 9:15, leaves at 12 for a two hour lunch and expects to keep up with others who come to work at 7:30 and work until 9:00 P.M.

He bemoaned the fact that Members of the Legislative Assembly should be able to demand information from the Portfolio. That is provided for in Standing Orders on the question. He says that the Member should have the responsibility but no authority. He said that the most recent increase in Hospital fees are unbearable and they were not brought to the House. The Legislation corrects that. In the future all fees will have to be approved by the Legislative Assembly. Now here is a Bill that is correcting what he identifies as an inadequacy under the present Law and he cannot recognise it. He says the approach is wrong. He is entitled to his own opinion.

He claims that I have the cart before the horse, or some other foul language he used, and that the national health insurance should be brought first. That might be his opinion, I would like to have seen him or anybody else convince this country that it needed national health insurance without first bringing the Hospital fees in line and obeying those rules that they keep claiming that I do not obey - Financial and Stores Regulations. But when it suits them they choose to ignore the provisions of the Financial and Stores Regulations.

There are many companies in this country today selling health insurance. In my opinion, many of them are selling it fraudulently because they are telling people that they can buy this health insurance plan and they will make a profit - "after all our health insurance plan will pay you \$350 a day hospitalisation and Government is only charging \$200. You can put the \$150 in your pocket." Worse than that, they pay the \$350 - not even on receipted bills. So in many instances the patient gets paid, the hospital does not get paid.

I have said that I will bring the Bill on National Health Insurance to Parliament in March, and it is going to be interesting to see what the approach of the seven Backbenchers to that Bill is going to be.

**MADAM SPEAKER:**  
Honourable Member?

Would this be a convenient time for you to take a break,

**HON. D. EZZARD MILLER:**

Yes. Ma'am.

**MADAM SPEAKER:**

The House will be suspended until 2:15.

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

**HOUSE RESUMED AT 2:14 P.M.**

**MADAM SPEAKER:**

Please be seated. Proceedings are resumed, the Honourable Member for Health and Social Services debate on the Health Services Authority Bill, 1991.

**HON. D. EZZARD MILLER:**

When we took the lunch break, I was dealing with the comments of the First Elected Member for West Bay. He appeared to be most confused about the provisions of the Bill because he, himself, I think very successfully contradicted himself, and argued against himself in many instances. But the most glaring misinterpretation of the Law has to do with section 10 and his elaborate dissertation about me circumventing the Labour Law.

The Labour Law in this country concerns itself with terms and conditions of employment and the termination of employment and the rights of individuals under the Law in terms of termination of employment. Section 10 has absolutely nothing to do, as they contend, with employees at the Hospital. This simply has to do with the appointment of medical staff, that is, anybody who wishes to become a member of the medical staff at the Hospital must apply to the appropriate Medical Staff Committee to be privileged to work at the Hospital. It deals only with the granting of that appointment or its termination.

Subsection (2) (had they taken the time to read it) certainly should have indicated to them that it has absolutely nothing to do with the terms and conditions of employees of the Health Authority because section 2 says, and I quote: "A person appointed to the medical staff shall not, by reason only of such appointment, be an officer, servant or agent of the Authority for any purpose.". Now how they can interpret that to mean that it has to do with the terms and conditions of employment of staff as provided for in the Labour Law is beyond me. Section 11 is very, very specific, it says: "Any person aggrieved by a decision of the Authority to terminate his appointment under section 10(4)". Note section 13, which deals specifically with Officers and staff of the Authority and the conditions under which they are employed and protects the rights of civil servants who might be seconded under the Authority. That is the section that deals with the terms and conditions of employment as controlled by the Labour Law. Section 11 deals only with termination of that appointment that was granted to a Medical Officer as a member of staff at the Hospital. In fact it deals specifically with its termination or refusal to be so privileged.

You know, if I had not put in this section (which allows these people to appeal this decision to somebody), they would have been complaining about it. Now they are trying to make the public and the staff at the Hospital believe that every time one of them is terminated if they want any rights under the Labour Law, they have no rights, and they have to go to the Grand Court. Every one of the seven of them in opposition to this Bill took that same line of argument. I took the time to explain it to some of them in the Common Room, but, as usual, they do not speak as 'I', they speak as 'we', and whatever one says, the rest have to say also, because that glue that is holding them together is getting weaker every day.

That Member also had a lot to say about this Bill increasing bureaucracy and, therefore, increasing costs and empire-building by the Member. This Bill is going to remove a lot of the bureaucracy because all of the personnel functions, all of the accounting functions are going to be in-house. We will not have to wait for three or four other Departments in Government over which the Administration of the Hospital has no authority and very little influence in terms of the speed or the efficiency with which decisions are made. In his argument as to why Government should retain total cost of health care and be totally funded, he took the cost of health care as a percentage of the gross national product. Nothing could be more dangerous than that because the cost of health care does not come out of the gross national product of this country. It comes out of Government's General Revenue, and, certainly, that is the only amount of funds that any reasonable person would venture to compare the cost of health care to - not the gross national product. After he put down all that argument, then, to justify - because there is such low cost (never more than 1.83 per cent) - he went on to point out he has a great concern about the increase in cost of medical care.

He launched into a tirade about why I should be bringing national health insurance first. Since all of them raised that issue, I just want to raise a few words of caution about the premature introduction of national health insurance. Unless you have in place the administration which can document, which can qualify the quality of the care you are offering, to start dealing with insurance companies and running the risk of law-suits, I believe the Government would be playing Russian roulette with the Treasury of this country. We first have to put in place an administrative structure that can determine and can defend itself because it has proper infection control mechanisms in place, it has proper quality assurances in place, it has proper medical staff in place and that they have proper by-laws and rules of operation before we can introduce National Health Insurance. But they will face the test of national health insurance before the 1992 election and we will see what the arguments will be then.

He claimed that you must first identify the problems, and the solution must be simple, and the least cost as possible. Do not worry about what you are getting, as long as it is the least cost. I do not operate that way, Madam Speaker. Most of what else he had to say in his debate is simply not worthy of comment.

Now I would like to respond to the Third Elected Member for George Town. As with the Pharmacy Bill, and not wanting to revive a debate that I have already won, he started off in the same vein - faulting many areas. But he did not find many faults with it in the final analysis. He made a big thing out of the fact that the Board was going to be politically appointed and that the Hospital and Healthcare should be outside of political influence. However, anything (and here he must have been appealing to his good friends at the Chamber of Commerce) that the private sector can do they must be allowed to do it. I agree with

that. This Bill provides the opportunity for total integration of medical staff on the Island.

He went on to explain that he was not too understanding or familiar with the mechanism by which it was going to operate, but he felt it would cause problems. I can assure him that it will not cause any more problems than the health policies that he put in place and penned them in so fine that nobody could read them and claimed to have circulated them to the public. His big contention is that the only reason I brought this Legislation here is to get control over the health systems in the country and I am only seeking power. He also made that colossal error (as was made by the First Elected Member for West Bay) in relating section 10 to the Labour Law. I explained it to him in the Common Room and he agreed with me when in the Common Room, but he had to come in here and tow the party line. I understand that, but he knows better. It must be painful to the public who supported him to know that he knows better and see him come in here and make that kind of misinterpretation to the Law, just to suit his political colleagues.

He had a lot to say about the borrowings, which, again, is totally unfounded, because he knows that in this Bill the Authority can borrow funds with the approval of the Governor. He also knows that nobody is going to lend this Authority funds as it does not with any other Authority of Government without Government's guarantee. He knows that that Government guarantee has to come to the floor of this Assembly to be voted on. He is a lawyer, I am not! Sometimes it comes through Finance Committee, sometimes it comes direct. But the Government cannot offer a guarantee unless it is approved by specific resolution in this Parliament. He made them believe that I could go and borrow \$50 million. He is now supporting a \$50 million Hospital. I do not know what kind of Hospital he intends to build (if he gets my seat in 1992) that is going to cost \$50 million. I have told everybody from day one - CI\$16 million. But they say CI\$16 million is too good for the people.

I do not know what kind of rubbish they are going to build for \$30 million, if \$16 million could provide a facility that is too good for the people and it is one of my grandiose schemes. But \$50 million now - you know? But knowing as I do what that Member did with funds and constructing buildings at the Hospital in the time he was there - \$50 million? You had better put another 1 before that 50 to get a decent Hospital, because he spent a couple of million up there and all we got out of it was confusion and concrete walls - little spaces that you cannot even use to store things in. There is no way of getting from A to B.... Well, that was you. You took the plan and put it down in that thing. I tried to advise you when you came in as a Member. It was a good plan, you tried to get me fired because I would not give you that advice.

Now, he had to get in his little tidbit about IHC and my ability to avoid the rules of Government and circumvent whatever I needed to circumvent to get things done. He knows that I did not circumvent anything. I take responsibility for taking it to Executive Council, taking the responsibility of the Executive Council to get a contract with IHC, to produce a product. I take the responsibility for seeing that that contract, every single item of it, was completed on time, below budget, and that Government got value for money.

If they doubt that, go look at the Dental Clinic. They would not even come to the opening when I invited them because they just could not stand to look at the kind of facility the people in this country deserved, and what I am capable of providing along with the assistance of the other six Members on Council, even in spite of their opposition.

The Honourable First Official Member, the Financial Secretary, laid on the Table of this Honourable House some days ago a document entitled, 'A Guide to the Selection and use of Consultants'. In his Forward the fourth paragraph reads: "Over the years, a practice has developed of not obtaining openly or competitively the services of management and specialist consultancies. Neither have tenders for such services costing over CI\$100,000 been passed to the CTC for approval. Instead, these tenders were referred by the Department concerned to Executive Council for approval. This practice has been subjected to some criticism both by the Auditor General and Members of the Legislative Assembly. It has also been apparent that we have not always made the best use of the results of these consultancies.". My Portfolio did what was the order of the day. These are not my words.

Now, we follow this document to the letter of the Law. In fact, it is my information that the present contract and the way it was handled for the design of the new Hospital (that they voted against the funds for), has been handled by my Portfolio staff from the design and writing of the proposal, all of what we wanted the consultants to do, right on up until the final selection which should be completed this Friday, is going to be used as a model by the Central Tenders Committee for all other tendering contracts in the future. That is the kind of Portfolio staff I have.

He, as well as his other colleagues, made a great thing of the fact that the Member could give instructions and directives to the Board. But you know, that is not what they are worried about. They are worried about what the Bill says in Clause 21 (2)(a). That is what they are worried about, because if they ever become Members responsible for this Authority that section says: "The report prepared for the purposes of paragraph (a) of subsection (10) (which is a Report that has to be laid in Parliament of their accounts and the activities of the Authority) shall set out- (a)any directions given by the Member to the Authority during that year;". Should any directions given by the Member in any one of these sections have to be contained in that Report? That is what they are fearing because they like to put their little word in the pipe-line and when things go bad then it is hands-off and blame the poor civil servants. Or, as they have done in other Authorities they have Legislated they simply make the Member the Chairman.

This Law, in spite of him, does not circumvent any checks and balances. In fact, it introduces several new ones that are not found in somebody's Authority, but I took note of the fact that in all of the Authorities he mentioned, he never mentioned the Housing Development Cooperation - which is their style of an Authority - and he should check that Law as to the powers of a Member. But I am going to re-write that one and correct it too. He claimed that the reason he did not call me and tell me he saw anything wrong with the Bill was because the seven Backbenchers can do nothing. I agree with that statement. That has

nothing to do with me. That is an indictment on their ability, not mine.

Moving on to his great dissertation about the accounts. The accounts on this are not done to the standard of the Member, they are done to the standard of the Auditor General. He is the Auditor who certifies the accounts, not the Member.

If, per chance, the Authority needed to apply for a supplementary to Finance Committee of Parliament, should not the Member be able to direct him how we want those accounts prepared and the justification thereof? Suppose the Health Authority, the Chief Executive Officer, has reason to suspect that some employee is stealing funds? Should not the Member be able to require that the Auditor General audit that specific area at that time to find out what is going on? He claims that circulating the Bill to the Association is a waste of time. Madam Speaker, there has never been a Member of Executive Council who has sought wider input on what they were doing and taking into consideration more than I have.

Many changes have been made to (the example he used) the Pension Law. Changes were made to this Bill due to input from the Cayman Islands Dental Society and due to input from the Chamber of Commerce. I could not accommodate every change that they wanted, some of the changes did not make sense. You look at the one you were circulated and compare it to the one before you, if you can.

Again, he went to great lengths to criticise me for not grandfathering institutions under the Bill as they presently exist. What is the point of writing a Law which requires improvements to protect the public but you are going to leave everybody doing what they are doing now? No, Madam Speaker, you give them a period of time to get their businesses in order, to comply with the Law. Now he made a great thing of the fact that under 26 (1) the Member may, "on an application being made to him, after consultation with the Authority, grant a licence". He would make you believe that is something that the Member is going to do in his personal capacity. The "Member", as defined in the Law - and it is in the interpretation clause what the "Member" means, it means: "Member of Executive Council for the time being charged with responsibility for health and social services and related matters;". Now I am not a draftsman, but to put his fears at rest I have no problem with changing it to Governor because it has always been my intention that those licences should be granted by Executive Council. I have sought the Speaker's permission to move the amendment in Committee.

The First Elected Member for Bodden Town said that as far as he was concerned this Bill was no more than a misguided effort on my part to do good. He would have been better off if he had not spoken at all, because I hope if he ever gets the opportunity to produce Bills for Parliament that his most guided Bill will be as good as this product. He claimed that this Bill is going to set up a powerful, insidious, medical cartel. Of course, he spoke in his usual nasty language that those educated people talk in. He comes out of the hallowed (but I believe they are hollow) halls of academia. Of course, he repeated the seven Backbenchers' claim on 10 (4) which we have already dealt with and showed how misguided and ludicrous that interpretation was. He also believes that it is going to be more bureaucratic and expensive, and he claims that the Bill defies precedent in the powers it gives to the Member. I invite him to read some of the other Legislation in the country.

I thank the Second Elected Member for Cayman Brac and Little Cayman for his support of the Bill. He made some salient points and I can give him the assurance that the regulations which have to be presented to Parliament are going to be of the standard which is going to lead to improved health care for the citizens of this country.

The Second Elected Member for Bodden Town - I think he called it a monstrosity - had one thing right: It seeks to change the way the Hospital runs and to improve it. Of course, he cannot see how the Bill will improve the health services. That is understandable, because I do not believe he read the Bill in its entirety either. I think he was towing the party-line in many of his comments as well. He had great concern that the health services might never break even. I can promise him that with the introduction of the national health insurance there will be ample opportunity for the health services and the health services authority to break even and to pay for new equipment and write off its depreciation of existing plant.

He claimed that the increase in Hospital fees has done nothing to improve the revenue. Again, I invite him to look at the revenue and estimates (which is a published document) and see what the projected revenue for 1991 is and we are on target. He claims that I can set any fees under this Law. Section 15 of the Law is very clear to me and to most members of the public who have read the Bill. "(1) The Governor shall, by regulations, fix the fees to be charged for services of health care facilities and programmes. (2) Regulations made under subsection (1) shall be subject to affirmative resolution."

That Member has many years more experience in Parliament than I, and he knows what that affirmative resolution means. But even if he did not know, he has in his possession notice on a motion that I intend to move in September, which Parliament will have to approve in order for the Authority to charge those fees in January. There is no increase in fees in that list. That is what was approved by the Governor in Council under the old Law in June 1990. Of course, he was also making his little pitch about my being able to borrow all this money and nobody having any control over it but I have already dealt with that and they know that that guarantee has to come to Parliament.

He went on to support his argument by some case that the Chief Justice had ruled in, on a decision of a Board. I only know of one such case and that was the case where his Government interfered with the decision of the Protection Board and it wound up in Court. The Chief Justice ruled that the decision of the Board stands, so that is proof positive that I cannot over-ride a decision by the Board - but that is how they used to run the country, not me.

We have dealt with his comments about the Member being the soul licencing authority. Of course he was also spouting the party line on 10 (4) and trying to make everybody believe that this Government had suddenly abandoned and repealed the provisions of the Labour Law.

Madam Speaker, the Third Elected Member for West Bay also

chose to tow the party line. I do not know if he chose it or whether they made him do it, but, anyway, he followed it because he commented on the same areas that they all commented on and they led him down the wrong path. As I pointed out, their interpretations of the Law were wrong. He also took the opportunity to chastise this Member for not completing the work on the \$1.5 million. Need I remind him of their attitude to improvements at the Hospital? They made one Member resign over that same Bill and, Madam Speaker, that is going through the bureaucratic process and hopefully all of the plans will be finalised by the 17th of August, and then it will go out to tender for construction.

He also got into the areas of the Labour Law and said Government will have to subsidise it annually. I never told anybody Government was not going to have to subsidise it. That subsidy is provided for in the Bill through estimates approved by Parliament for expenditure. The target I will be giving the Health Services Authority is to reduce Government commitment by \$2 million a year, so that in five years they are in a break-even position. Unless somebody like him goes and tampers with the instructions, it will be done. Because they might not like what I do, they might not like how I do it, but they certainly cannot accuse me of not doing, and not doing what I said I was going to do.

He followed his First Elected Member for West Bay in this thing about independence. I never claimed that we were trying to get it out of politics - be independent from Government. The Member for Health has the responsibility under the Constitution that is delegated to him by the Governor. Now I know that they are hoping that this thing would have been set out independently in left field so that when the problems start they could say, hands off and not be responsible for its actions. But this Law is going to make them responsible. It is obvious that he has not been to the Hospital lately. But he did say that the case he was talking about was some three or four years ago and the other part of it was when he was a civil servant and I believe that was even more than three or four years ago.

There have been many improvements and we no longer have medical staff who are semi-retired or retired. I would publicly say that the average age of the medical staff at the Hospital now is in the very low 40s, and we have some very well qualified people. We have three or four who are fully qualified surgeons (FRCS) working in casualty. The other day when we had a case to use them, we had three of them working on one patient and they saved her life. Nowhere else in the world would she have had three Board Certified Surgeons working on her, she would have had one surgeon and three or four interns. He claims this Bill is going to make greater business for private practitioners, I do not see how it is going to do that.

He also took the opportunity to chastise the First Elected Member for Cayman Brac for supporting the Bill and gave him some specific instructions on what he thought he should do and how he thought he should vote. I believe that Honourable Member is man enough to make up his own mind and he has demonstrated many times in this Parliament that they cannot intimidate him even when they take those attitudes.

The Second Elected Member for Cayman Brac criticised the Bill a lot in the first hour of his speech, but he saw the light in the last five minutes of his speech because he went on to say that everything I am trying to do in this Bill needs to be done now. It cannot wait until January to put all these good things in place. Lets do them now!

Well, Madam Speaker, several of those good things he was talking about are being put in place now. But you see, he was not listening when I moved the Second Reading Debate because I went as far as to tell him that we had a Medical Staff Organisation, we had a young Caymanian doctor, fully Board Certified, who has been elected President of the Medical Staff and when this Board is created he will represent the Medical Staff on that Board.

I understand fully that he also has to, at least at times, tow the party line if he wants to keep his Chief Minister status amongst the group because he cannot always oppose the party line and retain that exalted position. I understand it was necessary for him to criticise the Bill, but you could hear his heart really was not in it. He knows that to set this thing up as a Health Authority is a step in the right direction. He said that in the end.

He raised a few little frivolities which are all explained in the Law. Who appoints the members of the Authority? That is in the Law - the Governor, meaning the Governor in Council. He wanted to know who the medical staff is? The medical staff are the doctors. Some will be private doctors who apply for privileges, like, maybe, Doctor Tomlinson, Doctor Coleman, any of those that apply for privileges will get it. Some will be those that are now Hospital doctors, like Doctor Shakir, or Doctor McIntyre but the difference is, in this medical staff organisation, they will all have equal say and they will now have a direct means of input into health care policies in the country which they do not now have because they are going to democratically elect from amongst themselves a President who is going to sit on the Board and represent them at Board level in the Authority. That is the big change and nobody can argue that giving the doctors a direct voice and a direct means of input into the policies and health care administration is not a good thing.

Of course, he managed to halfheartedly follow the party line under section 10 about the Labour Law and stuff like that. He was very concerned that seven days was a short time but that does not mean that the case has to be heard in seven days. All the person has to do is register Notice of Intention of Appeal. This is not something that is likely to happen every day of the week but if we have a physician who is a member of the medical staff and he commits some grave malpractice, should not the Authority be able to terminate his appointment? He wanted to find out what 'good cause' was. That is a common phrase in Legislation. All the draftsmen use that. They tell me that the danger in trying to spell out every one of the reasons or eventualities under which you might terminate somebody, is that if you leave one out you cannot terminate them for that reason. So that is why they use that catch-all phrase, so-to-speak, of 'good cause'. The Law gives them the Right of Appeal to the Grand Court and it specifies the grounds under which he can appeal. I think that is very fair.

He was very concerned about the Clinical Departments and specialisation of the Hospital. We have all of the major Clinical Departments at the Hospital now. We have specialists working there now but they know that this Government has taken the decision, unlike most developing countries, that it cannot provide tertiary care in this country economically and have contracted with one of the top three institutions in the United States to perform high-level secondary and tertiary care and not make the mistake of other territories in trying to provide it in some half-baked fashion. That system of referral to the Cleveland Clinic is working very well.

One of his great fears was the runaway condition of higher fees. As I said, he will have his opportunity to vote yea or nay for the Hospital fees that are going to be charged by this Authority. One would hope (and, certainly, when I bring a Legislation it will), it will contain a provision in it which allows the medical and dental staff the Authority and the insurance companies to agree on fee structures and thereby control the prices which the insurance will pay. If somebody wishes to charge more than that, that is up to them, but they will only get what the insurance is willing to pay for it. So that is where the control on fees will come. He referred to the document I circulated for their information as part of the motion to be moved in September. He wanted to know where the fees had come from? Those fees are calculated by the Hospital staff in accordance with Financial and Stores Regulations. They represent as closely as possible what it costs Government to render those services. I have to disagree with him in his claim that they are equal to U.S. charges because I believe that our in-patient charges and specialist's fees are in the region of 50 per cent less than standard U.S. charges at the moment.

He also joined the Third Elected Member for George Town in advocating for a \$30 million Hospital. As I said, I do not support a \$30 million Hospital. I think \$16 million can build us the kind of Hospital that the country can be proud of and that we can render the quality and level of care that we have decided to render this country. He complained about the Regulations section and that he has not seen the Regulations. Again, he knows that those Regulations have to be brought to this House, they have to be laid on the Table and they have three months to study them and object to them, if they wish to. I know that I am going to bring them here, put them on the Table for three months and they are going to come to me two months, 29 days and 12 hours and say they never had time to study them. Time is a relative thing, Madam Speaker.

As I said, I thank him for the encouragement and the agreement that most of the things that this Bill seeks to do needed to be done yesterday, and there have been substantial improvements in health care in this country over the last several years.

He talked about the rules of the Authority as did the Second Elected Member for Bodden Town. I must thank them for bringing it to my attention because that clause does, in fact, contain a typographical error and I have also sought permission from the Speaker to move that correction during the Committee stage and that is that in sub-section 2 where it says: "Any person who fails to comply with any rule made under subsection (1)", That should read, subsection (1) (b) and (c) "shall be liable to a penalty of fifty dollars". What is the present position? The country needs improvement in its health care system, both in quantity and quality. Most of the present plant facilities are out of date, dilapidated, have old electrical, plumbing, sewage and air-conditioning systems and we are holding it together with expensive maintenance as best we can. But it is becoming more and more uneconomic to operate it as an in-patient facility for several reasons.

The demands on the institution in terms of the kinds of services and the intensity of services that we are offering has changed since the early 1970s, when we were dealing mostly with terminal diseases - high blood pressure, diabetes, and other cardiovascular diseases. Despite these problems the health care staff in the institution is looking after the public, in my estimation, remarkably well. Here I must differ with those who claim that I have criticised the staff. I have always said that we have good staff. What we need is proper facilities for them to work in and assist them, then we can reward them for their efforts and that is what this Bill is looking about. We have to do something about it and the whole health care system needs something done about it. The plan is fairly simple. We will privatise, in terms of management, and improve the planning systems.

The Health Authority Bill presently before this House is the supporting structure on which the requisite administration can be put in place to produce these changes. I will agree with the need for a prepaid National Health Insurance Plan. That is how we can secure the funding for the improvements we need in the health care system and not have to be subject to the ups and downs of the Government revenue cycle and always fighting with other areas of high, if not equal, priority such as Education and other infra-structural improvements that need to be made. There are several countries who have successfully done this. The one nearest to us, in terms of population size, is Bermuda and they have done it quite successfully for the last nine years.

I believe that with the establishment of the Health Authority, followed by the introduction of the proper Health Insurance Plan, we can pay for the operation of the Hospitals and Clinics, we can pay the principal and interest on the loan for the new Hospital and one of these days we may even be able to make a contribution to Government revenue. As I said, the target that I will be giving the Health Authority is to reduce Government's commitment to expenditure by \$2 million per year. I have made it quite clear that I believe that Government must continue to fund the Public Health side of the health care system because that kind of investment is much better to prevent disease than to treat it. To operate the health services efficiently, successfully, and cost effectively we need the flexibility of an Authority outside of the constraints placed on the professionals by Civil Service Regulations and other controls which are good in their own right in terms of the way people are recruited, the way salaries are structured, etcetera. To operate at the kind of level that we must operate before we can introduce successfully a National Health Insurance Programme, we have to be ensured that we have the highest quality of care. We need the advice, the peer review, quality assurance of medical staff organisations and committees just like all the other quality Hospitals either in North America or the Caribbean have.

The Board of the Health Authority is not political. It will be made

up of Caymanians interested in the best health system for the country, all individually qualified in their own right to contribute to the management of the health systems. The Medical Staff Committee which advises the Authority, therefore the Member and the Portfolio, is not political. There will not be, for instance, the Public Service rules which might hamper free expressions by members at Board meetings, by the medical staff or the Hospital staff. Can Members really, with a clear conscience, believe that all of these professionals involved in this Board will silently carry out unreasonable orders or directives by the Member for Health, as some of them have suggested? That is an insult to their fellow Caymanians.

I do not believe that the people in this country are interested in a totally charitable system. I believe the people are interested in a system where they are ensured they will receive quality care, access will be easy and they can pay for it through a prepaid health insurance plan. Of course, for that to work the Members must understand that the Government will have to pay the premiums of all those who are presently in the free category.

I am satisfied with the Bill before the House which has the support of the Cayman Islands Medical and Dental Society, which has the support of the Hospital staff, which has the support of my Portfolio, which has the support of the Pan American Health Organisation, which has the support of the World Health Organisation and which has the support of the Chamber of Commerce (if you can believe that!). Madam Speaker, I am content that my Portfolio has done a good job in producing the Bill. I think the Bill will serve this country well, and I recommend it to Honourable Members.

**MADAM SPEAKER:** The question is that the Bill entitled the Health Services Authority Bill, 1991, be given a Second Reading. I shall put the question.

**AYES & NOES**

**DIVISION NO. 17/91**

**Ayes: 8**

Hon. Thomas C. Jefferson  
Hon. Richard Ground  
Hon. Lemuel Hurlston  
Hon. Norman Bodden  
Hon. Benson Ebanks  
Hon. Ezzard Miller  
Hon. Linford Pierson  
Capt. Mabry S. Kirkconnell

**Noes: 7**

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

**MADAM SPEAKER:**  
have it.

The result of the division is eight Ayes, seven Noes. The Ayes

**AGREED BY MAJORITY: THE HEALTH SERVICES AUTHORITY BILL, 1991, GIVEN A SECOND READING.**

**MADAM SPEAKER:** The House will now go into Committee to consider the following Bills: The Limitation Bill, 1991; The Institute of Caymanian Heritage Bill, 1991; The Pharmacy Bill, 1991; The Health Services Authority Bill, 1991.

**HOUSE IN COMMITTEE - 3:24 P.M.**

**COMMITTEE ON BILLS**

**MADAM CHAIRMAN:** Please be seated. The House is in Committee. We shall deal with the Limitation Bill, 1991 and as is customary it is assumed the House will give leave for the Honourable Attorney General to make any necessary amendments thereto. The Clerk will now state each Bill and read the Clauses.

**THE LIMITATION BILL, 1991**

<b>CLERK:</b>	Clause: 1	Short title.
	Clause: 2	Interpretation.
	Clause: 3	Ordinary time limits subject to extension, etc.
	Clause: 4	Tort.
	Clause: 5	Successive conversions.
	Clause: 6	Theft.
	Clause: 7	Simple contract.
	Clause: 8	Certain loans.
	Clause: 9	Certain awards.
	Clause: 10	Specialty.
	Clause: 11	Sums recoverable by Law, etc.



Clause: 12	Contribution.
Clause: 13	Personal injuries.
Clause: 14	Special time limit for certain negligence actions.
Clause: 15	Overriding time limit for certain negligence actions.

**HON. RICHARD W. GROUND:** Madam Speaker, might I just interrupt there and make a point on Clause 15? The Third Elected member for George Town in his Second Reading debate had queried the length of the 15 year period. I think his concern was that it seemed a long period. I just want to at least try and set his mind at rest and the minds of Members at rest. The 15 year period is intended as a 'catch all'. The normal periods of six years or three years in the case of personal injury will be what apply in standard circumstances. Clause 14 contains very elaborate rules for postponing the running of time in the case of what is called latent damage.

In other words, a hidden injury that the person who has been injured does not discover, possibly for many years. Classic example is defective foundations in houses. The policy of the Law and the policy that lies behind section 15, was that even in such a case there must come a time when you say - enough is enough and the cause of action and the right to sue, you cannot keep being postponed. So the 15 years period is being brought in as a limitation in those exceptional cases whether the normal six year or three year periods are postponed because the person who has been injured does not know that he has been injured.

I do only foresee it arising in exceptional and fairly elaborate circumstances and I hope that in the light of that Members will be happy and not feel that we are granting too long a period.

<b>CLERK:</b>	Clause 16	Fatal accidents.
	Clause 17	Operation of time limit under section 16 in relation to different dependents.
	Clause 18	Definition of date of knowledge for purposes of subsection 13 and 16.
	Clause 19	Time Limit for actions to recover land.
	Clause 20	Provisions with respect to actions to recover land.
	Clause 21	Provisions with Modifications of Section 19 re Crown.
	Clause 22	Redemption actions.
	Clause 23	Extinction of title to land.

**MADAM CHAIRMAN:** Excuse me, I think we should stop at Clause 23 which is half of the number of sections of the Law - 23. If there is no debate I will put the question that Clauses 1 to 23 do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED: CLAUSE 1 TO 23 PASSED.**

<b>CLERK:</b>	Clause 24	Land held on trust.
	Clause 25	Recovery of rent.
	Clause 26	Recover under mortgage.
	Clause 27	Trust property.
	Clause 28	Claim of personal estate.
	Clause 29	Account.
	Clause 30	Enforcement of judgments.
	Clause 31	Administration to date back to death.
	Clause 32	Disability.
	Clause 33	Extension for cases where limitation period is period under section 14(3)(b).
	Clause 34	Acknowledgment and part-payment.
	Clause 35	Formal provisions re acknowledgments and part-payments.
	Clause 36	Effect of acknowledgments and part-payment on other persons.
	Clause 37	Fraud, concealment and mistake.
	Clause 38	Discretionary extension of time limit for actions for libel or slander.
	Clause 39	Discretionary exclusion.
	Clause 40	Arbitrations.
	Clause 41	New claims in pending actions.
	Clause 42	Equitable jurisdiction and remedies.
	Clause 43	application to Crown.
	Clause 44	Savings, etc.
	Clause 45	Amendments.
	Clause 46	Repeals.

**MADAM CHAIRMAN:** The Question is that Clauses 24 to 46 do stand part of the Bill. If there is no debate I will put the question.

**MR. TRUMAN M. BODDEN:** I just wanted to mention one thing Ma'am. I really forgot when I was going through to mention to the Attorney General that 34 (3) relating to foreclosure and land is specifically

precluded by the Registered Land Laws, but I guess it does not hurt to leave it in.

**HON. RICHARD W. GROUND:** I take the Member's point. We have, in drafting this, had some difficulty in translating the English provision relating to land into the provisions which relate to ours. Foreclosure I think of a registered charge cannot be done, it may be that there is an equitable charge, it may be that there is an equitable, I simply do not know. If there is no right, I do not think it hurts having it in there.

**MADAM CHAIRMAN:** I will put the question that Clauses 24 to 46 do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED. CLAUSES 24 THROUGH 46 PASSED.**

**CLERK:** A Bill For A Law To Repeal And Replace The Legal Provisions Relating To The Limitation Of Actions.

**MADAM CHAIRMAN:** The question is that the title do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED. TITLE PASSED.**

#### **THE INSTITUTE OF CAYMANIAN HERITAGE BILL, 1991**

**MADAM CHAIRMAN:** The next Bill, the Institute of Caymanian Heritage Bill, 1991.

<b>CLERK:</b>	Clause 1	Short title.
	Clause 2	Interpretation and declaration.
	Clause 3	Establishment, etc., of the Institute.
	Clause 4	Establishment of the Council.
	Clause 5	Functions of the Council.
	Clause 6	Vesting of property of the Cayman Islands Museum.
	Clause 7	Staff of the Council.
	Clause 8	Establishment of the National Archive.
	Clause 9	Functions of the National Archive.
	Clause 10	Records Management Service and Records Advisory Committee.
	Clause 11	Court Records Committee
	Clause 12	Legislative Records Committee.
	Clause 13	Public services of the National Archive.
	Clause 14	Access to government records.
	Clause 15	Validity of records and certification.
	Clause 16	Reproduction of records.
	Clause 17	Establishment of National Museum.
	Clause 18	Appointment and duties of Museum Director.
	Clause 19	Purposes of the National Museum.
	Clause 20	Functions of the National Museum.
	Clause 21	Power to charge for admission, etc.
	Clause 22	Establishment of the National Library.
	Clause 23	Functions of the National Library.
	Clause 24	Publisher to provide copies to the National Library.
	Clause 25	Declaration of National Importance.
	Clause 26	Use of premises.
	Clause 27	Exemption from import duty.
	Clause 28	Fees for special services.
	Clause 29	Regulations.
	Clause 30	Offences.
	Clause 31	Repeal and saving.
	Clause 32	Commencement.

**MADAM CHAIRMAN:** The Question is that Clauses 1 thru 32 do stand part of the Bill.

**MR. TRUMAN M. BODDEN:** I had two quick things, Madam Chairman. One was merely to point out a clerical in 14 (1)(c) which I am sure the Attorney General has caught. The third line 'shall have access' really needs to be a new paragraph. The other one is one of substance where in the Offences section in section

30(2)(a) says: "conducts himself so as to disturb any other person on premises of the Institute or any of its divisions;". That is too wide. What would disturb someone? Someone fidgeting or someone making up his face or, you know, it just seems too wide. I have no problem with (b) because behaving in disorderly manner is well set out and with (c) which is molesting and obstructing (d) however, is: "without authority removes, destroys defaces, mutilates or otherwise damages anything"... I think there, there must be some intent and what I would ask is whether the Government would be prepared to put 'without authority and intentionally does these things' because someone could knock something down or stumble into something and damage it and could well be caught under the Law. I know there is saying, well nobody may charge him, but I think we have to make the Law so that people do enforce it strictly.

So those two I would ask that I get the Government's feeling on because I do not mind putting in as in little (a) 'that becomes a nuisance' or something, but conducts "himself so as to disturb" seems to me not something that of itself, it could be an extremely minor thing.

**HON. RICHARD W. GROUND:** Perhaps, Madam Chairman, while the Member is considering the policy point that was put, I might just list some typographical errors just so that the House knows. I certainly agree with the point that the Member for George Town just made in 14 (1)(c) then end of that should come across to the left margin.

the singular, not in the plural.

Also in Clause 3 (3) in the third line 'divisions' there should be in

(1) should be deleted as a typographical error.

Clause 9 is numbered 9 (1) but in fact there is not a (2) so the

provisions of section 13', that is in fact section 13 that we are in and the cross reference should be to section 14.

Thank you, Madam Chairman.

**MADAM CHAIRMAN:**

Thank you. If there are no amendments I shall put the question.

**MR. TRUMAN M. BODDEN:**

Madam Chairman, I am wondering if I could find out whether the Government would be prepared to, before I waste the time of the House, in moving it?

**HON. BENSON O. EBANKS:**

Madam Chairman, I do not have a problem with what he is suggesting but I believe that we are really splitting hairs. Certainly I would not see if somebody just fidgeted that any responsible or reasonable person would bring an action for that. It would have to be a disturbance of some magnitude. This was language used by the Legal Draftsman, I do not know what the Attorney General would feel about it. It would seem to me that if the Law is applied rationally that what is here is acceptable, but I have no problem with spelling it out more clearly if that is desired.

**HON. RICHARD W. GROUND:**

Madam Chairman, I think the ball has been put back to me. On Clause 30 (2)(d) which is the question of inserting intentionally before the list of things removes, destroys, defaces, whatever. While I agree with the Member who is moving the Bill that it may be a fine point, I would certainly see no harm or damage to insert that word there, if the Member for George Town wanted to move that amendment.

In respect of Clause 30 (2)(a) it is not so simple as just inserting a word. There may be behavior which is not caught by behaving in a disorderly manner but which is nevertheless inconsistent with proper behavior in a library and which is more than just twitching or fidgeting but consistently annoying or making a noise - singing, whistling and so on. It may be something that the authorities want to stop but which is not caught by any of the other provisions and I am a little loath to tinker with the wording until now without a chance to go away and consider it, which there really is not at this stage.

Suffice it to say that I think that any Court if someone was brought before them for - lets take the fidgeting example, for doing something fairly minor is going to laugh the prosecutor out of Court. It is not just a question of whether you bring the charge or not but also a question of the attitude that the Court is going to take when it comes before it. That attitude is something which very much conditions the response of prosecutors. We do not go around dragging people into Court for borderline offences because we know we are going to attract, not just public ridicule, but the mockery of the judge as well. So I am not concerned about (a) but I think it is to the Member raising the point as to whether he wishes to pursue it.

**MR. TRUMAN M. BODDEN:**

Madam Chairman, I would then move that section 30(2)(d) be amended by the insertion of the word 'intentionally' between the words 'authority and removes' in the first line thereof.

**MADAM CHAIRMAN:**

I will grant permission for that amendment without notice.

**MR. TRUMAN M. BODDEN:**

Yes, Ma'am, I humbly ask for permission to you of that.

**MADAM CHAIRMAN:**

That is acceptable to the Honourable Member moving the Bill?

**HON. BENSON O. EBANKS:**

I have no problem with the amendment.

**MADAM CHAIRMAN:**  
put the question.

Fine. Anybody else wish to speak to that amendment? I shall

QUESTION PUT: AGREED

AMENDMENT TO CLAUSE 30 (2)(d) PASSED

QUESTION PUT: AGREED

CLAUSE 30 AS AMENDED PASSED.

QUESTION PUT: AGREED

CLAUSES 1 THROUGH 32 PASSED.

CLERK: FIRST SCHEDULE.  
SECOND SCHEDULE.  
THIRD SCHEDULE.  
FOURTH SCHEDULE.

**MADAM SPEAKER:** The question is that the schedules do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

**MADAM CHAIRMAN:** The Ayes have it.

AGREED FIRST, SECOND, THIRD AND FOURTH SCHEDULES PASSED.

**CLERK:** A Bill For A Law To Make Provision For The Establishment Of An Institute Of Caymanian Heritage, Comprising The National Archive, The National Museum And The National Library, Which Will Serve As An Organisation For The Collection And The Preservation Of Items Relevant To Caymanian Heritage And Culture, For The Management Of Government Records, And For Matters Connected With The Foregoing And Incidental Thereto.

**MADAM CHAIRMAN:** The question is that the title do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

**MADAM CHAIRMAN:** The Ayes have it.

AGREED. TITLE PASSED.

#### THE PHARMACY BILL, 1991

**MADAM CHAIRMAN:** The next Bill, the Pharmacy Bill, 1991

<b>CLERK:</b>	Clause 1	Short title and commencement.
	Clause 2	Interpretation.
	Clause 3	Establishment of Pharmacy Board.
	Clause 4	Meetings and procedure of Board.
	Clause 5	Protection of members of the Board.
	Clause 6	Register of the Board.
	Clause 7	Funds of the Board.
	Clause 8	Payment of allowances.
	Clause 9	Licensing authority.
	Clause 10	Only pharmacist may conduct retail pharmacy business, etc.
	Clause 11	Company may conduct pharmacy business.
	Clause 12	Death of pharmacist.
	Clause 13	Licensing of premises.
	Clause 14	Refusal or revocation of licence.

**MR. JOHN D. JEFFERSON, JR.:** Madam Chairman, I had a question on that section 14. In debate, I raised the issue of the right to appeal and also section 21, we have not got to that yet, I think that is a general provision of most Bills of this nature and I just wonder if the Member and maybe the Attorney General would consider putting in the right to appeal to somebody. Maybe not in the case of the refusal of a licence, but in a case of a suspension or revocation I think that particular person should have a right to appeal.

**MR. TRUMAN M. BODDEN:** Madam Chairman, I endorse that. I think there always has been a Right of Appeal and there should be in this case because you are dealing with a persons life, so to speak.

**HON. D. EZZARD MILLER:** Madam Chairman, I wonder if they have a suggestion as to what should be the Appellate Body?

**MR. W. McKEEVA BUSH:** Governor in Council.

**MADAM CHAIRMAN:** I was just going to ask if anyone had an amendment because

you debated this some days ago. Someone should have prepared an amendment.

**MR. W. McKEEVA BUSH:** Madam Chairman, I have several areas that I would like to appeal to the Chairman under 52 (2) in regards to appeals.

**MADAM CHAIRMAN:** Shall we deal with Clause 14 first, if someone has an amendment to propose?

**MR. TRUMAN M. BODDEN:** Madam Chairman, I am wondering whether I could hear whether the Government is amenable to an amendment or not? If that is the case then I think it may be better if perhaps a short Clause go in to deal with both places. Do the appeal for both sections, when you reach the other one further down at the end, which is the more usual way to deal with them or whatever the Attorney General would suggest and where it is inserted in the drafting.

**HON. RICHARD W. GROUND:** Madam Chairman, I am in some difficulty here. I think it is one thing to bring an amendment in the Committee that inserts, say a word to clarify the intention of the section, like putting in 'intentionally' as we did in the last Bill and to do that without formal notice.

But if one wants to introduce an appeal structure, for instance, which is a significant part of the administrative arrangements for a Bill, and I say this with respect to the Member moving the point, but the whole purpose of a notice period as provided under Standing Orders is to allow first of all, the appeal whatever the amendment is to be formulated and then for Government to arrive at a view on what is put forward. It is difficult for me as a lawyer just sitting here to say, "oh well, we can put it in an appeal provision".

All sorts of question arise as to whom does one appeal, is it appropriate for it to be Executive Council or the Court or whatever? The Member would have a policy put on this.

**HON. D. EZZARD MILLER:** Madam Chairman, it should probably be realised too that in refusal of this licence, the reason has to be stated so it is assumed that the person can correct the reason and reapply rather than have an elaborate appeal process. The Board has to state the reason why it did not grant the licence or the reason why it is revoking the licence.

**MR. JOHN D. JEFFERSON, JR.:** Madam Chairman, I take exception to the comments of the Attorney General. I think it is, should I say, unfair for an amateur who has no back-ground in Law to be in a position here, where I pick up this weakness as far as the Law is concerned, when there are so many other Laws in existence that have that general provision as far as the Right of Appeal. I just raised it, Madam Chairman. If they do not take the time to do it, I have nothing else.

**MADAM CHAIRMAN:** As I pointed out earlier, this Bill was given a Second Reading Debate quite some days ago and if Members felt strongly about an appeal there was sufficient time that something could have been drafted and sufficient notice given. This is the reason why it is there in the Standing Orders because it is unfair to come in with an amendment with a substance of an appeal how that might be provided in the Law, which requires some time in which to study it.

**MR. W. McKEEVA BUSH:** Madam Chairman, I quite agree with you because we do have provisions in the Standing Order but at the same time these are matters that we raised in the course of the Second Reading Debate and it is not new subject matter to the Attorney General nor to the Government Bench in its entirety.

Really I believe that is why the Standing Orders say that no amendment shall be moved without two days notice except with the proviso that the Chairman can within reason give leave for such amendments, especially when those amendments have been talked about on the floor of the House.

**MADAM CHAIRMAN:** I would just like to finish off by saying that, as I said before, it is not inconsequential like adding one or two words but it would be something of substance and it would have required some drafting and I could not see the reason why having had discussions, you could have had discussions with the Honourable Attorney General and the Member moving the Bill and arrived at some draft amendment which could have been before the Committee at this time.

**MR. W. McKEEVA BUSH:** I agree with you, Madam Chairman, except for the fact that if they were not so unreasonable, if they were approachable. It is one thing when we can go to them and deal with them fairly but if you go and deal with them, you do not get a fair hearing.

**MADAM CHAIRMAN:** Well, I would assume this is one of the reasons why we have the breaks that these things could have been done informally and if you were having problems you could have come to me and I could have mediated somewhat and got them drafted for you.

**MR. G. HAIG BODDEN:** Madam Chairman, I have no argument with your comments on this proposal. I would like to say that the Second Official Member the Attorney General, has offered only a technicality to block the suggestion made by this side of the House. He apparently knows that there should be an appeal. This is a consequence of natural justice and if they, in drafting the Bill omitted this sensible provision which

most of our Laws contain, I would think that the Government has an obligation to correct it.

I can only say that if the Bill is passed in the fashion it is, I trust that at some future date, at a very early date, an amendment can be brought to this Bill and that we do not take away another right which our public has enjoyed for generations because I do not know what system we are going into now, anyhow.

**HON. D. EZZARD MILLER:** Madam Chairman, re-reading the Clause, in particular Clause 14, Clause 13 lays out, regulations will expand the conditions under which a licence is either granted or refused. The fact that the Board has to state in writing, the reason why the licence was refused and it can only be one of the requirements under the Law that have not been met or revoked, then I think it is much better for the person to simply be able to correct that and reapply than have to labour themselves and the Courts and the Boards with elaborate Court procedures because they just cannot invent reasons to refuse or revoke a licence. It has to be within the confines of the Law.

**MR. TRUMAN M. BODDEN:** Madam Chairman, just let me say it would be sad if we are going to let the Right of Appeal go because of the technicality. I understand your point but many, many times the other side have brought things at extremely short notice in this House and just wave the Standing Orders. This is obviously one if I had any indication that there had been any agreement on it, maybe something could have been done. I guess, let it go.

**HON. LINFORD A. PIERSON:** Madam Chairman, I had not heard quite clearly what the Attorney General's position was on this particular point as to whether or not he felt it was in fact necessary to have a section dealing with appeal. It would help me in my thinking on this particular Clause if I could get his views on that.

**HON. RICHARD W. GROUND:** It is not a legal question, Madam Chairman, and not a question to which I can give a sensible answer. There is no general principle which mandates that there must be an appeal in every case. There is no general principle which says it is wrong to have an appeal in a licensing case. It is really for the Member and ultimately the Government when it puts forward a provision to decide it is a matter of policy, whether it would like to see an appeal provision in there or not. My difficulty in addressing all of this is that because of the form in which this has come up, I do not know what the policy of Government is.

**MADAM CHAIRMAN:** If the Honourable Member who is piloting the Bill has no other comments on that?

**HON. D. EZZARD MILLER:** Madam Chairman, I have no great objection to putting in 'an appeal'. My position in drafting the Law was that it was much better to state quite clearly the reasons under which the licence was either being revoked or refused and that the persons simply had the opportunity to correct that and re-apply.

**MADAM CHAIRMAN:** I think the feelings are that some Members feel that if a person is aggrieved for one reason or another that there might be a suitable avenue of appeal.

**HON. D. EZZARD MILLER:** Madam Chairman, I do not know if you want to take a short break, and maybe I can speak to them.

**MADAM CHAIRMAN:** I was going to suggest that, if we cannot continue in this fashion unless there is an amendment before the House. If we could adjourn for five minutes and a short amendment prepared, we could probably deal with it.

**MR. W. McKEEVA BUSH:** Before we take that break, Madam Chairman, I had the same suggestion although we have not got to that Clause yet, under Clause 20 (3). The same procedure, there is no Right of Appeal in that particular Clause.

**MADAM CHAIRMAN:** May we suspend the House then for 10 minutes to consider some amendments to section 14 and also 20, if that is thought advisable? We shall suspend the House for 10 minutes please.

**AT 4:00 P.M. THE COMMITTEE WAS SUSPENDED**

**COMMITTEE RESUMED AT 4:15 P.M.**

**MADAM CHAIRMAN:** Please be seated. Proceedings are resumed in Committee.

**HON. D. EZZARD MILLER:** Madam Chairman, what I would suggest is that the Government has no problem with accepting the provision of an appeal. What I would suggest is that we defer this Bill before the Committee and it will give the Legal Draftsman time because tomorrow is Private Members' Motions and will, therefore, have a suitable draft to be inserted in the correct space in the Law for consideration on Friday morning.

**MADAM CHAIRMAN:** The Honourable Member has proposed that proceedings be curtailed on the Pharmacy Bill until Friday, in order that an amendment concerning the matter of appeals be prepared. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED. THAT THE COMMITTEE STAGE PROCEEDINGS ON THE PHARMACY BILL, 1991, BE DEFERRED UNTIL FRIDAY, 4TH JULY, 1991.**

**THE HEALTH SERVICES AUTHORITY BILL, 1991**

**MADAM CHAIRMAN:** Thank you Honourable Members. We will proceed to the Health Services Authority Bill, 1991.

<b>CLERK:</b>	Clause 1	Short title and commencement.
	Clause 2	Interpretation.
	Clause 3	Establishment of the Cayman Islands Health Services Authority and vesting of property.
	Clause 4	Use of seal and authentication of documents.
	Clause 5	Constitution of the Authority.
	Clause 6	Meetings of the Authority.
	Clause 7	Authority to have general management of health care facilities.
	Clause 8	Chief Executive Officer.
	Clause 9	Medical Directors.
	Clause 10	Medical Staff
	Clause 11	Appeal for termination of appointment.
	Clause 12	Clinical department and services.
	Clause 13	Officers and Staff of the Authority.
	Clause 14	Medical Staff Committees.
	Clause 15	Fees.
	Clause 16	Authority to meet expenses out of fees, etc.
	Clause 17	Powers of the Authority.
	Clause 18	Application of funds by the Authority.
	Clause 19	Accounts of the Authority.
	Clause 20	Audit of accounts.
	Clause 21	Reports of the Authority.
	Clause 22	Member may require returns, etc.
	Clause 23	Inspection of premises of health care facilities.
	Clause 24	Disposal of premises no longer required by the Authority.
	Clause 25	Member may give general directions.
	Clause 26	Licensing of private health care facilities.

**HON. D. EZZARD MILLER:** Madam Chairman, I have sought permission from the Speaker, to amend Clause 26 by deleting the word "Member" as it appears in subsection (1) the second word in the sentence and substituting therefore the word "Governor".

**MR. W. McKEEVA BUSH:** Madam Chairman,....

**MADAM CHAIRMAN:** This amendment has received the approval of the Chair.

**MR. W. McKEEVA BUSH:** I would just like to say that I support the Member in bringing that amendment because the Bill was very clear on who was the Member and who was Governor in Council. The Member in the Bill said, 'the Member who was charged with the responsibility for these matters'. So it was not in any doubt who the Bill was referring to. But I wish the Member would re-draft the whole Bill, it would save some grief.

**HON. D. EZZARD MILLER:** The Member will have to continue to cry, Madam Chairman.

**MR. W. McKEEVA BUSH:** Madam Chairman, it is not the Member crying, the country is going to cry.

**MADAM CHAIRMAN:** The amendment proposed is that in Clause 26 the word 'Member' be deleted and substituted by the word 'Governor' in subclause (1).

**MR. W. McKEEVA BUSH:** Madam Chairman, I wonder if the Member would not care to do the same with the accounts? Take his name out when dealing with the accounts.

**HON. D. EZZARD MILLER:**

No, Madam Chairman.

**MR. W. McKEEVA BUSH:**

Because, Madam Chairman, the Member in his contribution said that the Auditor General had wide powers and he may need to tell the Auditor General something. The Auditor General under the Finance and Audit Law can, for any reason, examine any accounts. He does not need any directions from the Member and whether intended for good reason or not, he could very well under the Law, for bad reasons also give directions.

**MR. TRUMAN M. BODDEN:**

Madam Chairman, I will be voting yes on that amendment but voting no to the balance of the Bill. I am not going to try to go through every amendment because I dealt with these in some considerable detail. The Member knows my views on it. He obviously has only accepted one that we have put forward. I am not going to spend the Legislatures' time going through these in detail anymore, Ma'am.

**MADAM CHAIRMAN:**

We have this amendment to Clause 26 subclause (1). I shall put the question on whether the amendment as proposed do stand part of the Bill of that Clause. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:**

The Ayes have it.

**AGREED. AMENDMENT TO CLAUSE 26 PASSED.**

**CLERK:**

Clause 27	Regulations.
Clause 28	Rules of the Authority.
Clause 29	repeal and saving.

**HON. D. EZZARD MILLER:**

Madam Chairman, similarly, I would ask leave of the Chair to correct a typographical error in 28(2) which should read: "Any person who fails to comply with any rule made under subsection (1) "(b) and (c)" shall be liable to a penalty of fifty dollars.

**MADAM CHAIRMAN:**

Approval has been given for this amendment. The proposed amendment is to Clause 28 subclause (2) second line which would now read subsection (1) "(b) and (c)". I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:**

The Ayes have it.

**AGREED. AMENDMENT TO CLAUSE 28(2) PASSED.**

**MADAM CHAIRMAN:**

The Question is that Clauses 1 thru 29 do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:**

The Ayes have it.

**AYES & NOES**

**MR. G. HAIG BODDEN:**

May we have a division, Madam Chairman?

**MADAM CHAIRMAN:**

Certainly, Madam Clerk.

**DIVISION NO. 18/91**

**Ayes: 8**

Hon. Thomas C. Jefferson  
Hon. Richard Ground  
Hon. Lemuel Hurlston  
Hon. Norman Bodden  
Hon. Benson Ebanks  
Hon. Ezzard Miller  
Hon. Linford Pierson  
Capt. Mabry S. Kirkconnell

**Noes: 7**

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

**MADAM CHAIRMAN:**

Ayes have it.

The result of the division is eight Ayes and seven Noes. The



**AGREED BY MAJORITY: CLAUSES 1 THROUGH 29 PASSED.**

**CLERK:** The Schedule.

**MADAM CHAIRMAN:** The question is that the Schedule do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED. SCHEDULE PASSED BY MAJORITY.**

**CLERK:** A Bill For A Law To Establish A Health Services Authority To Administer The Health Care Facilities In The Cayman Islands And To Make Provision For Matters Connected Therewith And Incidental Thereto.

**MADAM CHAIRMAN:** Question is that the preamble do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED. TITLE PASSED BY MAJORITY.**

**MADAM CHAIRMAN:** That concludes consideration by the Committee on the Limitation Bill, 1991, The Institute of Caymanian Heritage Bill, 1991, The Health Services, Authority Bill, 1991, with The Pharmacy Bill being deferred for committee consideration on Friday. The House will resume.

**HOUSE RESUMED - 4:26 P.M.**

## **REPORTS ON BILLS**

**MADAM SPEAKER:** Please be seated. Reports.

### **THE LIMITATION BILL, 1991**

**HON. RICHARD W. GROUND:** Madam Speaker, I have to report that the Bill for the Limitation Law, 1991, has been considered by a Committee of the whole House and passed without amendment.

**MADAM SPEAKER:** The Bill is accordingly set down for third reading.

### **THE INSTITUTE OF CAYMANIAN HERITAGE BILL, 1991**

**HON. BENSON O. EBANKS:** Madam Speaker, I have to report that a Bill shortly entitled the Institute of Caymanian Heritage Law, 1991, was considered by a Committee of the whole House and passed with one amendment.

**MADAM SPEAKER:** The Bill is accordingly set down for Third Reading.

### **THE HEALTH SERVICES AUTHORITY BILL, 1991**

**HON. D. EZZARD MILLER:** Madam Speaker, I have to report that a Bill entitled A Bill For A Law To Establish A Health Services Authority To Administer The Health Care Facilities In The Cayman Islands And To Make Provision For Matters Connected Therewith And Incidental Thereto was considered by a Committee of the Whole House and passed with two amendments.

**MADAM SPEAKER:** The Bill is accordingly set down for Third Reading.

## **THIRD READINGS**

### **THE LIMITATION BILL, 1991**

**CLERK:** The Limitation Bill, 1991.

**HON. RICHARD W. GROUND:** Madam Speaker, I move that the Bill for the Limitation Law, 1991, be given a Third Reading and do pass.

**MADAM SPEAKER:**  
against No.

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

**AYES.**

**MADAM SPEAKER:**

The Ayes have it.

**AGREED. THE LIMITATION BILL, 1991, GIVEN A THIRD READING AND PASSED.**

**THE INSTITUTE OF CAYMANIAN HERITAGE BILL, 1991**

**CLERK:** The Institute of Caymanian Heritage Bill, 1991.

**HON. BENSON O. EBANKS:** Madam Speaker, I beg to move that a Bill shortly entitled The Institute of Caymanian Heritage Bill, 1991, be given a Third Reading and do passed.

**MADAM SPEAKER:**  
against No.

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

**AYES.**

**MADAM SPEAKER:**

The Ayes have it.

**AGREED. THE INSTITUTE OF CAYMANIAN HERITAGE BILL, 1991, GIVEN A THIRD READING AND PASSED.**

**THE HEALTH SERVICES AUTHORITY BILL, 1991**

**CLERK:** The Health Services Authority Bill, 1991.

**HON. D. EZZARD MILLER:** Madam Speaker, I move that the Bill entitled a Bill for a Law to establish a Health Services Authority To Administer The Health Care Facilities In The Cayman Islands And To Make Provision For Matters Connected Therewith And Incidental Thereto.

**MADAM SPEAKER:**  
against No.

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

**AYES & NOES.**

**MADAM SPEAKER:**

The Ayes have it.

**MR. G. HAIG BODDEN:**

Madam Speaker, may we have a division, please?

**MADAM SPEAKER:**

Certainly. Madam Clerk, would you take the division, please?

**DIVISION NO. 19/91**

**Ayes: 8**

Hon. Thomas C. Jefferson  
Hon. Richard Ground  
Hon. Lemuel Hurlston  
Hon. Norman Bodden  
Hon. Benson Ebanks  
Hon. Ezzard Miller  
Hon. Linford Pierson  
Capt. Mabry S. Kirkconnell

**Noes: 7**

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

**AGREED BY MAJORITY:**

**THE HEALTH SERVICES AUTHORITY BILL, 1991, GIVEN A THIRD READING AND PASSED.**

**ADJOURNMENT**

**HON. THOMAS C. JEFFERSON:**  
o'clock tomorrow morning.

Madam Speaker, I move the Adjournment of this House until 10

**MADAM SPEAKER:**

The question is that this Honourable House do now adjourn until 10 o'clock tomorrow morning. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:**

The Ayes have it. The House is accordingly adjourned until

tomorrow morning at 10 o'clock.

**AT 4:31 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. THURSDAY, 4TH JULY, 1991.**

**THURSDAY  
4TH JULY, 1991  
10:09 A.M.**

**MADAM SPEAKER:**  
Environment, Recreation and Culture.

Prayers by the Honourable Elected Member for Education.

**PRAYERS**

**HON. BENSON O. EBANKS:**

Let us Pray.

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

Bless our Sovereign Lady Queen Elizabeth, 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 Speaker of the Legislative Assembly, 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.

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done in earth as it is in Heaven; Give us this day our daily bread, and forgive us our trespasses, as we forgive them 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.

**MADAM SPEAKER:** Please be seated. Proceedings are resumed. Presentation of Papers and Reports. Report of the Standing House Committee the Second Elected Member for Bodden Town - Chairman.

**PRESENTATION OF PAPERS AND OF REPORTS**

**REPORT OF THE STANDING HOUSE COMMITTEE  
(Meetings held on 27th March & 21st June, 1991)**

**MR. G. HAIG BODDEN:** Madam Speaker, I beg to lay on the Table the Report of the Standing House Committee which covers the meetings held on the 27th of March and 21st of June, 1991.

**MADAM SPEAKER:** So ordered.

**FINAL REPORT OF THE MANPOWER DEMAND SURVEY 1990  
(VOLUMES I, II, III AND IV)**

**MADAM SPEAKER:** The Second Report by the Honourable First Official Member will be deferred until his arrival. Questions to Honourable Members. Question No. 170 is standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**QUESTIONS TO HONOURABLE MEMBERS**

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION, ENVIRONMENT, RECREATION AND CULTURE**

**NO. 170:** Would the Honourable Member say if carbonated beverages and candies of various varieties are sold in the cafeteria at the Cayman Islands High School?

**ANSWER:** Carbonated beverages and candies of various varieties are not sold in the cafeteria at the Cayman Islands High School.

## SUPPLEMENTARIES

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Would the Member say if, it is a rule of the Government that this is not done and if before this rule came into effect, carbonated beverages and the likes were sold there?

**HON. BENSON O. EBANKS:** Madam Speaker, certainly at the moment that is the policy and it is my belief that from the time the meal service was put on a sound footing, which is many, many years ago, no carbonated beverages, etcetera, were sold.

**MADAM SPEAKER:** The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:** Madam Speaker, can the Member say whether it is not a fact that there were other organised sales other than at the cafeteria and at these sales at the school there were soft drinks being sold?

**HON. BENSON O. EBANKS:** Madam Speaker, it would be difficult for me to answer that question because I would imagine that these that he is referring to were some ad hoc sales that might have been put on by some club at the school. That is, a school club or some organisation attached to the club and if that was not for purposes of lunch, I am not sure what regulations would be governing that.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, would the Member say if such is permitted where clubs and associations in the school can sell candies and carbonated beverages during a school day? Would that not have effect on the sales from the cafeteria which I imagine must be paying Government a fee to offer for sale, drinks and food.

**HON. BENSON O. EBANKS:** Madam Speaker, I did say he must have been referring to an ad hoc sale. These are not frequent occurrences and certainly the sale of carbonated beverages, candies and so on, would be discouraged. In fact I have no knowledge of any such sales in the recent past. I am only saying that this is a possibility, but I would remind Members that there are stores within walking distance of the school over which the school has no control.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** I would like to ask the Honourable Member if meals, food products and drinks, etcetera, currently served to the students are vetted and approved by a school nutritionist or, does the school have a nutritionist?

**HON. BENSON O. EBANKS:** No, Madam Speaker, the school does not have a nutritionist but it is approved by the school staff and the Department.

**MADAM SPEAKER:** The next question No. 171, standing in the name of 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. 171:** Would the Honourable Member say whether games of chance were ever set up at the Cayman Islands High School which children were encouraged to play during lunch time?

**ANSWER:** What the Member is referring to is probably an incident in 1986; a situation which was misinterpreted at that time.

A brief resume of that incident is as follows: A teacher of Home Economics, who has long since completed her tour of duty, was a member of the Fund-Raising Committee of the Cayman Islands High School's Parent Teachers' Association at that time. This teacher initiated, amongst interested students, a fund-raising effort -- students contributed 25 cents on a line and depending upon what point of the line was reached, a student could receive a valuable prize; these prizes in most cases having been donated by local merchants.

Aside from this, I know of no instance where any member of staff at the Cayman

Islands High School set up games of chance or encouraged students to play same; whether at lunch time or any other time.

### SUPPLEMENTARIES

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could the Member say how such an incident could have occurred and by what authority could it have been done that the Portfolio would not have been aware of it?

**HON. BENSON O. EBANKS:** Madam Speaker, I pointed out that it was done by a teacher who was a member of the Fund Raising Committee of the PTA who undertook this. When it was discovered that it was going on and brought to their attention, it was stopped. Certainly I am sure it would not have occurred to them that what I am sure was regarded as an innocent occurrence, would need the Portfolio's approval, because after all children were not doing it to win money, they were doing it realising that it was raising money for the air-conditioning of the school. It was a way of their contributing.

**MADAM SPEAKER:** The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:** Madam Speaker, can the Honourable Member say whether anybody wrote to the Portfolio complaining about the games of chance at the school and, can he say whether the school was air-conditioned from the money raised by that game of chance?

**HON. BENSON O. EBANKS:** Madam Speaker, I am unable to say whether anybody wrote the Portfolio about it. I certainly do not recall it being an earth-shattering event in the Portfolio. As to whether the Hall was air-conditioned from the money, I can only say that when the Hall was eventually air-conditioned, that the PTA did make a contribution.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Madam Speaker, will the Member say if he found out how long this game operated and how much money was actually raised from it?

**HON. BENSON O. EBANKS:** No, Madam Speaker, my understanding is that it was a very short-lived exercise. I assumed that the Portfolio had no reason to believe that the money was not going to the PTA as other fund raising efforts had been conducted similarly. So, I do not see why the Portfolio would have demanded an audit of that particular incident.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, I am looking at a Cayman Islands PTA Income and Expenditure of Accounts for September 1986 to August 1987, and the amount I see here under the 25 cents line is \$873.95. I understand that this money was accrued by 25 cent denominations over the period of three weeks or 15 days. The question I would like to ask the Member is, did this particular incident not deprive children of lunch on these days and how was it that it could go on for three weeks without anyone noticing before that time?

**HON. BENSON O. EBANKS:** Madam Speaker, I would assume that it was able to go on because it did not deprive children of lunch as the Member is suggesting. In a school of a 1,000 children (and I think he said it went on for three weeks or 15 days) that is 15,000 child days and it is a quarter a play so you can figure out what that would have been even if each child played one quarter. The total sum realised was not even that so I do not believe that the Member, Madam Speaker, can make a case, as I said before, that this was not an earth-shattering event in the life of the school. Madam Speaker, I would image that other things go on for similar periods before it reaches the Portfolio. Maybe, Madam Speaker, I could help put this in perspective by asking how is it that we are only being asked about it now, five years later?

**MADAM SPEAKER:** We shall proceed to the next Question No. 172 standing in the name of 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. 172:** Would the Honourable Member say if the Assembly Hall at the Cayman Islands High School is air-conditioned and, if so, when was this done?

**ANSWER:** The old Hall at the Cayman Islands High School is air-conditioned. This was done in

September, 1990.

## SUPPLEMENTARIES

- MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.
- MR. GILBERT A. McLEAN:** Madam Speaker, I would like to ask the Member if the actual air-conditioning was done prior to this date but was not activated because the Government said it would not pay for the electricity which would be used?
- HON. BENSON O. EBANKS:** No, Madam Speaker, the air-conditioning was not done before. It might be correct if the Member said that the PTA had made an offer, as much as a year earlier.
- MADAM SPEAKER:** The Third Elected Member for George Town.
- MR. TRUMAN M. BODDEN:** Has Government now taken a policy to air-condition all of the school Halls including the Primary Schools?
- HON. BENSON O. EBANKS:** No, Madam Speaker. This was a joint venture with the Parent/Teachers Association and Government. It was agreed to do this Hall because it was felt that it would assist with children being able to sit their examinations in more comfortable surroundings. It is a fact that our exams are now held during the hottest time of the year so it was accepted that because of that, Government would support the air-conditioning of that Hall.
- MADAM SPEAKER:** The First Elected Member for West Bay.
- MR. W. McKEEVA BUSH:** Is it not a fact that the money raised by the games of chance were supposed to have helped to air-condition the Hall but for four years or more lay in some account or, in some other place and was not used to help with the air-conditioning of the school?
- HON. BENSON O. EBANKS:** Madam Speaker, I think when dealing with the other question I pointed out that the PTA had assisted with the cost of the air-conditioning of the Hall so it was likely that that money was used. I would assume that the PTA raised the money which they contributed over a period of several years.
- MADAM SPEAKER:** The First Elected Member for West Bay.
- MR. W. McKEEVA BUSH:** I do not know whether the Member answered this but can he say what took so long between the raising of the funds and the actual installation of the air-conditioning?
- HON. BENSON O. EBANKS:** Madam Speaker, the PTA did not raise sufficient funds even up to 1990 to do it. Government still shouldered the majority portion. So, the fact that they had been working on it for a number of years is not significant in the timing as far as I am concerned.
- MADAM SPEAKER:** The First Elected Member for West Bay.
- MR. W. McKEEVA BUSH:** Madam Speaker, the question was, what took so long?
- HON. BENSON O. EBANKS:** Madam Speaker, I do not know why the PTA did not raise the money before. I imagine they raised the money as quickly as they could.
- MADAM SPEAKER:** First Elected Member for Cayman Brac and Little Cayman.
- CAPT. MABRY S. KIRKCONNELL:** I wonder if the Honourable Member would confirm that when an undertaking was brought to Finance Committee to finance the air-conditioning of the Hall at George Town High School, that I asked that similar consideration be given when the Hall at the Cayman Brac High School was improved, and that it was approved at that Finance Committee?
- HON. BENSON O. EBANKS:** Madam Speaker, I seem to recall that what the Member is saying is correct.
- MADAM SPEAKER:** The First Elected Member for West Bay.
- MR. W. McKEEVA BUSH:** Madam Speaker, can the Member say what took so long for him to decide between the raising of the money and the actual implementation of deciding whether to air-condition the school?
- HON. BENSON O. EBANKS:** Madam Speaker, the Member does not seem to understand that the raising of these funds by the PTA was not something that was achieved in one year. If the PTA had this as a

project from 1986, which of course I did not know about at the time, they certainly only raised \$12,000 up to September 1990. So I do not know what the Member is talking about after the funds were raised. They never raised enough to do it even then and it was, and is a policy, in Government that public buildings such as schools are air-conditioned sparingly because not only is it the cost of doing the air-conditioning but it is an expensive proposition to keep these going. It is something that lends itself to abuse even when the children have gone home.

**MADAM SPEAKER:** The next Question No. 173, stands in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE SECOND OFFICIAL MEMBER RESPONSIBLE FOR LEGAL ADMINISTRATION**

**NO. 173:** Would the Honourable Member say whether the Court has decided on the appeal concerning the Piper Navajo seized by the Police on 6th May, 1990 in a drug interception?

**ANSWER:** The aircraft was originally forfeited to the Crown by the Summary Court on 30th October, 1990, as a part of the sentence imposed upon two Colombian nationals. The defendants pleaded guilty to charges arising from their use of the aircraft to import some 613 kilograms of cocaine into the Islands. The forfeiture was contingent upon their conviction and although they have appealed against their sentence, there has been no appeal against the forfeiture. The appeals against sentence are still pending.

**SUPPLEMENTARIES**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Do I understand the answer correctly that where it says, "there has been no appeal against the forfeiture", that the Government then owns the plane that was originally seized?

**HON. RICHARD W. GROUND:** Yes, Madam Speaker, the time limits for appealing against the forfeiture have expired. No appeal was made. The plane therefore belongs to Government under the Forfeiture Order and it is being sold.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could I ask the Member if he said that the plane is being sold, or has been sold, and if it has been sold, to whom and for how much?

**HON. RICHARD W. GROUND:** The plane was sold to a private individual. The transaction was conducted by the Portfolio of Development and Finance after the Central Tenders Committee had accepted the bid from the individual. He took delivery on the 10th of January, 1991. He is an unrelated customer of Government and I do not really want to bandy his name about but I am happy to give it to the Member privately.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, the Member did not say how much it was sold for and I am wondering if Government could not have had some use for that plane without simply disposing of it. Was any thought given by Government through Cayman Airways for example, having use of that plane?

**HON. RICHARD W. GROUND:** I apologise to the Member asking the question that I did not say how much. It was sold for US \$50,001.00 on a Bill of Sale which the Legal Department approved. As to the policy considerations of whether Government could have used it or not, I simply cannot answer that. It is not within my responsibility.

**MADAM SPEAKER:** The First Elected Member for Bodden Town.

**MR. ROY BODDEN:** May I ask the Honourable Member if, prior to the sale, the Government sought any advice as to the worth of the aircraft type on the open market?

**HON. RICHARD W. GROUND:** I am unable to answer that. The sale, as I have already said, was conducted by Finance and Development and the bid was approved by the Central Tenders Committee. While I would have expected they would conduct an enquiry into its value, it is not within my responsibility.

**MADAM SPEAKER:** Third Elected Member for George Town.



**MR. TRUMAN M. BODDEN:** Could the Member say whether Government looked at the possibility of using that aircraft for drug surveillance as I understand it had very long range and added tanks to it?

**HON. RICHARD W. GROUND:** I am afraid, Madam Speaker, these questions are not ones that I could possibly answer. They do not relate to Legal Affairs.

**MADAM SPEAKER:** That concludes Question Time. Report No. 2, which had been deferred, can now be taken since the Honourable the First Official Member has arrived.

## **PRESENTATION OF PAPERS AND OF REPORTS**

*(Recommitted)*

### **FINAL REPORT OF THE MANPOWER DEMAND SURVEY 1990 (VOLUMES I, II, III AND IV)**

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I am pleased to ask that the final Reports of the Manpower Demand Survey 1990 (Volumes I, II, III and IV) be laid on the Table of this Honourable House.

**MADAM SPEAKER:** So ordered.

**HON. THOMAS C. JEFFERSON:** Madam Speaker, the Reports which were put together by a team of two Regional Consultants who are specialists in this area of conducting Manpower Surveys, worked in coordination with and was recruited by the Economic Development Unit. I believe the Reports, especially the Summary Reports, crystallizes quite quickly the position as regards the employment situation in the Cayman Islands.

I believe it is a document on which this Government as well as the private sector could use as a benchmark in dealing with labour matters as well as the need for training and coordination of Manpower Statistics Monitoring and Projections for years to come.

I would offer my appreciation to all concerned in putting together this Report, which I deem, of great value to this country.

**MADAM SPEAKER:** The next item of business is a Statement by a Member of the Government. The Honourable Elected Member for Health and Social Services.

## **STATEMENT BY MEMBER OF THE GOVERNMENT**

### **AMENDMENT No. 1/91 TO THE DEVELOPMENT PLAN 1977**

**HON. D. EZZARD MILLER:** Madam Speaker, I rise this morning to make a Statement in respect of Government's decision to withdraw the proposed rezoning of a portion of Block 13C Parcel 1 as part of Motion No. 3/91.

The request for the rezoning applied only to approximately 26 acres of the 48 acre parcel. This 26 acres is currently zoned high-density residential. Its re-zoning to heavy industrial/commercial, would have facilitated the expansion of the land fill on a portion of this area.

### **POINT OF ORDER** Standing Order 37(2)

**MR. TRUMAN M. BODDEN:** Madam Speaker, I would like to take a Point of Order here and ask that I refer this to you because it seems to me that what the Member is doing is anticipating a motion and an amendment that is coming up and his time to state this would be at the time the motion is coming up. It is Standing Order 37(2) and says: "37. It is out of order to anticipate a bill, or a motion standing on the Order paper, or of any matter of which notice has been given, by debate upon an amendment." If he wishes to make a statement upon the withdrawal I think the proper time is when the motion is put. Otherwise he is anticipating that the motion will go through or will fail or whatever.

**MADAM SPEAKER:** Honourable Member, I have noted your Point of Order, but I would say that under Standing Order 31 the Member of Government has the right to make this Statement on a public matter and I have given approval for that. So, I would ask if he would continue.

**HON. D. EZZARD MILLER:** Consequent to the withdrawal of the re-zoning application we shall not be proceeding with the proposed extension of the land fill into the western area of this 26 acre portion. We propose to confine the Land Fill extension to the remaining 22 acres of Block 13C Parcel 1 which is already zoned heavy industrial/commercial. The other plans for the 26 acre area shall, however, remain intact.

Our commitment to the environment and to neighboring developments remain firm. The change of plan will enable an even larger area to be dedicated to the proposed natural wildlife zone. This will feature a bird sanctuary and lakes for marsh fish. In addition to the aesthetic and environmental benefits, the lakes will be designed so as to contain surface water within the site. Plans for the Re-cycling Centre will also be retained as well as for offices for the Solid Waste Surfaces.

In modifying the plan in this way, the buffer area within Block 13C Parcel 1 will essentially be expanded to a total of 26 acres. I should also emphasise that this buffer zone is complemented by the 200 acres of undisturbed mangrove swamp that isolates that parcel from the surrounding residential development.

These plans would have been fully explained at the time of moving the Motion but before this opportunity arose, an unfortunate article appeared in the local daily newspaper presenting a somewhat distorted and unbalanced account.

The Portfolio responded by calling a public meeting on the 14th of June, to discuss the matter with concerned citizens. Many of those who attended the meeting subsequently expressed a clearer understanding of the Plan. They recognised that Government was taking every step possible to protect their interests and was proceeding on the basis of environmentally sound principles and guidelines. However, a number of people still have reservations over the original proposal. We shall therefore, be subsequently proposing a modified site-plan for consideration reflecting the latest decision while maintaining our commitment to environmental concerns.

If I may add, Madam Speaker, I would like to say that all of the developments being undertaken in respect of our Land Fill operation are currently being studied in a comprehensive review of the entire Solid Waste Management Programme. The aim is to develop the most technologically advanced and environmentally sound Solid Waste Plan within the constraints of available resources and as cost effectively as possible.

As an example of Government's commitment to environmentally and technologically Sound Waste Management, the only medical waste incinerator of its standard in the Caribbean went into operation at the Land Fill last month. Plans are also moving ahead for a comprehensive Re-cycling Programme.

In conjunction with these developments, one of the aims of the Solid Waste Management Study is to design the Land Fill in accordance with U.S. Environmental Protection Agencies Standards. The design will ensure the elimination of any chance of seepage of contaminants in the ground water. This involves the installation of an elaborate piping system for the collection and neutralising of leachate. Within the site and in the perimeter there will be eight permanent monitoring wells to facilitate continual sampling of ground water.

I should explain that one of the reasons for not more widely publicising these Plans prior to this was the fact that we did not wish to pre-empt the findings of the Study which is now taking place. Nonetheless after the public meeting and subsequent representation the Government has decided to withdraw the present application for the re-zoning.

In keeping with this decision the Chief Environmental Health Officer is currently preparing a modified Site Plan for submission to the Planning Department for consideration by the Central Planning Authority. I undertake to ensure that these Plans will be permanently advertised and that the public will be kept fully informed as matters develop. Most importantly adjacent land owners will be contacted in writing before the plans are considered by the Central Planning Authority.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The Third Elected Member for George Town.

#### SHORT QUESTIONS Standing Order 30(2)

**MR. TRUMAN M. BODDEN:**

Madam Speaker, under Standing Order 30(2), I would like to ask short questions for clarification and, may I have a copy of the Statement and be given a minute to look at it, please?

**MADAM SPEAKER:**

I am sorry, Honourable Members, I thought all Members had been given a copy of the Statement. Are copies available for circulation to Members? Copies will be made available to Members as quickly as possible.

**MR. TRUMAN M. BODDEN:**

May I reserve my right to ask questions when I get it then or do you want me to ask what I have to ask him now?

**MADAM SPEAKER:**

You may have my copy. (Pause) The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Madam Speaker, this is actually two and a half pages so I am not going to have a chance to get through it. It is unfortunate that the Member would not follow the usual process and give us this a bit in advance so we could try to follow it.

Is the Member saying that he is going ahead with the Land Fill Garbage Dump on the adjoining piece of property? Also, if he would tell me what is the shortest distance between where the zoning was going to be changed and where the Land Fill now is? In relation to that, what I am asking is, on this map what would be the approximate distance between here and there and is it not only a very short distance in between?

**HON. D. EZZARD MILLER:**

Madam Speaker, that was a number of questions. I will try to order them in sequence. The Statement that I read was delivered to this Honourable House yesterday afternoon. As

far as whether I intend to go forward with the Land Fill the Statement says that we intend to apply to the Planning Authority for permission to continue the Land Fill at its present location onto 22 acres of the parcel of property which was bought by Government to expand the Land Fill which is already zoned heavy industrial/commercial. The decision of that is up to the Central Planning Authority.

As to questions on distances, I do not have the Plan before me nor do I have a scale on which I could measure the distances. That will be part of the process which will be given to the public during the process of applying to the Central Planning Authority.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Would the Honourable Member say whether he understood the 70 or 80 people at the meeting that he referred to, in this, to be opposed to the extension of any further Land Fill that comes towards the residential zone? And secondly, is this Statement his Personal Statement or is it a Statement approved by Executive Council?

**HON. D. EZZARD MILLER:** Firstly, Madam Speaker, the Statement is a statement approved by Executive Council and made on behalf of Government. Secondly, yes I understood that those people there did not want the Land Fill to be expanded but those people also know that the Land Fill has been there for 25-30 years.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Lastly, Madam Speaker. But is not the expansion of the Land Fill coming nearer towards the residential zone and the houses?

**HON. D. EZZARD MILLER:** Madam Speaker, I really cannot answer that question because that is something for the Planning Department to consider in granting the application.

**MADAM SPEAKER:** Other questions which are to be asked are really for the purpose of clarification, not for debate. The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Yes, Madam Speaker.  
I want to find out from the Member what has happened that has substantially changed the original motion which was put to the House? I want to know what is the reason that has caused them to make the change? Has it been that he has had to buckle to political pressure or is it that something else has come up? What is the reason why at this late stage we are hearing this?

**HON. D. EZZARD MILLER:** Madam Speaker, I do not think that is a question asking for clarification, that is a matter asking for my political opinion and I refuse to give it.

**MADAM SPEAKER:** We will next to go on to Private Member's Motion No. 10/91. Cayman Islands Television Franchise, the Second Elected Member for Cayman Brac and Little Cayman.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 10/91

##### CAYMAN ISLANDS TELEVISION FRANCHISE

**MR. GILBERT A. McLEAN:** Madam Speaker, I beg to move Private Member's Motion No. 10/91 - Cayman Islands Television Franchise, which reads as follows:

WHEREAS Government recently announced that a licence for a local television service has been granted to the Cayman Islands Television and Video Production Co. Ltd. (CITV);

AND WHEREAS this announcement was the first notice that Government was actively negotiating or had decided to grant a licence to any person or company;

AND WHEREAS there are substantial investments in receiver satellite dishes in the Cayman Islands by individuals and businesses;

AND WHEREAS the granting of a licence for local television broadcast is of immense national significance due to the role this powerful communication media will play in Caymanian society;

AND WHEREAS the fullest consideration and public opinion in the decision-making process is desirable in determining the grant of a permanent licence for local television;

AND WHEREAS all eligible entities should have equal opportunity to bid for the award of the licence;

BE IT THEREFORE RESOLVED that Government:

- (1) Before the award of any permanent franchise to any entity, give equal opportunity to all eligible interested parties to bid for a permanent local television licence, through invitation by public notice, setting forth its requirements;
- (2) Bring before the Legislative Assembly for its approval a bill setting out the terms of the licence for a local television broadcast;
- (3) Examine in detail the feasibility of a joint venture between Government and the private sector in providing local television broadcast with management through an independent statutory authority."

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

Madam Speaker, I beg to second the Motion.

**MADAM SPEAKER:**

The Question proposed is, Private Member's Motion No. 10/91, Cayman Islands Television Franchise. The Motion is now open for debate. The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:**

In moving this Motion, it seems like the only right and proper thing to do to see if at this very late stage, the Government might be minded to do that which is proper in such circumstances.

Madam Speaker, in the New Caymanian Newspaper of the week of the 24th to the 30th May, 1991 an article appeared on the front page, titled "T.V. Licence Approved". It was not until this appeared in the newspaper that the people of this country had any knowledge that Government was actively negotiating or indeed had decided to grant a licence to any person or company giving it the right to broadcast television locally. One might say that this broke the silence of the lambs, the Executive Council's thinking and indeed acting on this particular situation. Low and behold according to what was and is contained in this article it became clear that the Government had been sleeping with the enemy.

Madam Speaker, I would like to refer to this article in some detail as it is the only article to date that has set out certain information, whether a 100 per cent accurate or not, it has hardly been refuted by the Government of the day. The article says, that Cayman Islands Television and Video Production Co. Ltd., (CITV) was granted a six months temporary licence and that the final agreement was currently under review by Government's Attorneys and it is expected to be signed within three months.

I have been a civil servant for over 17 and a half years prior to working for myself, and I have worked in various Departments and Portfolios of Government. I believe that I have as good a knowledge of Government's procedure as anyone there now, or in this House or wherever. I have never in all of my time, in all of my life, all of my experience in Government heard of any instance where the Government is negotiating for, or to, grant a licence to a company or an individual to do something which has national significance and the Government is so anxious that this be done or acts so much on behalf of the interested party, that it grants it a temporary licence to get on with its business.

This matter, I think does not just bend the rules, this has broken all of the rules, all of the conventions, all of Governments practices and procedures that I have ever known to be in place. It ushers in absolute unfairness by the Government, the protector of the people. The entity which should lead the way in doing the right thing has ushered in and brought into play a clear action that says the rules can be broken.

Madam Speaker, what we heard on the Radio and saw from the Government Release which followed this article was that Government has approved one channel and that was all it was about. The Government had not given any real commitment to this person. I would like to know what more real commitment anyone, including the Government, can give in a contractual situation where it issues a temporary Licence to the person before negotiations are completed with the understanding that the Government in three months, is going to give the individual the real thing.

Something of great significance in it all is the fact of 'the deadly silence of the lambs' as to what that licence will ultimately contain. There is also extreme contradiction between what Government has said it has done or is intending to do and what the chosen one of CITV Desmond Seales has had to say about it. He says that it is not just any little one channel situation, he says it is a deal with 16 channels. He went into great detail in a clip of an interview on Radio Cayman to make clear that he is the chosen person by this Government to broadcast local television in this country and he is driving on green lights all the way.

Madam Speaker, it becomes clear from what he has said on the newscast and I am quoting from a transcript of that because I believe it would clarify the point that I have just stated. Mr. Desmond Seales is replying to the announcer on the radio who says that, "Mr. Seales' assurance was given in Parliament this week in response to questions on the status of your T.V. licence to the effect that it was a six months temporary and a non-exclusive permit. In light of this, what have you up your sleeve when you speak in your letter of future plans that include TBS and other authorised programmes that will involve subscriber fees?"

Now here, Madam Speaker, we are looking at a double situation. The Government has placed Desmond Seales of CITV in a unique position and he has used that very position to fortify himself now also to become the representative of certain television broadcasters in the United States and supposedly on whose behalf he has written to certain properties here setting out certain terms to them. I will speak on that in a little more detail in a few minutes.

Mr. Seales says, "Well to say that we have something up our sleeve at this time, it was published and it is well known that the single channel that was authorised by Government is for UHF transmitter signal for Channel 33 and that is for free over-the-air channel. However, a full licence application is for a 16 channel station that will incorporate that single over-the air-free channel as well as three channels that will transmit that very signal plus two other free channels. One that will allow for Government and Education access and one for Tourism information use. Twelve of the other channels will be for the big name programmes from the U.S. such as CNN, HBO, ESPN and others. We already have been in contact with them and have positive feedback from them that they are willing to enter into negotiations with us for carrying their programmes. The 16th channel will be for a Pay-Per-View for special events".

Madam Speaker, I think that clearly refutes and contradicts what the House has been told on this particular issue. What we know as representatives of the people on this side of the House, at least, is really only what we are reading in this newspaper article and what has come out during Question Time.

The article says according to its report that Mr. Desmond Seales said, "'We made an appeal' to Government and 'laid out a very good case as to what we have done'." Madam Speaker, I ask the question, "Done what" and "done for who"?

Madam Speaker, I do not believe that Mr. Desmond Seales has ever done anything which he has not done for himself. Any broadcast that comes over the television on a Sunday night that may give any advertisement to the Cayman Islands is purely incidental to his move and his effort to gather advertising monies for advertisements on that particular programme. He says his company has spent \$250,000 in the past eight months and he goes on further in the article to say that he believes it will be spending \$2 million and more.

He also says that, "over the next six months, CITV plans to investigate the logistics of setting up a free television service which can be picked up by most television sets with or by any antenna provided by CITV or other electronic suppliers.

The more one looks at this article and the more one reads, the more one realises that the Government has gone into an all out situation; has chosen him and his company for television in this country and other companies coming afterwards are at a distinct and absolute disadvantage. It is a disadvantage alone, I argue, from the fact that he was specifically chosen and I cannot see another company getting first place or first choice again. The first time is the first time, number one is number one.

The article states that Cayman Brac and Little Cayman would not get the direct broadcasts. I do not know why, but it could get it delayed and all that I would say on that particular point is that it is nothing new for the other two islands of Cayman Brac and Little Cayman to get second consideration. However, in the scheme of things that he has worked out with the Government they will be brought in if there is any financial advantage to it because we are not talking so much about television from the point of view of the Managing Director of CITV, we are talking about money to him and the Government has taken the population of this country and put it at ransom to him.

He says that the money he has spent so far has not been a profitable venture. Madam Speaker, who cares? It is not the responsibility of the Government or of this House or of the people of the Cayman Islands that Mr. Desmond Seales goes into a venture that is not profitable. Businesses open and businesses close in this country quite regularly. So if it does not work out, why must we shed tears over that? Or is it, Madam Speaker, a case that in some dark fashion the Government is over concerned about him and the success of his venture that they have gone to the extreme they have in this instance? It almost seems to beg the reply that, yes, it has to be that.

Madam Speaker, one quote here is that, "We have determined that people are watching local television and are hungry for local television." I think it is true that people might be termed to be hungry for television, that is why there are so many thousands of television dishes in this country; why there are so many television or tape clubs in this country renting tapes to people who wish to watch television and, from that point of view I think the people are hungry, yes, to be entertained and perhaps the population here has taken on watching television to an extent that is not good or healthy. That is open to debate. But what is before this country now is that the Government clearly, knowingly and deliberately has decided to give CITV a franchise to the exclusion of other people who are to come.

This article lists a chronology of what they say is the way that it went in this particular situation and from Question Time in this House it became clear that one of the few instances ever where this Government has spent millions of dollars, millions of dollars, hiring Consultants and it will continue to spend millions of dollars because this year there is money in there again for Consultants, it went ahead and acted without proper advice and knowledge of what it was all about. We were told in this House that one of three persons whom the Government thought would be proper people to employ to do a study, gave the Government some information.

Madam Speaker, this again is an extraordinary action because this was done for free. One of the persons whom the Government thought would be suitable to do this Study gave the Government information for free as his presentation. It seems more than obvious that that company or individual also would most naturally expect - "I give you this for free gentlemen, forget about those other two that you are thinking about. You have got to give me this opportunity for this Study whenever you commit to having the study done". It follows! It follows, Madam Speaker, but it appears that the Government would have the population of this country be stupid enough to believe that that is not the way it goes. Who are they kidding? Are they so blinded by doing the unorthodox that they believe the population is also that way?

There has been much said about a 'non-exclusive licence'. If there is only one airline flying into the Cayman Islands; there is no other airline competing with it, which ever is the

airline that is singly flying into the Cayman Islands is the exclusive airline serving the Cayman Islands. That obtains in every other area of enterprise in the world. If there is only one real estate company operating in the Cayman Islands, then there is only one real estate company that is operating here. It is operating exclusive to any competition. This is what the Government has done for CITV and Desmond Seales.

Madam Speaker, how this Government can believe that this could ever be acceptable to intelligent people and to people who look and think beyond the little information that it now and then spills out, it is sadly mistaken. This is a situation that has various concerns. What is the Government's position at this time? I am aware that over the years, from the 1970's there have been interested parties who wanted to set-up television in this country and I do not really see anything wrong with it.

The newspaper article cites that in a response when Government in 1989 said that it was thinking of it they had some responses which identified three Members of the Legislative Assembly. Well I am aware that there were persons related or associated with the Legislative Assembly in Government over the years that have being part of interest which wish to set up television and I really do not see anything so terribly wrong about that except for two points; that those persons would be improperly associated if they had to decide on the award of it, and secondly, if they were in a position where they could bring any influence to bear that their particular company gets the opportunity of it. But generally speaking, the Government has simply stayed away from the whole thing of television because at one time I know it was to give Radio Cayman the opportunity for broadcasting and to give it an opportunity to be profitable.

Radio Cayman is profitable, it is paying its way, one of few departments. What could there ever have been that would make Government in so sinister a fashion connive, contrive and conspire to come up with one like this with CITV?

Madam Speaker, if the Government was thinking now of suddenly getting into television should they not have thought of the many faithful people, for example, who work in Radio Cayman, who are out of their beds at 4 o'clock or 5 o'clock in the morning to get to George Town to that Radio Station to wake us up at 6 o'clock in the morning when many are asleep? Should not the Government have thought of involving itself because of the type of communications media television is? Not to the exclusion of the private sector or other interested parties but should not those hard working persons in Radio Cayman been given a little consideration in this respect?

Would they not like to be a star on television like some of the Members of Executive Council, or like some of those people from NBC and so on? Would they not like to be a star too? Should they not have that right and that privilege and that little consideration? Particularly since in that above the ground floor of the Radio Station the Government has built a television studio which it says is not going to be leased to Desmond Seales.

Madam Speaker, I wait to be convinced of Government's intention with that station that is above Radio Cayman. I am told that it is somewhat of a standing joke in the Radio Station nowadays, one member of staff will ask the other one, "Is he coming to take over today?" That is what this kind of action by the Government has brought about?

Did the Government take into account any kind of consideration for persons who have spent, collectively I am sure in this country, hundreds of thousands of dollars for satellite dishes? Did they take into account that to let loose someone like CITV's, Mr. Desmond Seales, on this country is improper in every possible way? I wonder, Madam Speaker, if they did?

Now, what happened after the Government looked around and found Mr. Desmond Seales to be the one to preach their gospel? He made some powerful moves because no longer than it took for the news to break than Mr. Desmond Seales came out in a rush and like a laser missile to hit at the places, the bars, and the restaurants which have bought television dishes and have it inside their premises where their customers, when having a beer, can look up and see the news. To the best of my knowledge those places are certainly not selling that news. It is no harder than the person glancing up at the television to see it.

Madam Speaker, I have here copies of a letter sent out by CITV to two places. There are many others as was admitted in to day's paper. One is to Mr. Reid Dennis of Dirty Reid's Palace and the other is to Mr. Leonard Hue, of McDonalds Bar and Restaurant. I think it is important for the people to hear the tone and the attitude of the person, Government's 'chosen one', the move he is making now with the full authority and reassurance of Government behind him. It says:

"We have been appointed an affiliate/correspondent and commercial representative for Turner Broadcasting System Incorporated (TBS), owners and producers of Cable News Network (CNN) news television programmes.

As the Cayman Islands commercial representative for TBS, we have been charged with responsibility and authority to regularise all illegal and unauthorised receipt and distribution of TBS programmes including CNN and Headline News for commercial use.

In this light, commercial establishments playing and distributing our principle's programmes to the public and guests effective July 1 1991, must make arrangements with our firm for authorisation."

Madam Speaker, did the Government not vest in Mr. Desmond Seales the authority to attempt to extort from these places monies which he has no business to? He did not give them their dishes. How does he know they are not paying for it? Did the Government not so authorise them? Did the Government Legal Advisors not tell them, "look you ought to be careful with what this man might do."

The newspaper said that Government's Legal persons were

looking at this. Did the Government not know? Mr. Seales says that he made a big presentation to them. Did he present to them the fact that he was holding himself out to be such a representative for these networks and that he was going out with a sledge hammer to beat and extract from these places fees that he says he is authorised to collect?

Madam Speaker, if what he says and this is correct, then the axe has fallen as of the first of this month and it is four days into it. It goes on to say: "We have enclosed for your convenience an Agreement for you to complete and return to us with payment for the period July 1st, 1991 to June 30th, 1992. As you are no doubt aware we have recently received approval by the Cayman Islands Government to transmit television services locally." He did not fail to put that authority behind him when he was attempting to make this move. Not attempting; when he made this move. "Our future plans will include TBS programmes and other authorised television shows. Fees paid by your establishment for TBS programmes will be credited to any other television service you may subscribe to for us in the future." Then he sets out the fees which he is going to charge.

Madam Speaker, does the Government see, does the Government understand and does it care about the image which it portrays to the people of this country? Do they for one minute understand that the people understand what they have done, in this instance, is highly irregular and, I say, improper?

Do they understand that CITV, Mr. Desmond Seales, has used his honey deal with them to go after businesses in this country? Does the Government understand the extent and the implications of this whole business? Have they ever heard of the State Department of the United States that does, unlike what the Government of the day does here, looks after the interests of U.S. citizens in commercial ventures and otherwise? And, that, if their Mr. Desmond Seales wishes to connive and contrive enough with the representatives of these networks they can make representation to the State Department of the United States who can make diplomatic representation to the United Kingdom Government to bring down all sorts of pressure on the poor innocent Caymanian who simply wants to look at a soap opera and has paid to do it? Perhaps that is beyond the comprehension of the Government of the day or maybe it just does not care.

There have been all sorts of disclaimers. Only yesterday I was at the place of a businessman here in George Town and the man and I were talking about what was happening in the House, the fact that he listens to the radio and so on. He asked me, "Could it be true that what Government did and gave Mr. Desmond Seales was not known by all of the Members of Executive Council or if just one person made the decision and did it?" (that being the representative of Government that answered the questions). "Because", he said, "One out of the three representatives in George Town told him that he did not know anything about it until he read it in the papers, like him."

I assured that gentlemen that unless everything had utterly changed in Government no one Member would have been able to have made this decision unless it was the Governor using some of his extraordinary powers and that everybody in Executive Council would have had to have known about this and have approved it by consensus. Even if a Member was not present he would have had his Executive Council papers so he would have known about it. "So that information", I said to the gentlemen, "Was false. You should not believe it".

Madam Speaker, the whole concept of television for Cayman is not a bad one. I personally believe the fact that the Radio Station has worked the way it has, the Government should be looking at bringing in television to be locally broadcast; where there would be educational programmes, programmes on our historical past, current events, the opportunity of making some real television stars out of those hard working persons in Radio Cayman; giving them an opportunity like the Executive Council Members get as if they were, Brokaw, or some of those people. They should be given that opportunity, I believe they would do a good job. I think that they would. They only need the opportunity. Would they get any opportunity if this goes through as it is intended to go through by being employed by CITV?

Well, there would be some serious changes if that were the case because I can think of at least one who some years ago was working for that gentlemen and had occasion to say to me, "Gilbert, the man has owed me money now for six months and he has not paid my salary." So is that situation going to change? Would they get that opportunity? Madam Speaker, I do not know, but I seriously doubt it. If the CITV is let loose like they are staged to, what will become of this country is something which I am sure will be of interest to sociologist.

I do not believe for one moment that there was any guess work on the part of the Government when it gave this out to their chosen one. CITV's, Mr. Desmond Seales has been in real tight with this Government for some time. He has been a very able propagandist for them for some time. He, who left Trinidad, went on to the Bahamas, then to the Cayman Islands where he was honoured, has been doing some real work on their behalf. From the day he came to this Island he has been meddling in the politics of this country and he has been publishing something that I have not seen in awhile called "The Seales Cayman Letter." This particular one is September 1990, following the occasion when this Government made a move that gave it absolute control over the finances of this country. This is supposed to be a Real Estate Newsletter where all sorts of things are being set out here and so forth and so on. To show where he sets with this Government, I would just like to quote a few instances from it. It says:

"It was only nine months ago that things worsened so much in Panama, a tax free competitor of the Cayman Islands, that the United States Government launched an invasion of the country and arrested its military dictator. The wounds inflicted on Panama before, during and after the invasion were undoubtedly to Cayman's benefit.

Unfortunately, there have also been some self inflicted wounds to Caymans previously untarnished image of stability by some legislators who in quest of personal economic and political power resorted to Third World rhetoric and political maneuvers in an attempt to force the country's management, the Elected Members of Government, to mid-term abandonment of the responsibilities entrusted to them for a four year period."

[Madam Speaker, what a statement by somebody like Desmond Seales! A person who is power hungry and wants to seize things as he has done with the assistance of this Government.]

"Fortunately at a time of great challenge, the senior representative for the smaller islands of Cayman Brac and Little Cayman, Capt. Mabry Kirkconnell had the foresight and courage to grab the wheel of a floundering good ship Cayman and steady it on the stable course on which it has been set by his vote on a number of crucial issues. In defiance of heavy pressure, he ensured that the Government was not denied the power it needs to continue its programme until the next election, in 1992."

Madam Speaker, the reason why CITV and Mr. Desmond Seales have the television franchise for local television broadcast is because the political Members of the Executive Council want it - because he is their political propagandist.

He is no stranger to this, and please allow me to speak frankly because I do not buy the argument that our would-be dominators put forward constantly, that the Cayman Islands is a small society and we do not have anyone here who could be a magistrate because he would not be able to arrive at a good conclusion because his cousin might get in trouble and that Cayman is so small that we are incapable of seeking or looking objectively. I do not buy that. Therefore, I do not buy the story that the Government would put across that they did this because Cayman is such a small society and he has worked so hard and he really started something that it was only fit for them to do that. I heard that is what he has been saying.

People collect coins and stones and various things, but I am a great collector of paper. I hold here in my hand the *Caymanian Pilot*, that is one of those newspapers that was published by the political propagandist of the Government. It is that of Friday 30th November to Thursday 6th December, 1984. It says: "*Cayman Pilot* to Continue Despite Economic Woes." Madam Speaker, I remember that election of 1984 very well. I know that the 'chosen one' of this Government availed himself to every single candidate that was in that election for a price of whatever he could get, be it favours or otherwise, in a fashion that would make Mata Hari look like Sister Theresa. [Members' laughter]

Immediately following that election we have the term 'he was dropped like a hot potato.' The man that the Government has now given the right to rule this country by television was not touched by any political candidate - including those who won - and it was made known to him specifically why.

On page 7, it has taken blows from all sides. He wrote this and he is bemoaning the fact that nobody wanted any part of him and he could not understand it because he had made himself available to everybody. He could not understand it. He does not understand that there is no such thing as loyalty when you are on all sides. That is against the whole concept of loyalty and in his own words I would like to quote what he said so that no-one will think that I am speaking too strongly about that gentlemen. It says: "It was our guiding principle as we took work for all sides in the recent election."

Madam Speaker, that is the person the Government has put in so awesome a position. It is known that there was only one person in this country when powerful businessmen who won the election in 1984, had put the kiss of death on him, who reached out a hand of friendship; and he stung him just like the scorpion that was taking the ride across the river on the back of the bull-frog. The very business in which he was employed in for this gentlemen, he took enough of that with him to set up his own. Subsequently, this man was booted out of the Cayman Real Estate Brokers Association because of unscrupulous and unethical practice.

Only on Thursday, the 29th of June, there was an article in the *Caymanian Compass* on page 8 about a land deal which has sequence in Court. It says: "Seales and Company is a former member of the Cayman Islands Real Estate Brokers Association but was expelled in September 1990, for allegedly violating CIREBA Code of Ethics." The case that they were talking about just went to Court a few days ago and the Court found him guilty of trying to steal a piece of land that he was supposed to buy for a client. I am sure my learned friend, the attorney on this side, will take the opportunity to explain a little about that case, because other than putting it in my layman's language I really cannot get into the fineness of the Law in the situation that exists here now.

The Government has done something which is clearly wrong. It should not have done it and I believe it has the opportunity to do something about it should it accept what the three Resolves in this Motion call for. One might ask, Why do I feel so strongly about it or why the big thing? Because no big thing happens in Cayman, every big thing you just 'poo-poo' it, and it is okay. You just do not say anything about it and it will be all right.

The reason is because of the fact that this man is in close association with the Government of the day and they are putting in his hands, television, which is the most powerful communication media on earth. I charge that this Government's intention, wish and hope is that he will produce such programmes that it will show them in the light, while they are in the darkness, to attempt to persuade the population of this country to return them at the polls in 1992.

The Government has not given any indication of what is in that franchise. He is making a channel free for public information and Government information. No Government



information in this country, under his guidance, is going to say anything good about the seven people on this side who stand-up and take blows get shot down, get called fools and otherwise, but who repeatedly go back and fight to try to keep a buffer zone between all the things that the Government wishes to do to and against them. They are going to give a real scenario about the Government.

This is a very worrisome situation to say the very least. Before this Government gives CITV a permanent licence, it should give equal opportunity (while its chosen one is out there making all sorts of miles ahead of any other interested parties) or give him another temporary licence, or whatever, but they should give other interested parties a time and opportunity to apply for such a licence. Most certainly, this Government should say what the requirements are. No one knows what is in the licence, what have they asked them to do? No one knows.

Madam Speaker, that is really not strange for this Government because for about three and a half years in this country it has become very clear that the natives should not know too much. I think that is on the edict of a particular person and the Government certainly carries that out with zest.

Madam Speaker, I also believe that this Government should look at the feasibility of being involved itself in a joint venture, in a partnership with the private sector; be it an individual or individuals or with companies that have the expertise, the technical knowledge, the funding or whatever, but it should be a joint venture. It is too powerful a thing, in my opinion, to let loose wholly and solely into the hands of an individual in the private sector even if there is a free channel given for Government to put out its propaganda.

There needs to be a countering force, which I believe would come into play if there was Government at 50 per cent and the private sector at 50 per cent. I believe, somewhere in that private sector arrangement there would be pressure on the Government to say, you know that is only your story, maybe you should toss in a little there about the opposition or the other side. But to give it to one person and certainly to CITV, I think is doing this country a terrible disservice.

I do not know if the Members of Government watch movies, and if they do, if they simply look at the movie for looking at it or whether they learn things from it but the all time classic on the power of television was depicted in a movie called 'Network' in which starred Faye Dunaway and William Holden. It was in that movie that it was shown beyond the shadow of reasonable doubt, as depicted there, and certainly as is the case in the United States, Canada or wherever else, if you see it on television you believe it. It is the power of the audio/visual. You see it and you hear it at the same time.

The First Elected Member for Bodden Town would know about it. He, like myself, was a teacher and he knows it is one thing to stand before a class and teach them dry stuff but you make some charts and you put them up and they see it; it is effective. Television is the most effective means.

So why the concern, Madam Speaker? Maybe if I read just four sentences from some of the dialogue of Network between the top brass that called in a Mr. Beale (played by William Holden) to tell him he had to stop doing on television what he was successfully doing; chasing away all the money that was coming into the country, it might express it much better perhaps than I can. This man speaking to Beale said:

"The world is a collage of corporations all inexorably determined by the immutable by-laws of business. The world is a business, Mr. Beale. It has been since man crawled out of the slime. Our children will live, Mr. Beale to see that perfect world in which there is no war or famine, oppression or brutality. One vast and ecumenical holding company where all men will work to serve a common company in which all men will hold a share of stock, all necessities provided, all anxieties tranquilized, all boredom amused. And I have chosen you, Mr. Beale, to preach this arrangement."

Mr. Beale says, "Why me?"

"Because you are on television dummy! Sixty million people watch you every night of the week Monday to Friday."

Beale in some awe says, "I have seen the face of God!"

The man replied, 'You just might be right, Mr. Beale. You just might be right.'"

Madam Speaker, I do not want to see this Government take local television and put it into the hands of a man in this society who is a rogue! And, I do not want this Government to continue doing what they are doing. It is wrong and it is not too late for them to correct it. I hope that they will accept the Resolves of this Motion which I recommend to all Members of this House.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The Honourable the Third Official Member.

**HON. J. LEMUEL HURLSTON:**

Madam Speaker, permit me to make a contribution to the debate on Private Member's Motion No. 10/91 entitled, "Cayman Islands Television Franchise". I shall have to be somewhat more brief than usual today, not the least because I am suffering from a common cold and my voice is not the best.

The matter of Public Television Broadcasting is naturally one

which evokes a fair amount of emotion. In the assignment of responsibilities for various subjects, Governors in recent successions have allocated the responsibility for television to the Portfolio of Internal and External Affairs. In assessing the way forward in promoting television, the Government decided in October of 1989, not too long after the present Government was elected, to begin to consider the matter of television and to consider it cautiously knowing that historically, the subject has been controversial.

In October of 1989, the Government issued a press statement which, among other things, described the following features. It said that a television service must be available in an acceptable technical standard to the populations of Grand Cayman, Cayman Brac and Little Cayman.

Secondly, any television service must be primarily a local television facility for the production of local programmes on civic events, news and educational and cultural nature. Additionally, the service would include an offering of international and regional news and selected programmes legally obtainable for re-transmission in the Cayman Islands. I would like, just for the purpose of emphasis, repeat the words, 'selected programmes legally obtained for re-transmission in the Cayman Islands'.

Thirdly, the service could be advertiser supported and could be transmitted free of charge to residents of the islands with an option to offer subscription service also being available. Fourthly, the content of programmes would be required to comply with standards to be set down and administered under legislation and regulations.

The press release made a statement ended by inviting interested persons to express their interest by forwarding their responses by mail to the Office of the Administrative Secretary in the Governor's Office. Immediately following the issuing of that invitation for expression of general interest, much interest in the subject of television was aroused. However, it was clearly stated in that press release that the Government was not then inviting formal presentations or proposals but simply inviting expressions of interest. But in so doing, the Government set out the basic general criteria of what it was looking for.

What the Government received as a result of that was a number of proposals from varying groups on a wide and varied range of proposals covering every conceivable facet and means and media of broadcasting. We received these proposals from groups, two of whom were interested in offering cable television and two groups that were offering local over-the-air transmission using UHF signals. There was no clear course to be steered as seen through the eyes of the Government following the receipt of those presentations. It is perhaps because persons who were interested became a little bit over exuberant and elaborate in their proposals when in fact, the Government was asking for a simple general presentation without the technical barrage.

The sequence of events that followed have been summarised in various Parliamentary questions which I have answered during this Meeting and I would simply like to put in the record reference to Parliamentary Question No. 108, which was answered on the 21st of June, which set out a chronology of the actions taken by the Government since October 1989, leading up to the award of a temporary licence to CITV in May of 1991.

The Motion rightly says that a temporary licence for local television has been granted to CITV and it is true too, as is expressed in the Motion, that substantial investments have and continue to be made in television equipment, satellite dishes, VCR recorders and the like; and there is no denying that television broadcasting is a national tool and a very powerful communication media that must be monitored wisely. There is no denying that there is considerable public opinion about the matter. That was why the Government approached the subject in the way that I earlier described.

If I could make a distinction between a national television broadcasting franchise and a local non-exclusive licence it might help to make my next point. The Government interprets national television broadcasting as a matter that is in the American jargon referred to as 'Network Broadcasting'. That is, a broadcasting facility that is free and that is available to all segments of the national population. That is the Government's definition for national television broadcasting. The granting of a non-exclusive television licence simply permits the licence holder to engage in a form of broadcasting not necessarily capturing the entire population and not necessarily being free of charge.

It was the latter type of licence that CITV in December 1990, made an application in respect of. Licences are granted in accordance with the provisions of the Broadcasting Law, 1977, and section 10 of that Law states:

"10. (1) Any person wishing to establish and operate a broadcasting station in the Islands may apply to the Governor for a licence authorising him so to do.

(2) An application for a licence shall be made in such form and manner as may be prescribed or, failing such prescription, as the Governor may require.

(3) Subject to the provisions of this Law, the Governor may grant a licence in respect of which an application has been made under subsection (1) but, if the Governor is of the opinion that it would not be in the public interest to grant a licence, he may refuse to grant it without giving any reason for such refusal and such refusal shall be final and not the subject of any appeal to, or question by, any court.

(4) Subject to the other provisions of this Law, a licence granted under this section shall be for such duration and subject to such terms and conditions as the Governor may see fit to impose and to the payment of such fee, if any, as may be prescribed."

That is the section under which the Governor in Executive Council has acted in the case of the grant of a licence to CITV.

The Government has also made it clear in that licence that there is no commitment implied or intended beyond what is contained in that licence. It is a temporary licence valid for a period of six months from the 24th of May, 1991, for a single UHF channel and there is no commitment implied or intended beyond what is contained in that licence.

One of the most significant provisions in any such licence agreement would have to include reference to the Broadcasting Law and the fact that licensees are required to comply in all respects with the provisions of that Law. Section 12 of the Broadcasting Law sets out some of the duties of a licensee under the Law and I shall read it:

- "12. It shall be the duty of a licensee to ensure that the programmes broadcast by him -
- (a) include nothing which offends against good taste or decency or is likely to encourage or incite to crime or lead to disorder or to be offensive to public feelings or which contains any offensive representation of or reference to a living person;
  - (b) maintain a proper balance in their subject matter and a high general standard of quality;
  - (c) present with due accuracy and impartiality any news given therein;
  - (d) include no discussions or debates where persons taking part express opinions or put forward arguments of a political character which are not properly balanced by other opinions; and
  - (e) comply with the provisions of this Law and any Regulations made under it."

Another significant provision that is always advised by Government's Legal Advisors to be included in any such licence agreement is the section relating to the liability of the licensee to ensure that all programmes carried are legally obtained for re-transmission and broadcasting under the licence. That is the important provision in a licence which requires the licensee to ensure that no copyright law or no franchise or international obligation is breached in the carrying of television programming.

The Government during this period of considering television, took the time and spent the money necessary to obtain a full and thorough legal opinion from Government's attorneys in Washington. The attorneys advised in some detail on the international and regional implications for television licensing and broadcasting in the light of the various controversial articles and features which have appeared from time to time regarding what is commonly referred to as 'pirating'.

So, the Government is in a position to state categorically that, from the legal opinion that it has received from its Washington attorneys, there is a clear understanding in International Law and by Conventions extended to the Cayman Islands through the United Kingdom Government, and there is a clear understanding of what is considered legal and what is considered illegal.

I believe in layman terms I can summarise it in this way. It is Government's understanding that it is currently not illegal to capture for private viewing signals which are transmitted via satellite. It is quite illegal, however, to capture signals transmitted by satellite and have that signal re-transmitted or distributed for commercial purposes. Because of this, one has to find an interpretation for what is "commercial purposes" and I do not wish to pre-empt any litigation that might come forward in this regard but I think the emphasis has to be on the conclusion arrived at by the definition of what is a commercial use vis-a-vis private use.

This might be a good point for me on behalf of Government to categorically deny that Government was aware of CITV's intentions' of issuing its recent letter to various commercial establishments seeking to enforce certain commercial copyright matters. The letter does make reference to CITV's licence which the Government granted to it but the Government, in the granting of that licence, did not authorise CITV to engage in the enforcement of any such commercial copyright obligations.

Might I also state on the other hand, that what CITV has purported to do if it has the necessary agreement with the producers of those programmes and has been authorised to enforce copyright agreements on behalf of those owners, then CITV is legitimately empowered to do so without any further Governmental consent, because in the final analysis the owners and producers of such programming do have recourse through International Conventions and ultimately to the Courts of the Cayman Islands to ensure the enforcement of copyright protection. May I also state again, categorically that the facilities on the second story of the building upstairs Radio Cayman, have been designed and built for the purposes of the expansion of the broadcasting Radio Station and there are no plans for television broadcasting by the Government in those facilities presently.

I stated in answer to a supplementary question earlier, however, that one room in that building has been so designed with a raised floor so as to facilitate the insertion and extraction of cables in such a manner that if (and I would underline 'if') at some future point recording or broadcasting of a video/audio nature was required that could be carried on in that room. I made the point too, that that was simply sensible long-term planning on the Government's part.

Reference has also been made to the fact that a single television licence, in the absence of any other competition, represents a monopoly. With that there can be no denial.

However, the Government has never gone out and solicited proposals and has never issued any invitation for persons to submit proposals to engage in television broadcasting of this kind. The Government was going about it in a slightly different way by trying to test the market to see what interest was available, obtaining the necessary legal opinions on the matter and, if found feasible, to then reserve the right to develop a national television service which may or may not have been then put to public tender. There is no obligation which the Government has requiring it to tender for the award of licences. That is not to say that the Government could not do so, but the Government is not obliged to do so.

The Resolution calls on the Government to do three things and the Government would not wish to commit itself, one way or the other, in respect to Resolutions (1) and (3). Resolution (1) requests the Government that:

- "(1) Before the award of any permanent franchise to any entity, give equal opportunity to all eligible interested parties to bid for a permanent local television licence, through invitation by public notice, setting forth its requirements."

and (3) states:

"Examine in detail the feasibility of a joint venture between Government and the private sector in providing local television broadcast with management through an independent statutory authority."

Those two Resolves Madam Speaker, the Government does not wish to reject and wish to leave its options open in so far as public tendering is concerned and as far as joint venturing is concerned. However, in respect of the Resolution part (2) calling on the Government to: "...Bring before the Legislative Assembly a Bill setting out terms of a licence for a local television broadcast..." That is not considered necessary in light of the provisions of the Broadcasting Law which I have previously read.

Whilst understanding the emotion and the concerns which Members rightly have about this matter of television, the Government is confident that it has gone about the matter in a calm, quiet and confident fashion, knowing that it is not committing itself to anything that the Cayman Islands cannot be proud of.

Most people tend to think that humble beginnings lead to greater ambitions and there is much truth to that. CITV had rather humble beginnings back in September of 1990. It began by having taped broadcasting, tapes of tourist information available to tourists in various properties along 7-Mile Beach; it then developed feature tapes featuring Pirates Week, featuring Christmas, etcetera, and from these features grew the desire to engage in a new programme called, 'Sunday Night in Cayman'. This programme, in addition to the others, commenced airing via satellite. CITV has had to rent the space on those satellites for those transmissions and they believe that they are popularly watched by many of the Caymanian population.

I do not wish to state anymore in so far as the merits or otherwise of the quality and effectiveness of CITV's operation and I would simply like to sum up by saying that the Government has conscientiously and carefully entered into a limited non-exclusive licence with CITV; a licence that it has no reason to be ashamed of granting and secondly, to state that the Government is in the continuing process of working out negotiations which will determine if CITV will be granted any further licences. Until such time there is no point in anticipating the future.

The Government will not therefore commit itself by accepting the Resolves of Private Member's Motion No. 10/91 and will have to oppose it when the vote is taken. Thank you.

**MADAM SPEAKER:**  
Elected Member for West Bay.

If no other Member wishes to continue the debate... The First

**MR. W. McKEEVA BUSH:** For many years residents in these Islands had been asking for television services, then all of a sudden we came into the age of satellite television. Everywhere one looks now you see evidence of this. That is to say that this media of information and to some of recreation, is highly esteemed by the public. I do not necessarily agree that this is the best form of entertainment but to each his own. Even though the negative influences are very evident to some degree in our country, I doubt the Government will be able to control people's lives to the extent that it will counteract this problem easily.

This Motion is a very important Motion. I do not think it is unreasonable to ask the Government to tender for television services for this country. I do not believe that the Broadcasting Law, in its workings, covers entirely what a proper Bill to deal with television could do such as the Bills which are evident in most other countries now, or at work or in vogue in most other countries now. I think the Motion is quite all right and I want to commend the Mover for putting forward his reasons so vividly to this Honourable House. Of course, what he has had to say has not softened the hearts of the Government Bench who came prepared to object to this Motion rather than to listen to the reasons put forward by this side of the House.

Nevertheless, they are the Government and it is left to be seen whether the First Member for Cayman Brac, who I know was in agreement with this Motion when it was being drafted and after it was drafted, I do not know whether he has changed his mind, but it can only go through with his support. Government can only win its objections to this Resolution by his support. So I trust that that Member from Cayman Brac, having voiced his opinion to me on the seriousness of what has taken place in the granting of that licence, and the serious possibilities that exist, that he will do as he said a few days ago, exercise his right to do what he feels is right. I hope that he has not changed his mind in so short a time.

I have observed some of the broadcast by CITV and some are of good quality. My concern today goes far beyond just the occasional T.V. programme as is the case now with that company. In giving such an important licence to broadcast to 50 per cent of the homes in this country we must consider what is being sent over the air waves and we must consider who is in control of such broadcasting.

The power of broadcasting was ably described by the British Broadcasting Committee some years back in a report to the British Parliament. It said and I quote: "Broadcasting is the most persuasive and therefore one of the most powerful agents for influencing men's thoughts and action; for giving them a picture true or false of their fellows of the world in which they live; for appealing to their intellect, their ambitions and their appetites; for filling their minds with beauty or ugliness, ideas or idleness, laughter or care, love or hate."

This pretty well sums up the reasons for my concern to whom is given this powerful instrument.

**MADAM SPEAKER:**

Honourable Member, would this be a convenient time to take the lunch break? The House is suspended until 2:15 P.M.

**AT 12:45 P.M. THE HOUSE WAS SUSPENDED**

**HOUSE RESUMED AT 2:18 P.M.**

**MADAM SPEAKER:**

Please be seated. Proceedings are resumed continuation of the Debate on Private Member's Motion No. 10/91. The First Elected Member for West Bay continuing.

**MR. W. McKEEVA BUSH:**

Madam Speaker, when we took the lunch break I was giving my concerns on the granting of the T.V. licence by Government. I am concerned for more than one reason but I am very much concerned that this broadcasting media will be used heavily for purposes of political propaganda. All of us know that is not impossible with the present licence holder but it is inevitable. Usually it would be my policy to regard broadcasting by television as I regard any other form of mass media. I do not think we can control the newspapers but as the old people say, 'this is a different kettle of fish'. When there is lack of professional ethics in reporting we must be concerned and take a stand.

As I said, political propaganda is not impossible. Political reporting is one thing but deliberate twisting is another matter and I must be concerned with the lack of professional ethics. We have seen during 1989, 1990 and this year the point of view of the Executive Council greatly over-emphasised out of all proportion by the holder of the present licence. He made no bones about where his support lies. Any references, especially to Members on this Backbench, were all negative.

He was blatant in reporting negative aspects to proposals put forward by this Backbench. I very well remember and have the proof of his report on the West Bay Jetty, his opposition to that landing jetty and how that was blown out of proportion; on the Post Office, the Master Ground Transportation Plan and other matters pertaining to and dealt with by this Honourable House which were derided and distorted. These matters were presented in such a biased manner it could hardly be considered a fair presentation of the issue.

When dealing with the twisted ability of such an individual we only have to look at his publication called, The Seales Cayman Letter, which the holder of the licence granted by Government purports to be an investment economic Real Estate Review of tax-free Cayman Islands. If that publication would stay within these confines as I told the publisher himself, it would not be a bad publication at all, but as I say, it delves into the political arena and distorts the issues to suit his support for the Elected Executive Council.

To support what I am saying one only needs to look at a few of his publications in the Seales Cayman Letter. It is not hard to see how distorted this man is. He has knowingly and willingly gone about distorting the issues that come before this Honourable House. I believe that there is going to come a time when people or reporters who willingly and knowingly twist what is said in this House will have to be dealt with by this Honourable House.

I remember very well a short paragraph when that supporter of Executive Council wrote that there was a Motion to open bars until 3:00 A.M. on Friday nights. No such Motion was dealt with or proposed but that was only one of the aspects that man would take and twist to try to knock people like myself, and try to show me up in a bad light.

He went on to support and say there is support for the idea that Saturday night opening times should enjoy the same privilege instead of having to close at midnight. I do not know where he gets that support or where he can find that support in this country because everywhere that I go in this country, 90 per cent of the people are satisfied with closing at that hour on Saturday night because we respect Sunday as far as dancing is concerned.

He took the issue and twisted it completely around and if that issue had come before the House that is what you were going to hear from Executive Council too. It was strange to see in that same article how he went to great lengths to talk about satellite television and to see that that man took several pictures with homes showing their satellite T.V. dishes which he called the latest status symbol. This is the type of reporting that I am worried about. One only has to look at it and if anyone thinks that that man is not going to get into homes, one only has to read that article.

I firmly believe, on matters of public interest and controversy, the news media's job is to put forward a balanced point of view. It should be presented so that the public can draw

its own conclusion as to what is right and who is wrong. When you only get one side of the picture the brainwashing effect is very evident. I received the same letter which had been sent to some of my constituents. Any charge to these establishments in this country will represent an escalation of costs to not only locals, but also to people in the tourism sector.

According to the charges that have been circulated, the Radisson Hotel with 300 rooms will be charged \$9,000 per year. Who does Executive Council believe will pay this if not the tourists? We can hardly afford any more increase in cost in this country. So a start is made in charging businesses. I am wondering when a similar letter will be sent to residents and I understand that would be the next stage, as agreed with Government privately.

#### POINT OF ORDER

##### *Relevance*

**HON. BENSON O. EBANKS:** Madam Speaker, on a Point of Order. Relevance. The letter being referred to by the Member has nothing whatsoever to do with the licence which has been given to CITV by Government. That is a separate commercial matter entered into by that gentlemen and a company in the United States. The Executive Council has nothing to do with that.

**MADAM SPEAKER:** Honourable Member, the matter has already been introduced during the debate and particularly by the Third Official Member when he said that Government was unaware of that. So, he is making a passing comment on this, but please do not belabour the issue.

**MR. W. McKEEVA BUSH:** What I was saying was that the man has said he is going to put forward these charges on the strength of that licence and his affiliation with Turner Broadcasting Corporation. I am being told by the Member for Education that he did not say that.

**HON. BENSON O. EBANKS:** The letter, Madam Speaker, that I saw which had been sent to business places has no reference to his licence from this Government.

**MR. W. McKEEVA BUSH:** Madam Speaker, can the Member for Education repeat his objection? I am not clear on what he said.

**HON. BENSON O. EBANKS:** The point I am making is that the letter that was sent to businesses does not purport to set its authority by further charges or it does not say on the strength of his licence from Government these charges are being made as the Member is saying. It is purported that it is being done as an agent for Turner Broadcasting Corporation in Atlanta.

**MR. W. McKEEVA BUSH:** Madam Speaker, let me read for the House what the letter says:

"We have been an affiliate correspondent and the commercial representative for Turner Broadcasting System (TBS) owners and producers of Cable News Network (CNN) and Headline News Television programmes. As the Cayman Islands commercial representative for TBS we have been charged with the responsibility and authority to regulate all illegal and authorised receipt and distribution of TBS programmes including CNN and Headline News for commercial use.

In this light commercial establishment playing and distributing our principals programmes to the public and guests effective July 1st, 1991, must make arrangements with our firm for authorisation.

We have enclosed for your convenience an agreement for you to complete and return to us with payment for the period July 1st, 1991, to June 30th, 1992.

As you are no doubt aware, we have recently received approval by the Cayman Islands Government to transmit television services locally. Our future plans will include TBS programmes and other authorised television shows. Fees paid by your establishment for TBS programmes will be credited to any other television service you may subscribe to from us in the future.

If you have any enquiries or need clarification, please do not hesitate to contact the under-signed. In the meantime we look forward to your cooperation.

Yours Sincerely,

Cayman Islands Television  
and Video Production  
Company Limited."

Madam Speaker, my interpretation of what Seales said in the paragraph which says, "As you are no doubt aware we have recently received approval by the Cayman Islands Government to transmit television services locally." He is threatening the people with Government's licence and if the Member for Education does not care to read that into it, that is his business. But that is my understanding of

what he is trying to do. On what strength would a man like Desmond Seales be able to go to any business in this country and say I want to charge you? On what strength? may I ask the Member for Education, on whose authority?

**MADAM SPEAKER:** Honourable Member, I think the point was made on a Point of Order by the Honourable Member and I have said that it has already been raised in the debate. I would ask all Members in future, please do not belabour the point and please do not engage in tedious repetition. Thank you.

**MR. W. McKEEVA BUSH:** Madam Speaker, I will bow to your ruling, as I usually do but I was interrupted and I think I had good cause to reply to the interruption because he was saying that I was saying something that was not in the letter. It is in the letter! It is clearly in the letter what the man is trying to do. He is not only going to do that because if he has the power and the authority to go to businesses that he has nothing to do with, how long will it be before he is going to come to residents? Because, the same air-wave that goes to businesses, comes to my house and your house. So what he will be able to do for one air-wave he is going to be able to do for the next.

I wish the Member for Education will explain to the Honourable House why the man got the licence!

I would hate to think that a television licence would be used as a propaganda machine for the Executive Council which is defending the licence holder here today and gave the licence in such a haphazard, unfriendly atmosphere. Who say, Madam Speaker, that Government is not obliged to tender for any licence and that in dealing with this person that Government had gone about in a calm, quiet manner and had not done something that Cayman can be ashamed of?

There are many good people in this country who get led astray and get mixed up with people of dubious character. The honesty in those people is when those people make it known to the public that they have no more dealings in any situation, but when you continue down that road in dealing with known people of dubious character or of checkered background, you must question it. For years different groups have been legally trying to get a licence, there have been several applicants for a licence over the years and it begs several probing questions as to why Government only saw fit to grant to an individual with such a checkered background? I am afraid through the rising processes and through the timing the Government has used in granting this licence, this very important aspect of national life and concern, has not received the scrutiny and discussion it should.

My opinion is that Government wanted Mr. Seales to have that licence because Mr. Seales is a supporter of the Government. I am not saying that of all of them. But, we have seen in his publication what he will do.

The Member answering for Government said in considering the way forward and considering cautiously they granted the licence. Very deliberate, but with all the strikes against him, why? Their action in this case, in my opinion, is most typical in their way of thinking and all other aspects of Governmental life and manner of doing things in this country. If you are with the Government, you are favoured. If you are against what they do, you are a fool or something else and you are derided in a bitter way. Not by all of them but by 99 per cent. This Motion is very valid. It is something that Government needs to do because the people are concerned about the manner in which it was granted and the person receiving the licence.

Now the Member speaking on behalf of Government has said that in the Resolve section (2), we are asking Government to bring before the Legislative Assembly for its approval a Bill setting out the terms of the licence for a local television broadcast. Their usual claim, when we ask for something on this side, is that they are already doing it or they do not have the means to do it with and that is their objection now. They have the Broadcasting Law.

The Broadcasting Law simply gives the authority under section 3 whereas: "broadcasting station" means a station which transmits or emits for reception by the public generally signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, or any visual or other electromagnetic system;" Which certainly means a television. The Bill as far as I have read it does not set out any terms of the licence. It says the way and the manner the licence shall be granted but the Bill does not set out the terms of a licence and that is what should come before this House if they want to grant a criminal a T.V. licence so that they can parade around at Christmas and Pirates Week and all those nice things. Let them go ahead. The people will repay them when the people's day comes. Surely they should have some mechanism.

It is right that such an important aspect as television guides the life of countries. The television media is known to control Governments, therefore, the country. With such an important aspect as that, we should know what is going on and we should have some say in it. This is all this Resolve section is saying, that they bring a Bill which sets out the terms of a licence. So when the Honourable Administrative Secretary says that they already have a Bill to deal with it, that is not correct. That is not correct and that is not informing this House and the country of what a Law contains in this country.

I wish to make it absolutely clear that I do not lay blame on the Honourable Administrative Secretary, nor do I believe he has any shares in CITV, there is no question of that. There is no charge of that. I lay blame on the Elected Executive Councillors, who are the majority of Executive Council, for giving the licence. That is dangerous.

Why has the licence not been laid on the Table of this Honourable House? What is strange is this, I wonder whether they contacted this House and asked whether this Motion was going to be on today's Order Paper therefore, on the radio tonight? Because, low and behold, what we find here after many articles and days of that letter going around today Thursday, Private Member's day, when that Motion was set down to come to this Honourable House, this large advertisement appears in the newspaper. What

it is saying is 'These Are The Facts'. Very strange, Madam Speaker, but not surprising to McKeeva Bush.

The type of person who has this licence will not only hurt the businesses by charging them because it will not stop there. For that T.V. programme to continue to be profitable, he must not just charge a few business establishments that have television he must come after the homes in this country. What is going to happen is that man, in collaboration with his counter-part in the United States, will put pressure on the programmes that we are receiving now and put pressure on the manner we are receiving those channels and Caymanians and residents, will lose what we now have or pay him for it.

This Motion has my strong support and if I had had my way with it, I would have said end his contract or his licence herewith. In closing, I think I have given sufficient reasons and my concern why I support the Motion. As I said, usually it would be by policy to regard broadcast by television the same as any other form of mass media, I do not think we can control the media. That has been my policy from day one, it is now and ever will be. But this is different and when there is a lack of professional ethics and reporting as is evident by what that man has already done, we have good cause to bring the present Resolutions before the House and to ask for them to bring a Bill.

If we continue in this way with this licence we may find ourselves in a paralysis brought about by Executive Council's reluctance. My feeling is that Executive Council needs to attempt to regulate somehow what they have done to the people of these islands and to call immediately, through legislation, for a little more order out of the chaos which is about to be inflicted upon us.

If they are going to grant a licence, grant it to somebody with integrity. This is something that is going to affect more than 50 per cent of the homes, if not all of the people of the country. Grant it to somebody with integrity, grant it to somebody that can stand without being biased the way that man is. I dare say they are not going to simply because he is a big supporter of the Executive Council's point of view.

Thank you, Madam Speaker, and I trust that I have not tread on dangerous ground by repeating myself.

**MADAM SPEAKER:**

There seems to be a reluctance on the part of Members to take part in Private Member's Motion No. 10/91. If no one else wishes to take part in the debate - the First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:**

Private Member's Motion No. 10/91 entitled Cayman Islands Television Franchise, in my opinion addresses a very important subject, is one of great importance to the people of all three of the Cayman Islands and I would like to share the concern of other Members who have spoken before me and what might happen if all that they have said was to come about.

Madam Speaker, I think it is very unfortunate that the licencing of a television franchise could not have been accomplished many years ago before the vast expenditures that have been made by the people of these islands for receiving satellite dishes, VCRs and all of the other equipment. Most every Caymanian has made expenditure, probably above their means, in order to be tuned into the rest of the world with broadcasts.

I have noticed when I visit the United States now, and stay in a private home, I am rather disappointed with the type of service that goes into that home if they do not have CNN and other broadcast that you can get what you want and when you want it. We have become spoiled here in the Cayman Islands having access to all the many satellite channels that are available. To be restricted to one UHF, or as has been said here today, 16, again all of this is going to be a reduced number of channels available and I think an inferior service to what we have all been accustomed to and what we all have learned is available and will not be satisfied with less.

I have a lot of concern in the issuing of a licence. I understand that this is a temporary licence, a non-exclusive licence. I am not too concerned with the temporary part of it I am concerned with what will be granted as a permanent franchise. That gives me great concern. I have not discussed this with the proprietor of CITV but from press releases I noticed where he clearly stated it was not his intention to include Cayman Brac and Little Cayman in broadcast under this temporary licence and, at his pleasure at a later date, he may consider re-broadcasting video tapes.

Well I do not think we really need CITV to re-broadcast video tapes to us. We have facilities of getting it directly from satellite. That is not going to be acceptable and I want to make that very clear to Honourable Members and to the Government Bench today that the people of Cayman Brac and Little Cayman are not going to be satisfied with anything less than what is enjoyed here in Grand Cayman. We consider ourselves fully a part of the Cayman Islands and I do not feel that Government, when considering a permanent licence, should grant it if we are excluded. I want to impress upon the Members here today that I will do all within my power to solicit the support of the constituents of Cayman Brac and Little Cayman that we demand our rights in this respect.

I think we should endeavour to be provided with improved T.V. broadcast at a reduced cost, not an inferior service at an increased cost. Good thinking business people never go this route. If you can get a better service for a lesser cost then you embrace the opportunity, but certainly you do not give up something better for something that is going to cost more.

I understand quite clearly as I have a copy of the letter that has been read several times here from CITV's Chief Executive Officer, that his present intentions include only the commercial outlets that re-broadcast, but I do not exactly understand how, if you are sitting in a restaurant and you are watching T.V., they can say that they are actually re-broadcasting for reward. I do not buy that portion of it. They are doing nothing more than I am doing in my living room when I turn on my set and I watch the screen. I



cannot see where they can be said that they are re-broadcasting. I fully understand if it is literally re-broadcast for reward as a cable network does, then I understand that that should be paid for. I do not agree with what has been outlined in the letter.

Television is the most powerful advertising and information medium known to man today. You see things happening around the world. All of us, I am sure most of us, saw the actual commencement of Desert Storm's activity as it took place over the capital of Iraq within seconds of its actual happening. We are proud of our sophisticated standard of living which we have in these Islands. It has been done with our own initiative, many have sacrificed some other luxury or some other necessity to get this facility installed and I do not feel at this time that our Government or any individual should help deprive us of this.

In going over the Motion on considering this franchise I agree with all of the WHEREAS sections and I would like to read it just once more.

"WHEREAS Government recently announced that a licence for a local television service has been granted to the Cayman Islands Television and Video Production Co. Ltd. (CITV);

AND WHEREAS this announcement was the first notice that Government was actively negotiating or had decided to grant a licence to any person or company;

AND WHEREAS there are substantial investments in receiver satellite dishes in the Cayman Islands by individuals and businesses;

AND WHEREAS the granting of a licence for local television broadcast is of immense national significance due to the role this powerful communication media will play in Caymanian society;

AND WHEREAS the fullest consideration and public opinion in the decision-making process is desirable in determining the grant of a permanent licence for local television;

AND WHEREAS all eligible entities should have equal opportunity to bid for the award of the licence;

BE IT THEREFORE RESOLVED that Government:

- (1) Before the award of any permanent franchise to any entity, give equal opportunity to all eligible interested parties to bid for a permanent local television licence, through invitation by public notice, setting forth its requirements;
- (2) Bring before the Legislative Assembly for its approval a bill setting out the terms of the licence for a local television broadcast;
- (3) Examine in detail the feasibility of a joint venture between Government and the private sector in providing local television broadcast with management through an independent statutory authority."

Madam Speaker, as I said earlier the WHEREAS sections of this Motion I think are very clear, I think they definitely touch on the problems which we face. I would like to ask you when you are putting the Question to this Motion if you would consider moving the Resolve section as three separate questions for I fully support Resolutions (1) and (2).

The Honourable Third Official Member in replying to this Motion, said, in his opinion, that second Resolve which says "Bring before the Legislative Assembly for its approval a bill setting out the terms of a licence for a local television broadcast"; is set out in the Broadcasting Law of 1977, Law 30 of 1977. That being so, I concede that that section could be eliminated but I ask Government to give very serious consideration to supporting Resolutions (1) and (3) for I feel that the people of these Islands deserve this.

As I said, we have all had substantial expenditures, we have done it for the benefit of ourselves and the young people so that we can keep abreast of what is happening in the outside world and, with the ever increasing cost of living in the Cayman Islands, I think if we can in anyway hold the cost down and not contribute to increasing inflation, we should do so. Particularly in the third Resolve section where it says, that Government consider a joint venture I, in my opinion, favour that because certainly then it would give the Government the control in the policy making and the operations of that station. If it became a profitable entity, as apparently it must be considered profitable or private enterprises would not be getting involved in it, then it would be another source of revenue for this country.

In conclusion, Madam Speaker, again I would like to ask if you would consider when putting the question if you would divide the Resolve section in three, putting each Resolve section separately.

Thank you, Madam Speaker.

**MADAM SPEAKER:**  
reply?

If no other Member wishes to speak, would the Mover wish to

**MR. GILBERT A. McLEAN:**

Madam Speaker, today the 4th of July, 1991, in this House while the United States is celebrating its democracy, its independence, its freedom of speech and all the other things

covered under the Bill of Rights, we are witnessing here in the Cayman Islands the Government of the day fully prepared not to give businesses the freedom of business the opportunity of competing equally and fairly for a business which can only come about through the approval of Government. It has displayed depressingly vividly what its attitude is in terms of running this country, in terms of the way it handles the information in this country and I may add information in the form of television which is the most powerful medium of communication known in the world today.

The Government, except through the Member who was appointed to speak on its behalf to reject this Motion, has remained silent and it should out of shame. To have done what the Government has done in the first instance, it must boggle the minds of businesses; any businesses in this country that believe that they operate in an environment of free enterprise. Free to the extent that everyone has the right to compete fairly and equally. The Government today has proven that that is not the case.

The Government also stands indicted by the fact that it has not shown and I say, cannot show, that it was not deliberately done to award this licence to CITV for purposes which it knows best itself for the fulfillment of a hidden agenda.

As I said earlier when I presented this Motion, the excuse about the Cayman Islands being a small society is not sufficient to hinder the truth being told and the truth as is widely known in this society, is that the person associated with the company to which Government has chosen to put in a favoured position leaves much, if not all, to be desired.

This Motion is not asking for the world. It is simply asking for the Government, even at this late stage, to do that which is right; that before the award of a permanent licence or franchise to any entity it is asking that it give equal opportunity to all eligible and interested parties to bid for that licence and that all might equally know that they publish their requirements by public notice. Nothing to my mind could be more straight forward and more correct in the world of business where fairness, equality and free enterprise and competition go on.

The second part of it asks that the Government bring a bill setting out the terms of the licence for a local television broadcast. Now the Member who spoke for Government said that this is covered under the Broadcasting Law and that the Governor has the right to do this.

With no disrespect to anyone, I am not one who subscribes to what appears in just about all of our Laws that famous clause, 'at the discretion of the Governor'. But I do believe that the only way that one can assess and get a consensus of the people's views is getting it through the people's representatives in this House. That licencing process in the Law which is just four leaves, does not really set out what the requirements are or what they should be.

The number two Resolve is not a frightening condition, because in its wisdom if Executive Council, with the Governor, chose to put down whatever requirements they thought were necessary in the due process of things, it would basically be a matter of bringing it to this Legislature and having the House say, 'yes, we agree with you', or, 'we think you might change this point in this particular clause'. But the Governor and the Executive Council apparently will have no part of that. That is democracy so let us have no part of that.

Resolve (3) asks for the Government to examine in detail the feasibility of doing a joint venture between itself and the private sector. That is becoming more and more popular in the European nations. In lots of Governments of other countries there is a mutual benefit to be derived from the ultimate authority of the Government but also the direct association and inter-mingling of the private sector sitting side by side with the Government. I personally subscribe to it in this instance because it gives both parties the great opportunity of working together.

This Motion is going to leave forever a mark and the clearest job description of this Government to date.

The Member who spoke for the Government said they wish to keep their options open. All the Motion is asking them to do is to take up a few options, namely the option to make everybody know about it and to set out their requirements and otherwise to look at the option of Government and the private sector working together.

As for the CITV or its representatives going after the people in this country who have paid thousands of dollars for their television dishes and where they turn on the news for their patrons to watch, I hope they take all steps that are necessary to resist any sort of extortion from those would-be enforcers who, indirectly, have the authority or the forcefulness of Government behind it because of its association with this entity.

The fact that Government went about its act calmly and deliberately goes to show that it was not a matter that just popped out of the blue, that they decided on; and that everything that was done to date had been fully decided upon and with whom they had decided to do it.

I have no problem with the suggestion of the First Elected Member from Cayman Brac when he asked if consideration could be given to putting the three Resolves separately. I have no problems with that. I believe that all three are deserving and it is only right for it to be done and I shall vote for all three of them. Let the Government now by resounding vote, sanction and approve what it has chosen to do and will do and let the people of this country and the business community of this country sit in judgement of them.

I sound the alarm that I believe it is but a first move whereby their chosen person, their chosen entity will be going after the satellite dishes in private homes. This is but a first move. That will be next and I think the people can look out for it.

The First Elected Member for Cayman Brac noted that when he visits the United States programmes and channels are somewhat limited. It is a known fact that the cable

companies which supply the various areas in the United States simply hate satellite dishes because they cannot control it and make the kind of money that they would wish out of it.

It goes without saying that once CITV is in control in this country (and they obviously are) and will be confirmed into place in that particular area, it will have to follow that their next move will be to go after television in the private homes and that they will also seek Government's assistance all the way with enforcing against persons who have satellite dishes. Whether that be by CITV's owner and representative going to his Networks in the United States to seek diplomatic pressure through diplomatic channels with the U.K. or otherwise, I believe this will be happening.

Madam Speaker, having said that and having clearly stated a case on behalf of the people who do not stand in this House to speak for themselves, I rest this case and as I have said, if Madam Speaker so rules or wishes to take the Resolve in three parts, I have no problem with that.

Thank you.

#### STANDING ORDER 24(13)

**MADAM SPEAKER:** I shall put the Question under Standing Order 24(13) whereby, the Presiding Officer, if there are two or more propositions, shall put them individually. I will now put the Question on the first Resolution being: "BE IT THEREFORE RESOLVED THAT: (1) Before the award of any permanent franchise to any entity, give equal opportunity to all eligible interested parties to bid for a permanent local television licence, through invitation by public notice, setting forth its requirements;". Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. FIRST RESOLVE OF PRIVATE MEMBER'S MOTION NO. 10/91 PASSED UNANIMOUSLY.**

**MADAM SPEAKER:** Proposition No. 2: "BE IT THEREFORE RESOLVED THAT Government: Bring before the Legislative Assembly for its approval a bill setting out the terms of the licence for a local television broadcast;". I shall put the question. Those in favour please say Aye...Those against No.

**AYES & NOES.**

**MR. W. McKEEVA BUSH:** Madam Speaker, can I have a Division?

**MADAM SPEAKER:** I have not yet declared what it is yet, please. The Noes have it. You can now have a Division. Madam Clerk.

#### DIVISION NO. 20/91

**Ayes: 6**

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

**Noes: 8**

Hon. Thomas C. Jefferson  
Hon. Richard Ground  
Hon. Lemuel Hurlston  
Hon. Norman Bodden  
Hon. Benson Ebanks  
Hon. Ezzard Miller  
Hon. Linford Pierson  
Capt. Mabry Kirkconnell

**ABSENT**

Mr. Roy Bodden

**MADAM SPEAKER:** The result is six Ayes and eight Noes. That proposition is accordingly defeated.

**RESOLVE (2) OF PRIVATE MEMBER'S MOTION NO. 10/91 DEFEATED, BY MAJORITY.**

**MADAM SPEAKER:** Proposition No. 3:

"BE IT THEREFORE RESOLVED THAT GOVERNMENT: Examine in detail the feasibility of a joint venture between Government and the private sector in providing local television broadcast with management through an independent statutory authority."

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

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. THIRD RESOLVE OF PRIVATE MEMBER'S MOTION NO. 10/91 PASSED UNANIMOUSLY.**

**MADAM SPEAKER:** Propositions (1) and (3) have accordingly been passed.  
Private Member's Motion No. 11/91 Review of Cayman Islands  
Legal System, the Second Elected Member for Cayman Brac and Little Cayman.

**PRIVATE MEMBER'S MOTION NO. 11/91  
REVIEW OF CAYMAN ISLANDS LEGAL SYSTEM**

**MR. GILBERT A. McLEAN:** Madam Speaker, I beg to Move Private Member's Motion No. 11/91 Review of the Cayman Islands Legal System.

"WHEREAS in 1990 a review of the Legal System in the Caribbean Dependent Territories was carried out with the exception of the Cayman Islands;

AND WHEREAS, with the growing complexity and volume of legal matters in the Cayman Islands, a review would provide a means of examining procedures and practices, and of identifying any weaknesses or areas requiring improvement;

AND WHEREAS lack of physical space and manpower needs have been identified by Government within the Judiciary System;

AND WHEREAS some criticisms and observations have been made by legal practitioners (within the Islands) concerning delays in concluding the judiciary process;

BE IT NOW THEREFORE RESOLVED THAT this Honourable House recommends that the Government of the Cayman Islands consider requesting the United Kingdom Government to appoint an experienced, independent, legal professional or professionals, residing outside of the Cayman Islands, to undertake a review of the Legal System of the Cayman Islands;

AND BE IT FURTHER RESOLVED THAT the Report on the Review undertaken be duly laid on the Table of this Honourable House."

**MR. JOHN D. JEFFERSON, JR.:** Madam Speaker, I beg to second the Motion.

**MADAM SPEAKER:** Private Member's Motion No. 11/91 has been duly moved and seconded and is now open for debate.

**MR. GILBERT A. McLEAN:** Madam Speaker, this Motion is motivated by the concern that so much demand at this time appears to be placed on the legal system of these Islands. Most things nowadays have a legal implication to them. Most contracts, most dealings in business, most everything in the country has a legal element to it. Extremely important to the social welfare of any country is to have in place a proper well functioning legal system.

We take our Law from the British system and from it stems most of our Laws, certainly Common Law, as I understand it and certainly, I believe, we should stay closely allied to that system as indeed we must through our Constitutional association but it never hurts to review and evaluate how well a system, a business or anything is functioning.

Right now in the United Kingdom I have heard that there is a Royal Commission which is reviewing the criminal justice system in that country because those in authority within the system have found that there are certain weaknesses and certain things have occurred which need close and careful attention and that perhaps, there may have been some miscarriages of justice due to these weaknesses within the system and they have ordered a Royal Commission.

If that is the case in the United Kingdom, and it can be found to occur there where there are hundreds perhaps a few thousand of the givers of the Law, the practitioners of the Law, experts on the Law in determining what the Law implies and analysing it, surely, it is possible that there can be weaknesses and shortcomings in a dependent territory which is 2,000 to 5,000 miles away from it. It is through this today, the basis or fundamental reasoning as to why this Motion has been brought.

The persons in charge of the legal system in this Island have taken certain steps to bring about some changes. For example, the system of separating the Police from the Judiciary and the Police from the Prisons which this is all intertwined with the process. Up to 1975 police acted as Bailiffs of the Court and due to protests by lawyers over actions where the police were acting as complainants and also as Bailiffs, summoning jurors to Court to take charge over the trial, this was seen to be a situation which was undesirable and changes came about. That no longer exists and so there is no longer a conflict of interests in that particular situation. No doubt there are other areas that need some scrutiny.

In the Court, for example, there should be (and I think there are to some extent) Court Ushers equivalent in the United States to Court Marshals. They are supposed to regulate and

control the procedures of the Court. It is not good as happens here to some extent, that police take part and have a high profile.

It is my understanding, that Police act as Ushers to Magistrates and Judges. I have been told by some practitioners there are even instances where one sees the Police who are the complainants or witnesses walking along with Judges. In keeping with the old adage that justice must not only be done it must be seen to be done, from the point of view of carrying out that long held concept it is not the most desirable condition. It should not be seen or seem to be seen that the Police have any special access or privilege with any Judges or persons who may have to make a judgement in any case.

I am also made to understand that there are instances where the Police are put in charge of jurors when they go out to deliberate or where at least they are outside the Jury Room. This again is not the most desirable condition because invested in the police is a figure of authority and there should be no visible entity or person which might have the slightest effect on what jurors may deliberate or think when they go about their hard task.

Within the legal system there is a situation identified by the Government where there is need for physical facilities. To what extent the Government has identified this and to what extent it might be affecting the process of the legal system, I believe, could be best assessed by someone external to the situation who came in, took evidence, saw for themselves and made certain recommendations on it.

I am aware that the demand has become so heavy on the Courts that even in the Town Hall Court is being held. I am told the acoustics there are extremely bad; that it is difficult for the Judges, for the witnesses and the lawyers to hear very well as to what is happening there.

With growing numbers there is a need for rooms for attorneys in our Courts. The prosecution should have facilities where they can interview witnesses and with the physical conditions having become less than what is necessary perhaps defence lawyers also do not have adequate space to meet with their clients or those who are in custody to take evidence which they would present before the Courts.

There are now all together four Courts at the rate that crime is being committed in the country and the amount of demand on the Court, I believe the establishment of the development or the provision of more court space should be a priority. By far a greater priority than the Jennet 'L'. That provides for motor cars and special people and certainly the Courts, one believes, deals with justice for all.

An area that has certainly been of concern to me, and I have heard from numerous people that have been arrested and held in custody, is the length of time they are held in custody before they have their case heard before the Court. I am told that in England, bail is a right, there is the Bail Act and that it is a right. Here in the Cayman Islands it is discretionary.

If that is the case, I would believe that to have that situation looked at is very necessary. People in this country are being kept in custody far beyond the length of time that sounds reasonable to me. And certainly, in cases which I have heard about, it just does not make any sense to me. Perhaps it does to the legal people but not to me.

I have seen people remanded into custody and you really wonder where is the average punk that has smoked some weed or whatever the case, where is he going to go? He cannot run away. Where is he going to run to? But the police come and say, we have not finished our case, or we need more time for this, so back to Northward Prison where he sleeps on the floor on mattresses and in the bathroom.

I have been told that there are basically three principles surrounding the refusal to grant bail. One is, that the accused person will not turn up for his trial; that the accused person will commit further offenses if released, and thirdly, that the accused will interfere with witnesses in the case. I do not really believe that in some and many of the instances that I hear about, any of these particular things would apply. The jails are running over and Caymanians are being kept in prison simply at the request of the police.

If a person being kept in custody means the loss of his freedom of movement which it does, there has to be some balancing act that that person only has his freedom taken away from him if some of these things would apply. I believe that this needs careful attention and that it could best be given by someone who came in specifically for that purpose.

If the Government can accept the abolition of capital punishment it should be able to accept the position that a person is presumed innocent until proven guilty and bail should be granted wherever it is possible and is proper. The denial of bail should not be a punishment before a sentence has been passed on people. After all, many of the people who are accused or arrested for a particular offence have wives and children, many of them need to work, even though they have committed an offence, they still need their freedom even though they have committed that offence.

Another area that I have been made to understand is different between here and the United Kingdom occurs in the area of sentencing. In the United Kingdom, I am also told there are guidelines for sentencing. The sentence we may assume fits the crime and it is simply not left to Judges to indiscriminately or without guidelines sentence a person to a certain length of time or fine them, there are in place certain guidelines for sentencing.

I am further made to understand that in the United Kingdom a person who is under 21 years of age and is a first offender is usually not sentenced to Prison unless there is no other way of dealing with them. Of course, I am not talking about the crime of murder and other such hideous and repulsive offences. This particular area, I believe needs to be looked at because I have heard many complaints from persons affected by it.

I have also heard remarks and complaints by legal practitioners regarding this particular area of the legal system in this country.

As for sentencing, I believe that by the year 2000, every young person who is 15 years of age will have been in prison because it seems to me for the slightest offence a teenager

can be put in Northward where he has a prison record be it, say smoking a ganga cigarette or whatever the case maybe. Putting a young person in Prison does not seem to bring about a lot of hesitation in this country at all.

I do not hear of it happening anymore. Perhaps it does, but I do know that during the time of two Judges here, one was from the U.K. and one was a Canadian judge, they believed very much in having reports made to them by the proper persons authorised in the Social Services to do background checks on them and to find out what their home situation was before they were sentenced. I surely can see no cause why it would hurt for that to continue or that, for that matter, to be enforced.

Legal Aid - in the United Kingdom there is a Legal Aid Act and everyone in the United Kingdom I am told, has the right to be represented before the courts unless they do not want to be. In Cayman, that is only for certain offences. Why that is the case I am not sure of the reasoning behind that, but certainly I think it is something to be looked at. In this Island I can see no cause why so many of the young people who go to Court for the use of drugs and all the rest of it should not have a situation whereby they could be represented by Legal Aid in cases such as those and others which are now excluded.

I remember too about the middle of last year during one Session of this House a Motion was passed which allowed a person to simply pay a fine for exceeding the speed limit. This would exclude the necessity of going before the Court and the long drawn-out process of someone doing eight miles over the speed limit. It is my understanding that that has not been enforced here and I believe that is something that needs to be looked at real soon and should be looked, at in any review.

Another area that I have heard legal practitioners speak about is the actual length of time that persons are kept in custody without bail and the time that it takes for them to come to trial. In fact, I understand that quite recently the President of the Court of Appeal remarked at how long it takes for this to come about in such a small country and relative to the size of other countries it seems to take an unnecessarily and understandably long time for a person to get to trial while they are being held without bail. Persons need and have a right to their freedom of movement and unless there is good cause, simply because a policeman has not done this or has not done that or any delaying tactics, it keeps someone locked up when they should be free full well knowing that they will appear when their trial comes up, it should not continue the way that I now understand it does.

Perhaps the guidelines are necessary or perhaps recommendations need to be made in regard to the courts because more and more we hear of sentences being over-turned from the Magistrates Courts when they go off to the Higher Courts. These are some of the areas that I have heard about in this country. I have heard complaints from persons who are affected and also from legal practitioners.

I, for one, am very disheartened by the diminished role played by the two bodies that represent the association of legal persons. They should be bringing this to the attention of the public and insist on changes where they think it necessary or be involved in laws which come before the Legislature.

I sincerely hope that that can change. I am not sure what steps have to be taken for this to come about but I do believe if there are any people in the country who will know what to do and how to do it and the right way of doing it, it have to be the legal practitioners. Certainly I believe they need to play a more forceful and prominent role in the process as things go.

There is one other area that I understand is provided for under our Penal Code. For certain cases there is a choice where a person has the right to trial by jury or magistrate. I believe in choice and I think that should be upheld in every way possible. I understand it is a Tenet of British Law that you should be tried by your peers. Quite recently I heard that where persons opt, (as they can under the Law), to be tried by jury and that the prosecution makes a representation that they be not so tried.

These are the areas that concern has been expressed to me, these are the areas that I know people have been affected by the process of the law and why I believe are some of the reasons it is desirable to have a legal review.

As various crime grow more complex such as commercial crimes, or as the responsibility of the Cayman Islands grows under international agreements, like the Mutual Legal Assistance Treaty and other such treaties, more and more we need to have the legal system in this country functioning in a manner that is efficient, effective and guarantees that people's rights are being protected and that there is open to all people the due processes of law and certainly it should be borne in mind that justice delayed, is justice denied.

In the Resolve the Motion asks that the Cayman Island's Government consider requesting the United Kingdom Government to appoint experienced, independent, legal professionals who reside out of the Cayman Islands to undertake a review of the legal system of the Cayman Islands.

When the Motion asks for the Government to consider it, I certainly intend it to mean that they should consider it seriously. Not to say - yes, we are going to consider it and the next Sitting to hear a Statement we have considered it but again we have found we have a perfect legal system and it requires no review whatsoever.

"Experienced" and "independent" are important words there, Madam Speaker, a legal professional residing outside of the Cayman Islands. The reason why that was inserted was because it is my belief, that a person from outside the Cayman Islands who came in especially for this purpose would be better suited than perhaps legal professionals residing on the island that are familiar faces in the Cayman cocktail party circuit. Those are the reasons why it is so requested and specified.

The last Resolve asks that a Report on the Review of our Legal System be tabled in this Honourable House. I see nothing offensive about this Bill, Madam Speaker. I think it is

more necessary than it should bring hardship on anyone or the Government. I look forward to hearing whether the Government will accept this humble proposition or not.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The Honourable Second Official Member.

**HON. RICHARD W. GROUND:**

I rise to speak to Private Member's Motion No. 11/91, calling for a Review of the Cayman Islands Legal System. Madam Speaker, the Motion is framed in very broad terms in that it refers to this entity called the legal system. It is plain from what the Member has said that he has in mind a very broad term of reference.

Indeed until he rose to speak, I was not at all sure or at all clear on what he was specifically driving at. The recitals to the Motion, the "WHEREAS'S" as they are sometimes called refer to a review of the legal system in the other dependent territories. That review was confined largely to the Judiciary of the territories and that had made me wonder whether that was what the Member was driving at. That was a review that was not extended to the Cayman Islands.

It is perhaps fair to observe that the conditions, particularly the physical conditions, under which the Judiciary operates in some of the other dependent territories are simply not as good as what we have got here already and that the Court buildings that we are privileged to have here in the Cayman Islands and the other physical plant of the Courts, the facility, the money that is dedicated towards the Judicial system here, is perhaps greater than one would find if one looked elsewhere.

The Member went on to stress the importance of having a proper functioning legal system and indeed wrapped up his presentation by stressing that the legal system is vital to sustaining the rights of the people generally and the people as individuals. That is motherhood and apple pie. No one would disagree with that and I certainly do not disagree with that. While I agreed with the Member's basic premise the importance of having a good proper and well functioning legal system, it does not necessarily mean that I or that Government will agree with or support this Motion. Indeed Government will not and it would, as the Member pointed out, be wrong for us to say that we would consider a review when it was not the intention of Government in fact to carry one out.

In saying that a review will not be contemplated what I am really saying to the House is that in the view of Government, all things considered, the legal system in the Cayman Islands works well and that a review is not necessary.

Among other things for saying that, I note that we have recently had a review by independent people from outside the islands of our Constitution. The legal system and the Constitution inter-connect and the heart of the legal system, the Judiciary, is something which also impinges upon the Constitution. The Commissioners who carried out the Constitutional Review, one of whom is himself an eminent judge from within the region, had simply this to say about the Judiciary. There were no complaints whatsoever about the functioning of this branch of the state and our only recommendation is that an opportunity be now taken to establish the entire Judicial structure in the Constitution and they go on to explain why they recommended that. Two reasons they say lead us to this conclusion.

First they point out that the Appeal Court is already dealt with under the Constitution and that it would be simply tidier if the entire Judicial structure were incorporated in a single document; and secondly, they pointed out that the inclusion of fundamental rights and freedoms in the Constitution would make reference to the Grand Court because this Court may have to undertake functions in respect of these added provisions it should be included in the constitution.

I personally have no objection to either of these comments. Whether or not the Judiciary should be wrapped up into the Constitution is one of those points that with the whole Constitutional Review will go to the Elected Members of the House and the Select Committee that they comprise, to study this report. But that first sentence of this paragraph on the Judiciary remains that nobody in their representations to the Commissioners complained about the functioning of the Judiciary.

That is not to say that either I personally, or Government generally, are not aware of complaints about the functioning of different aspects of the legal system and are not prepared to take steps to deal with them. It is simply to say that in the view of Government the best way to do this is to address each of the complaints and refer them to the different parts of the system that relates to the administration of justice and the different parts of the system that relate to the legal profession and so on so that they can be considered and addressed by those parts.

The Member in beginning his presentation noted that in the United Kingdom a Royal Commission was going to review the functioning of the criminal justice system. They have had at least two, possibly more, but certainly two notorious and highly publicised cases of what are alleged to be miscarriages of justice involving IRA terrorists in the United Kingdom. These call into question a variety of elements in the way that the legal system and the Judiciary (the Judiciary in England that is) have attached weight to certain types of evidence such as identification evidence and the uncorroborated evidence of confessions of accused people.

Those cases in the United Kingdom have also drawn attention to defects in police procedure. Some of those defects in some of those procedural problems relate to the period when the offence is under review or committed and that was some time ago, up to 20 years. Certainly police techniques as to the interrogation and the recording of evidence by use of tape recorders and so on has come some way since then and may not arise now. But that is to digress, Madam Speaker.

Certainly the United Kingdom is undertaking a review by a Royal Commission and I anticipate that that will be a thorough, lengthy and very expensive process. It is not one that we

need ourselves to embark upon here at the moment because it would be simply to reinvent the wheel to try and do it ourselves. When that Report comes out, and I look forward to it coming out with great interest, it can well form the spark and the subject both of debate here, it will be a public document and any Member of this House can get it, and consideration for any reform that is shown to be necessary.

As the Member noted, we do follow the United Kingdom's system, by and large, with some local modifications and we have not followed all their most up-to-date legislation particularly as to police powers and so on and I do not think that that will be acceptable to this House if we tried to do so. Members might get quite a shock if they saw some of the powers that the United Kingdom now thinks is fit to give to the police. We have kept it back and tried to keep the local legislation in line with what is acceptable here. But we do by and large, follow the U.K. and if that Royal Commission pinpoints weaknesses in the system that are shared weaknesses that we have here as well, then we can look at that when they have done it, but it would certainly be jumping the gun for as now not knowing what they are going to say, to launch into our own review. Not least because the things that have prompted the review are not things which have happened here.

Madam Speaker, that is not to say that Government or the authorities are deaf to the points that the Member makes. I was taking careful notes during his presentation and I noted 11 specific points of complaint that he made and I am just going to run through them very quickly if I might. First of all, to demonstrate to him that I have heard them, and gotten them, and, secondly, to the extent that I can now, just to address them and make some comments on them. It is not just me who is listening to this. I can tell the Member that the Judiciary and the Acting Chief Justice is aware that he is bringing the Motion, has expressed and taken a close interest in it and has asked me to tell him when it is debated so that he can listen to it and so that he can draw its contents to the attention of the Chief Justice when he returns.

But I stress that because some of the points the Member has made concern the Judiciary and the way that they administer justice. The Judiciary, as this House knows, is separate and distinct from the Executive Arm of Government. So they will be themselves listening in and will hear them and by the end of this evening have heard the Member's points and so that his voice will not be one simply crying in the wilderness.

His first point, Madam Speaker, was that there should be ushers or Marshals in the Courts. The law was amended some years ago to allow for the creation of the post of Marshals and to give them power to enforce discipline and so on in the Courts. Certainly Marshals have been recruited and are in position for the Higher Courts. I do not know off-hand what the position is in respect of the Magistrate Court. I can comment that there are times when it is necessary for the police to assist the Court's staff both in the administration and in the keeping of order in the Courts. The Summary Court in particular, as Members will know, has a lot of people coming through it both witnesses, spectators, accused and the relations of the accused and it is important that order is kept there firmly by people who are themselves disciplined and are trained to do so.

That may, to some extent, explain the role the police play there. Certainly now that he has raised the point and I did not know this was a point of concern until he raised it, I will check with the Clerk of the Court to ascertain what the position is as to the use of police to fulfill the function of ushers or Marshals.

His second point was not placing the police in charge of jurors. That again, ideally I agree that jurors should be under the supervision of the Court's staff. Certainly in all the cases that I prosecuted when I was Senior Crown Council towards the end of that time once the office of Marshal was created the jurors were put under the control of Marshals. I do not know what the exact position is now because I have not prosecuted a case for several years but now that the Member has raised it and now I have heard it I will go back and raise it with the Clerk of the Court as a concern.

The physical facilities, that is, the building, is something that I think everybody is aware needs improvement. It is right that the Magistrates Court sits in the Town Hall, it is right that the acoustics are not good and it is proposed that steps will be taken to remedy the acoustics.

As to the question of what to do about the Court Building itself, this has been under active consideration. A Committee consisting of the Chief Justice and other representatives from the Judiciary, Public Works and the Police sat to consider it and came up with recommendations for extending and adding on to the existing Court Building. That may not be the best solution and as yet the best solution has not been resolved. The extension that the Committee came up with would be expensive, costing many millions of dollars and though it would cater to all the interests that the Member listed; space for an attorney; space for the prosecutors and so on, it represented very much an ideal building. I am afraid that in considering everything, everything from the roads system through the hospital to the Court's accommodation, the Cayman Islands does have to cut its coat according to its cloth.

There are alternatives that can be considered in respect of the Courts rather than building a substantially new facility on top and next to the building in downtown George Town.

One which has been suggested and which, I do not speak on behalf of Government here but speak personally, I quite like is the idea of a separate Magistrate Court built on the edge of town with its own ample parking space so that the Magistrates first of all, are in a separate building from the Grand Court and from the Appeal Courts and so that the people who come to the Magistrate Court can get easy access and easy parking without having to come and struggle to park in downtown George Town which is busy and cluttered.

Most of the traffic that the Courts generates is generated by the Magistrates. They bear the brunt of the work of the Judicial system and are very much at the sharp end of what is going on. One only has to look through the door of the Magistrate Court on any business day to see that that is where the people are. That is where the people who are coming into the Court are going to.

So if one could move all that out of town to a purpose built



facility on the edge of town with its added ample parking that may be the best answer to this problem.

Madam Speaker, which is the best answer whether it is a building on the outskirts of town or an extension to the present building is not, in my respectful view to the Member, going to be solved by an outside Consultant coming in. I think it is something that the people who use the buildings and the other departments and the legal profession here speaking through the two professional Associations can best make representations on and decide that there is a need for extension. We need no outside expert to tell us the time scale for when an extension is done. The cost and so on is still, I think, something that needs careful consideration and is very much up in the air.

The Member went on and I am just dealing with these points in the order in which he dealt with them to speak of the length of remands in custody and the question of bail.

First of all that is very much a matter for the substantive Law. He is right that in England the Law says that the presumption is in favour of bail. It is perhaps over-stretching it to describe bail as being a right because there are many people in the United Kingdom who are not given bail and the Courts, often on the grounds the Member listed, will decide against giving them bail.

In practice, my understanding is, that the Courts here, in considering bail, tend to apply the same principles as one finds in the United Kingdom law. The way in which they apply those principles as opposed to what the principles are is very much a matter for the Magistrates and for the Judges in the Courts. That is what they are there for and if the Magistrate, for instance, goes wrong he is subject to appeal or in the case of bail subject to review by a higher court.

If there is someone who gets refused bail by the Magistrate Court and feels he is entitled to bail he can apply to a Judge of the Grand Court. There are I am afraid, even in these islands, people who should not be given bail. The Member is right. I take the point that in many cases the people are not going anywhere. This is an Island and they cannot just get into their car and drive over the state line or whatever.

Caymanians who come before the courts often do have homes, businesses and so on and are not going to abscond if released on bail. The Courts are aware of that and the prosecutors are aware of that. But when one gets down to individual cases balancing, whether in the case of the person before the Court he is likely to abscond or likely to abscond or not or interfere with witnesses or commit another offense, against his other interests is a specific and difficult job best carried out by the Magistrate on the spot.

It is certainly not done in a haphazard random manner nor does the prosecution go in there asking for remands in custody without considering it carefully. They do not do that just because they may feel like it or on a whim. Certainly with the Crown Counsel in my Department, there is a standing instruction given, the state of the crowding at the Prison at the moment, that we do not apply for a remand in custody unless it is absolutely necessary. We consider first of all that all the factors, particularly the strain upon the system, that remanding somebody in custody causes before going in there and asking the Courts to keep someone in custody pending their trial. It is a matter for concern and it is a matter which is considered carefully but it is going to happen that people are remanded in custody for good reasons.

Sometimes I am afraid that means that if their case takes a long time to come to trial, they spend a long time in custody. It is not done to them as a punishment. It is done because either it is believed they will abscond or because it is believe they might commit another offense or that they may interfere with witnesses or the complainants.

I had a case brought to my attention recently of someone who had faced a long period on remand and was complaining about this and saying why could he not come to trial and why was he on remand. When I inquired into it he had been given bail and the first thing he had done, it was alleged against him, that he had gone out and committed another offense.

That sort of case does arise, I am afraid, and though each case must be taken on its individual merits, I can assure the Member that we do exercise care over this.

Madam Speaker, I am aware of the time the next point the Member raised was guidelines for sentencing and how to sentence people under 21. I see we are getting very near the point for the break. I do not know if that would be a convenient point to break.

**MOMENT OF INTERRUPTION - 4:30 PM**  
**Standing Order 10(2)**

**MADAM SPEAKER:** I wonder whether the House would wish to conclude this Private Member's Motion this afternoon?

**HON. RICHARD W. GROUND:** I can say, Madam Speaker, I am going to be another 15 to 20 minutes.

**MADAM SPEAKER:** Everybody seems to be in agreement... or not? Can I put the question then? Those in favour please say Aye...Those against No.

**AYES & NOES.**

**MADAM SPEAKER:** The Noes have it.

**AGREED: SUSPENSION OF STANDING ORDER 10(2) TO CONCLUDE PROCEEDINGS ON PRIVATE MEMBER'S**

**MOTION NO. 11/91 TODAY NEGATIVED BY MAJORITY.**

**ADJOURNMENT**

**HON. THOMAS C. JEFFERSON:**  
House until 10 o'clock tomorrow morning.

Madam Speaker, I move the adjournment of this Honourable

**MADAM SPEAKER:** The question is that this Honourable House do now adjourn until 10 o'clock tomorrow morning. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:**  
tomorrow morning at 10 o'clock.

The Ayes have it. The House is accordingly adjourned until

**AT 4:31 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. FRIDAY, 5TH JULY, 1991.**

**FRIDAY  
5TH JULY, 1991  
10:07 A.M.**

**MADAM SPEAKER:**  
Cayman.

Prayers by the First Elected Member for Cayman Brac and Little

**PRAYERS**

**CAPT. MABRY S. KIRKCONNELL:**

Let us Pray.

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 Speaker of the Legislative Assembly, 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.

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done in earth as it is in Heaven; Give us this day our daily bread, and forgive us our trespasses, as we forgive them 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.

**MADAM SPEAKER:**  
Member of the Government.

Please be seated. Proceedings are resumed. Statement by

The Honourable First Official Member.

**STATEMENT BY MEMBER OF THE GOVERNMENT**

**BANK OF CREDIT AND COMMERCE INTERNATIONAL**

**HON. THOMAS C. JEFFERSON:**

Madam Speaker, my apologies for not being able to show you this statement before the House actually convened this morning, but it was caused by time factors beyond my control. The statement is headed: BANK OF CREDIT AND COMMERCE INTERNATIONAL.

The Bank of England this morning issued the following Press Notice: The authorities in a number of jurisdictions are today taking action to secure control of the assets of Banks in the BCC Group. The Directorate of Luxembourg Monetary Institute has taken action under Luxembourg law to secure control of the assets of BCCI SA, a Luxembourg-incorporated bank which has a number of branches in the United Kingdom. The Inspector of Banks and Trust Companies in the Cayman Islands has taken similar action with respect to BCCI Overseas Ltd., and certain other entities closely related to the BCC Group. In both cases Touche Ross have been appointed to oversee the arrangements. These actions have been taken in consultation with the principal regulatory authorities concerned, who will be taking appropriate action against other subsidiaries and operations of the BCC Group. The authorities in all other countries in which the BCC Group operates have been informed and invited to consider the need for action in their jurisdictions.

The effect of these actions is to place the assets and liabilities of the entities concerned under the protective control of the supervisory authorities, or of the courts as appropriate, of each country. In the United Kingdom, following a petition made by the Bank of England, UK courts have appointed Touche Ross as provisional liquidator. The effect of this action is that deposits with the United Kingdom branches of BCCI SA are frozen. The Bank of England is issuing a separate notice giving information about the deposit protection scheme.

The action by the Luxembourg, Cayman and other authorities results from prime facia evidence of widespread fraud at the BCC Group, in a number of jurisdictions and stretching back over a period of years. This evidence was recently received in report commissioned by the Bank of England under the 1987 Banking Act. Relevant papers have been passed to the Serious Fraud Office. The purpose of the actions now taken is to safeguard the interests of depositors, other bona fide creditors and the shareholders themselves. Without such action there would be likely to be pressures from depositors and other creditors.

The principal supervisory authorities are seeking the co-operation of other authorities about means of securing an orderly run-down of the Group, and to secure co-operation in order to identify and to take appropriate action against those responsible for any wrongdoing.

Given the wide geographical spread of the BCC Group, co-ordination between supervisors taking action in different jurisdictions is essential. In order to facilitate this, the BCC Group's principal supervisors have agreed to set up a special unit at the Bank of England to co-ordinate

global regulatory action and to provide a central point of supervisory information and advice.

The Cayman Islands Government, following the announcement from the Bank of England in regard to the BCCI Banking Group, makes this statement: The Inspector of Banks has been in London for several days working with the other regulatory authorities involved. Acting in co-ordinated association with the regulatory authorities world-wide, in particular London and Luxembourg, His Excellency the Governor has appointed Mr. Ian Wight of the firm of Deloitte Ross Tohmatsu as the person to assume management of the affairs of the three Banks concerned here in Cayman. The document of appointment was signed at 6:45 A.M. this morning by the Governor, acting under Section 14(1)(d)(v) of the Banks and Trust Companies Law (No. 4 of 1989), and it will be appreciated that no more can be said at this time.

**MADAM SPEAKER:** I would ask Honourable Members to please note that the statement by the Member of Government has not been made under Standing Order 30(1).  
Presentation of Papers and of Reports.

## **PRESENTATION OF PAPERS AND REPORTS**

### **REPORT OF THE STANDING BUSINESS COMMITTEE (Meetings held 14th and 24th June, 1991)**

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I ask that in light of Private Member's Motion No. 15/91 that the presentation of the Business Committee Report be deferred.

**MADAM SPEAKER:** I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. REPORT OF THE STANDING BUSINESS COMMITTEE DEFERRED FOR TABLING.**

**MADAM SPEAKER:** Questions to Honourable Members. The first question is No. 174, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

## **QUESTIONS TO HONOURABLE MEMBERS**

### **THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT**

**NO. 174:** Would the Honourable Member say whether any amendments have been made, or are any being contemplated to be made, in the licence granted to Caribbean Utilities Company Limited by Government; and, if the reply is in the affirmative, what are these amendments?

**ANSWER:** Madam Speaker, an amended licence has been negotiated by the Government and Caribbean Utilities Co. Ltd. A draft copy of this amended licence is attached for Members information only; the reason being that neither Caribbean Utilities Co. Ltd., nor its legal counsel have had an opportunity to review this document. Also, the Company's bankers have not had an opportunity to respond to the amendments to the licence. Honourable Members are therefore requested to treat the information in the strictest confidence. (May I add that the amendments are highlighted in the draft licence.)

## **SUPPLEMENTARIES**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Madam Speaker, this is quite a comprehensive way of answering the question and I am sure that Members appreciate that and being now presented, there is not enough time to refer to these, however, would the Member say if he considers that these amendments bring into play a more balanced or equitable position between Government and the company and does it have any implications perhaps of an enhancement of royalties or revenue to the country?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I think that it is fair to say that the negotiated position will cause hopefully, less contention between the Government and the Utility. I believe there was a matter of interpretation really, of some of the areas which are now agreed to be amended. I believe it will also result in a reduced amount paid by the consumer.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Would the Honourable Member say, he need not give specifics, whether the licence would be dealing with the amount of deposits required on connections, the amount required for matters such as putting down light poles and also whether it covers some machinery for damage caused by surges of voltage whether they are high surges or low surges, which damage people's electrical equipment?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I think that it is fair to say that the licence does deal with deposits. By that I mean deposits which are put forward by persons seeking connections and as a security. The licence does deal with that, yes.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Does it deal with the accepted ranges of volts? For example, if it is 115 volts and there are surges outside that amount or low voltage outside of that amount, does it deal with the question of claims by persons whose property is damaged? And, may I ask one other thing if you can answer, is there a limit on the amount placed on these deposits for new hook-ups and for light poles and this sort of thing?

**HON. THOMAS C. JEFFERSON:** Madam Speaker, in answering the last question first, the licence does set a limit as to the amount that the Utility can ask for (as a deposit) in order to be "hooked-up". The licence does not, to the best of my knowledge, deal with the claims that may result from surges. I do not think that any licence over the years have dealt with that and we have not raised that particular issue with the Utility. I believe that should be left to be handled administratively.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Would the Member consider when negotiating, asking whether devices could be put in at the cost of Caribbean Utilities which would deal with these surges? As I understand it a little device can be put into the main and it can alter the impact of the surge by either shutting down or something so that you do not lose a lot of electrical and computer equipment.

**HON. THOMAS C. JEFFERSON:** I understand that the Member is talking about voltage regulation, I think that is what he means. Certainly we can talk to CUC about it.

**MADAM SPEAKER:** The next Question No. 175, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE SECOND OFFICIAL MEMBER RESPONSIBLE FOR LEGAL ADMINISTRATION**

**NO. 175:** Would the Honourable Member say what is the total number of attorneys in the Legal Department with a breakdown by post and nationality?

**ANSWER:** There are 8 attorneys on staff at present. The staff is composed of:

<u>Post</u>	<u>Country of Nationality</u>
Solicitor General (1)	Jamaican
Crown Counsel (4)	1 Caymanian; 1 Irish; 1 English; 1 Trinidadian
Junior Crown Counsel (1)	Caymanian
Crown Counsel II (2)	Caymanian

The distinction between Junior Crown Counsel and Crown Counsel II is simply as to the possible entry levels. Both posts were intended for the appointment of newly qualified attorneys. We are having the matter reviewed with a view to consolidating them into one entry level post. I should add, for completeness, that the Department also has a Caymanian Article Clerk.

**SUPPLEMENTARIES**

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Could the Member say if there are any vacancies in the Department; if any steps are being taken to fill them; and if there is any indication that there may be any legally trained Caymanian persons that could fill them?

**HON. RICHARD W. GROUND:** Madam Speaker, the Department is below the maximum establishment but there are I think obvious financial considerations to be taken into account as to whether we

recruit up to the maximum establishment.

There is a vacancy that will shortly be caused by the departure of one overseas Crown Counsel and an advertisement either has (or is about to) appeared both in the press regionally in the United Kingdom and locally, inviting applications for that post. If there are any qualified Caymanians who wish to be considered I would very much welcome their application. I should point out that the post which is being vacated is a post for someone with some experience.

We do already have three Caymanians on staff who entered as graduates immediately after Law School. There is obviously a training element in taking on a new graduate and we would not, for filling this post, be able to consider to a new graduate because we want someone who can go into court straightaway and handle difficult and complex matters and be able to handle trials on indictment on his own. But if there was anyone who does have experience and who wants to join the Department, I would welcome him.

**MADAM SPEAKER:** The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:** Madam Speaker, would the Honourable Member say how many Article Clerks he has as I believe just about all of the Caymanian attorneys that we have here have probably come up through the Articling system except one, I believe?

**HON. RICHARD W. GROUND:** Madam Speaker, the post of Article Clerk is for a student at the Law School. We have, in the Legal Department, one at the moment. Government has more because there are (and please do not hold me to this), I believe two at the Courts Office. Of the four Caymanians who are qualified and hold one of the various levels of Crown Counsel post, only one of them in fact came up by way of being an Article Clerk, the others went to Law Schools overseas and qualified; one to the UK and two to Hugh Wooding. They had either pre-dated the Articling system or had trained outside of it.

**MADAM SPEAKER:** The next Question No. 176, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS**

**NO. 176:** Would the Honourable Member say what is the total cost of the various consultants and legal advice to Government concerning television operation and franchising in the Cayman Islands?

**ANSWER:** The cost of legal and professional advice received in respect of television related matters amounted to \$14,900.00.

#### SUPPLEMENTARY

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** Does the Member envisage that there will be a need for additional legal and technical advice and are any funds available at this time for this exercise to be carried out, if it is indeed undertaken?

**HON. J. LEMUEL HURLSTON:** Madam Speaker, no funds are available presently and should any be required, they will have to be sought by way of supplementary. It is not envisaged at the moment that that will be necessary. If it is, an application will have to be made.

**MADAM SPEAKER:** Question No. 177 is standing in the name of the Elected Member for East End... who is not present. Shall we move on then to the deferred Question No. 84, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

#### DEFERRED QUESTION

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS:**

**NO. 84:** Would the Honourable Member say what has been the result of the investigation by the Royal Cayman Islands Police into the loss of valuables which were in Police custody belonging to Thomas Bilski during the time he was in jail?

**ANSWER:** The investigation into the loss of property owned by Mr. Thomas Bilski, and in the possession of the Police, is not fully completed. Fifteen Police Officers have been interviewed and forensic examination carried out but, to date, no property has been recovered nor any evidence adduced whereby any person can be charged.

## SUPPLEMENTARY

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** During this Session the Member replying told the House that there are various arrangements in place at Police Headquarters when valuables for detained or arrested persons are taken. Are there in place now and is he satisfied that there are in place sufficient measures that something like this would not occur again and if it did there would be a person readily identifiable as being responsible for this and taking charge of such a situation?

**HON. J. LEMUEL HURLSTON:** Yes, Madam Speaker, I am satisfied that this type of event should not reoccur. I did undertake to obtain detailed information from the Department as to the physical custodial arrangements in the Duty Inspector's Office. I have just received that information from the Department and I propose to circulate it to Members in writing.

**MADAM SPEAKER:** We can now take Question No. 177, which had been deferred. We had an apology from the Member for East End to say that he would be a bit late. He has now arrived so we will have that question. Question No. 177, the Elected Member for East End.

**THE ELECTED MEMBER FOR EAST END TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT**

**NO. 177:** Would the Honourable Member say what financial contribution has Government made to date to the Red Cross Society for its building purposes?

**Answer:** Madam Speaker, the total financial contribution made to date by the Government to the Red Cross Society for building purposes is CI\$109,130.18.

## SUPPLEMENTARIES

**MADAM SPEAKER:** The Elected Member for East End.

**MR. JOHN B. McLEAN:** I wonder if the Member can say if Government has been approached for further grants from the Society?

**HON. THOMAS C. JEFFERSON:** Government has been approached to assist with some amount of the operational costs of the building.

**MADAM SPEAKER:** The Elected Member for East End.

**MR. JOHN B. McLEAN:** I wonder if the Member would be in a position to say what the total cost of the building is?

**HON. THOMAS C. JEFFERSON:** I am unable to answer that. I think it was some years ago that we were approached by the Red Cross Society and we said to them that we would be prepared to match them dollar for dollar, meaning that they would go out to raise the funds and we would match each dollar. As a result, I know that they raised more than \$100,000 themselves. SO, that \$100,000 plus the construction cost of \$100,000 which Government has assisted them with, the Stamp Duty of \$3,750 which Government waived, plus the Import Duty of \$5,380.18 which Government has also waived, would put that building in excess of \$209,000.

**MADAM SPEAKER:** The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:** Can the Member say if the help for the operation of the building will include staffing as well as maintenance costs?

**HON. THOMAS C. JEFFERSON:** As I understand it, the Red Cross Society has shown to Government their estimated operational costs which would include staff and other expenses such as telephone and electricity, among other things. I hope I am answering the Member's question.

**MADAM SPEAKER:** That concludes Question Time for today. We will proceed to Other Business, Suspension of Standing Order 14(2). The Honourable First Official Member.

## OTHER BUSINESS

### SUSPENSION OF STANDING ORDER 14(2)

**HON. THOMAS C. JEFFERSON:** In accordance with Standing Order 83, I move the suspension of Standing Order 14(2) which will allow Private Member's Motion No. 11/91 to be completed this Morning before we get on with Government Business.

**MADAM SPEAKER:** I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED: STANDING ORDER 14(2) SUSPENDED TO ENABLE PRIVATE MEMBER'S MOTION NO. 11/91 TO BE COMPLETED.**

**MADAM SPEAKER:** Private Member's Motion No. 11/91, the Honourable Second Official Member, continuing.

### PRIVATE MEMBER'S MOTION NO. 11/91

#### REVIEW OF CAYMAN ISLANDS LEGAL SYSTEM

(Continuation of debate thereon)

**HON. RICHARD W. GROUND:** At the adjournment yesterday evening, I was addressing the House in response to the Mover of this Motion and was going through the various specific points that he had raised with a view to demonstrating, first of all, why it is, notwithstanding these points, that Government does not think that an external review is appropriate. Also, I hope to demonstrate both to the Member and to the listening public that where the Member raises a good point, is of course for concern that steps are being taken or that steps will be taken as a result of his having raised it here to address the difficulty.

Madam Speaker, I had gotten as far as having dealt with the lengths of remands in custody, in other words, cases where bail is refused. The next point that the Member had addressed was the sentencing policy, particularly whether there are guidelines and if so, what guidelines were used for sentencing and the position in respect of sending people under the age of 21 to prison.

In general terms the courts here will follow the sentencing policy that has been set out in the United Kingdom in respect of offences that are common between here and the United Kingdom. So offences such as robbery, burglary, manslaughter, theft and obtaining by deception are offences equally here as they are in the United Kingdom. The policy laid down by the UK courts and by the judges in those courts will function as a guideline to our judges when they approach sentencing for the same offences.

I say function as a guideline; the courts here do have regard to what the courts in the UK do. They do not regard them as an absolute rule, there may be cases where local circumstances call for a variation from what is done in the United Kingdom and sentencing policy varies from time to time. It may be, just to give an example, that if there is a public perception that deaths caused by dangerous driving are becoming a social problem that the courts will respond to that, take note of that and adjust their sentencing levels to reflect the public concern and act as a deterrent. From time to time that sort of social concern reflecting the prevalence or the damage that a particular offense may be doing to the fabric of society, that sort of adjustment can be done for any offence. Obvious ones that spring to mind are offences such as burglary, particularly burglary where there is a drugs related element. The courts may not blindly follow what is done in the UK but will have a concern to tailor the sentencing policy to local conditions.

There is one notable instance where the courts cannot simply follow the United Kingdom and that is in respect of drugs cases because we have our own Misuse of Drugs Law and it sets sentence levels that are different from those that are set in the UK. By and large, the sentences set in the legislation here are higher than one would see in the equivalent legislation in the UK.

Let me just digress a moment and explain how courts go about approaching the question of sentencing. The first thing the judge does is look at the maximum level of sentence specified in the Law which creates the offence. He then weighs up the offence before him and decides what relationship it bears to the worst possible, imaginable example of that offence and then, as a rough guide, he will tailor the proportion of the maximum sentence to the proportion that he thinks the offence actually committed bears to the worst possible. That is a very broad indication of how the courts approach it. A myriad of details will affect any individual case and the courts will look at the circumstances of the offence, the circumstances of the offender and a whole host of other things.

That first broad rule of looking at the maximum sentence and deciding what relationship it has to what has been done in this case and how it bears to the worst possible offence, means that the level of sentence set in the statute, the Law creating the offence, is vital for the court in determining what level it fixes. But of course on a moment's reflection I think Members will see that this is very right and proper because this Assembly, through the means of the Law, indicates to the courts what general level of seriousness



should be attached to any particular offence and it does that by fixing the maximum level of penalty. The courts can then take that guideline and go away and do what this House cannot do and that is to tailor that broad range to the particular case coming before the courts.

In respect of drug offences, the Cayman Islands courts have worked up their own guidelines and these were particularly set forth by the previous Chief Justice, Mr. Collett, in a series of judgements which he gave on appeal from the Summary Court. Those guidelines would be binding upon the Lower Courts and upon the Magistrates Court and if the Magistrates Court imposes a sentence that is not in keeping with the guidelines, then that sentence will be liable to be overturned on appeal to the Grand Court. If the Grand Court went out of the general guidelines when considering a case on appeal, they would be liable to be corrected by the Court of Appeal.

In other words, Madam Speaker, the system is one of checks and balances, and the broad sign-posts are there in decided cases in this jurisdiction. Those broad sign-posts are known to the judiciary and will be known to practitioners regularly appearing before the courts.

The Member, under the same general heading, also mentioned people under the age of 21 and the broad role in the United Kingdom that where it can be avoided people under the age of 21 should not be sent to prison. I believe that that rule is recognised by the courts here and they attempt to apply it. But there will be cases where it is not applicable and we will differ from the United Kingdom.

Again in drugs cases, because the Assembly in setting the level of penalty for drugs cases, and particularly for cases involving hard drugs, particularly cocaine, has set them at a high level where the courts are compelled to treat them as particularly serious and because of that, where trafficking or possession of large amounts or possession where the amount is such that there is an inference that there is an intent to supply, in those sort of cases the courts may well feel constrained to send someone to prison notwithstanding that they are under the age of 21.

Madam Speaker, if I can move on from that and turn to the next general point made by the Member which relates to Legal Aid. He pointed out that in the UK under the Legal Aid Act there, Legal Aid in fact is available to everyone and he is right. Except in the most minor and trivial cases, Legal Aid is available to anyone on request provided they pass certain means tests to show that they have a need for it.

I may go on and add that also in the UK the attorneys who appear on Legal Aid are paid at a rate that is set in scales agreed with the Law Society and that rate is roughly equivalent, slightly discounted, but roughly equivalent to what an attorney would earn in private practice.

The administration of that system is enormously and formidably expensive. It is a great burden upon the English Exchequer. I do not think that we could afford to operate a system such as broad as that here with the best will in the world. One has to remember that the UK has a broader tax base than we have here. They charge income tax. They have a much larger population and that generates huge revenues. Even given that, it is a problem in the UK and a problem that the legal profession and the others concerned in the administration of justice, are constantly trying to grapple with and it is a source of some controversy particularly as to what rates lawyers on Legal Aid get paid and particularly as to the level of means test.

It is by no means for them a simple question and nor is it for us in the Cayman Islands a simple question. If we were to give Legal Aid on demand using the sort of means test they use in the United Kingdom, my own personal belief is that we would find that it diverted an undue amount from the revenues of the Islands to this aspect. We have to balance matters.

There was a Select Committee that looked into this and considered Legal Aid and the question of a Public Legal Defender. I believe that the view of the committee was that a Public Defender's Office was not in fact the way ahead for the Cayman Islands when everything was considered, particularly when it was considered that there were numbers of young attorneys coming into the profession who could do legal aid work in the private sector and so on.

It was at that stage undertaken that the level of fees for attorneys doing legal aid would be looked at. I am bound to say that that was put on hold in view of the difficulties of the overall budgetary position. I am certainly willing to say to the House that we will look at it again when the budgetary submissions come forward this year and it will be very much a matter for Government and the Financial Secretary to see what there is. I certainly cannot give any guarantee or undertaking to the House on that but I am prepared to say that I will ensure that it is considered during that process.

The next Head was Ticketing for Traffic Offences. I can say to the Member that in respect of speeding and I think this is really the one that he is talking about, that Government certainly accepts this is not an appropriate thing to do. It was dealt with in a Private Member's Motion, subsequently the Member in charge and myself consulted with the police who accept it. The courts as far as I understand accept it and indeed welcome it to the extent that it will relieve the Magistrates Court of the present burden of dealing with non-contested speeding offences.

I cannot actually say why it is not being done. Members will know that the whole Traffic Law is under review and the advice that I had given to the Member in charge was that perhaps the time to deal with it would be on that general review. If it appears that that review, for whatever reason, does not come forward at the next meeting, then we can look at dealing with this separately. But I certainly do not want to give the impression to the Members that there are any "cold feet" over introducing that.

The next point the Member raised was the length of time that it takes for cases to come to trial. I have to heave a deep sigh on this and say, "Yes, Madam Speaker, there are cases that do take a long time to come to trial and each one when you look at it has its own reasons for that." Those reasons fall under some broad Heads and I am just going to set out the broad Heads.

In some cases it is because the defendants themselves seek adjournments, either so their defense can be prepared, also that the counsel of their choice is available. We only

have a limited number of professionals who specialise in criminal defense working here and there are some who the accused prefer and ask for. If that attorney is otherwise engaged, it is not always possible to bring the case on as soon as we, when I say "we" I mean the prosecution, would like.

And there are particular cases. There were some dealt with at the opening of the Grand Court on Wednesday of this week where the Crown was asking for an early trial date and was being met by the accused saying, "My attorney is not available until the autumn of the year." The courts, usually, over the opposition of the prosecution in such cases, will, as long as the delay does not go on inordinately, accede to that and will allow the accused to postpone the trial until his attorney is ready. Of course if the accused is in custody then he stays in custody and the postponement is on his own head. If he objects to staying in custody then his answer is to take steps to make it possible to get another attorney, to make it possible for the case to come on earlier.

There are other cases where the burden of the preparation of the case on the part of the prosecution takes time causing delay and I accept that. I do not accept that the delay is inordinate and indeed, in such a case, if the delay does become inordinate or oppressive, it is open for the accused to apply to the court and demand a trial date. If the court thinks that the Crown is delaying unduly it will fix a trial date and the Crown either has to be ready then and go ahead or the case will be dismissed.

A particular example of the sort of cases that are difficult for the Crown to prepare and certainly to prepare expeditiously, are those involving allegations of fraud or commercial crime, often where there is a large amount of paper that has to be analysed and put in order and our sources for doing this are limited. They are, frankly, inevitably going to be limited on an Island the size of Cayman.

I answered a question earlier today on the size of the Legal Department. We have the Solicitor General and seven Crown Council who can prosecute. Of those, two have joined us recently; two Caymanians who have come fresh from Law School to join us last year and though they are making great strides, and though you will see them and their names appearing in the Court Reports, there is a level of case that they are not yet ready to handle on their own.

Of the others in the Department, great demands are placed upon their time for conducting the normal day to day prosecutions. The paper work needed for the preparation of these more elaborate commercial cases that I was referring to has to be done often out of court hours and out of office hours and week-ends or in days out of court.

Maybe one of the answers to that is to expand the establishment. To do so now, under the way Civil Service is established, we have to put forward a request to expand the number of people we presently have on staff. That has to be looked at by the Management Services Unit just like any other department to decide whether we need more Crown Council and whether we can afford it. We are asking for more but I appreciate and I hope the House would appreciate that that has to be balanced with all the other needs of the Civil Service. The Legal Department, no more than any other department, certainly should not be adding posts unduly or willy-nilly. Having said that, the present staff of the Department is hard worked, it is very hard worked at this particular moment and I would certainly like to take the opportunity, while I am addressing the House, to give them credit for the work they do and for the long hours they put in. And the moment when the Crown Council appears in court is only the tip of the ice-berg because beneath that moment is a great deal of preparation that has to be done to get the case ready.

That is by way of an explanation. I do accept that there are prosecutions that take a long time to come to trial and there are times when the accused will complain about this. If the matter becomes inordinate that accused can apply to the court, he can complain to the Governor, he can complain to me and we will look at it and see what can be done.

If I might move on from that, and deal with the next point the Member raised. He pointed out that it appeared, at least to him, that more and more sentences are over-turned in the higher courts on appeal.

I do not know and I am unable to estimate whether the rate for sentences being over-turned on appeal has gone up or not. My own impression and it remains a personal impression rather than a statistical analysis, is that the rate is fairly constant. That is not to say that cases do not get over-turned on appeal; they do. That is one of the functions of an Appellate Court to ensure that the judgements and the sentences of the court below are in accordance with the facts proved and where sentences occur, are concerned in accordance with the appropriate general guidelines. And there are going to be cases with the best personnel and with the best will in the world where the courts below go wrong. There would not be Appeal Courts and there would not be appeal judgements if that was not the case.

The Magistrates Courts in particular are under great pressure of business from day to day and the Magistrates themselves discharge a difficult role and in my submission to this House, discharge it commendably and with great fortitude, honesty and at times bravery. One only has to go into either of the Magistrates Courts to see the amount of business they deal with on a daily basis, the number of people who are before them and the number of issues they have to decide upon. It is at times bewildering what is being thrown at them and what they are being called upon to adjudicate and rule upon.

It is inevitable that they, being human in doing this, will at times not get it right. That, as I said earlier, is what the Appellate Courts are for, it is a system of checks and balances and I would urge this House to look at that, on occasion when they see in the newspaper that the Grand Court of the Court of Appeal has reversed a Lower Court, has acquitted somebody on appeal or reduced the sentence.

I would urge this House to see that not as a sign that there is something wrong with the system but as a sign that the system is functioning healthily and properly. I would certainly urge this House not to regard that as a symptom that the Magistrates are not discharging their functions because the Magistrates who are at the sharp end of the administration of the Criminal Law in the Cayman Islands,

are doing a great job.

Perhaps I can move on from that and deal with a point that the Member made which I think is a very important one. That is the role of the two representative bodies of the legal profession - the Cayman Islands Law Society and the Caymanian Bar Association.

I do not know whether having a review would affect what role they chose to play because it is very much for those associations and for the members of the profession that they comprise, to decide what role they wish to take upon themselves and then to seek to discharge it.

I can say, to the credit of the profession, that they have played a key role in some legislative initiatives and are currently playing an important role in a committee which is considering the Civil Procedure of the Grand Court. A most important aspect of the Grand Court are the rules which govern its Civil Procedure.

The rules we have at the moment are by anybody's analysis inadequate and they only work because the Grand Court Law allows us to look at the UK rules, what is colloquially called the "White Book". The White Book is a now a three volume body of rules and interpretive material on those rules, over eight inches thick altogether. A committee, on which I sit, on which one of the judges Chairs and on which there are three members of the private sector, are plowing through those rules. We have already had a draft prepared by a draftsman, provided by the Commonwealth Fund for Technical Co-operation. We are now going through the draft to ensure that in adopting the UK rules, we get something that is right for the profession here while, by and large, retaining what they have in the UK so that we can use the interpretive material, the text books and the decisions of the courts on the UK rules. It is very important for us that we can, on the whole, have recourse to the large body of judicial decisions on the UK practice.

So the profession is having some input into the legal system. They could have more. One aspect that I personally would like them to take upon themselves, is the regulation of their own conduct and the conduct of their own members. In the United Kingdom both professions, the barristers and the solicitors, regulate their own conduct. In particular, the disciplinary body for solicitors is the Law Society and they sit, or they have a committee, that sit in judgement upon practitioners against whom complaints are made and they can disbar them, prevent them from practicing and impose a variety of other penalties.

Now that works in the United Kingdom because one is dealing with a very large body and it is possible to be totally independent. I do not think one could go so far as that here because of the smallness of the profession and the impression the public might get if they felt that the last and the sole arbiter of their complaints was the profession itself. None the less, there is a role to be played by the professions, through their professional bodies, in self-regulating imposing some form of encouragement and discipline on their members to abide by the highest available standards.

The first step might be formulating those standards and I know that the Caymanian Bar Association for instance has taken some steps in that direction and I encourage and welcome that. I think just to round out that point, it will always remain necessary here to have the final decision taken by an independent external body. At the moment it is the Chief Justice and in my own view, is that it should stay with the Chief Justice.

But the question of who initiates a complaint to the Chief Justice is one that the professions might address. At the moment if disciplinary action is to be taken against a lawyer, it usually falls upon the shoulders of the Attorney General to decide whether what is alleged is serious enough to warrant taking proceedings before the Chief Justice.

I would like to see the professions on their own bat in some cases, considering that decision and possibly taking it themselves and possibly making complaints themselves, if it was necessary, to the Chief Justice. Not to say that I think it is necessary. In saying all of this I am not intending to imply that there are practitioners here in respect of whom such proceedings need be brought. Of course I am not doing that. But should the question arise, I would like to see the professions geared up and in a position in which they are willing and able to undertake this role.

That is one aspect of what the professional societies can do. They can of course play a large role in commenting on Bills that Government brings to the House and themselves putting forward proposals to Government for reform in respect of legal matters. They are private citizens they can do it in respect of any matters and Members will know that the Caymanian Bar Association put forward an argued paper, to the Constitutional Commissioners, for instance. That is very much the sort of role the professions, through the professional associations, can undertake. But certainly their particular field of responsibility is in the administration of the law and in the laws that govern that. I will certainly always be glad to receive, although I do not guarantee that I will act upon, but always glad to receive recommendations, papers and so on, coming from either of the professional associations.

What I would particularly like to see on legal matters and on Bills are joint representations that they can agree upon themselves between the two associations so that what comes forward is a unified voice speaking for the legal profession in the Cayman Islands.

Madam Speaker, if I can move on and the next point the Member made and I think it was the last of the specific points that he wished to raise is the question of the choice as to how a particular accused is tried. In technical language it is the election of whether he is tried before the Grand Court or the Magistrates Court. He said that in some cases the prosecution would argue that the matter should not go to Grand Court and hence to Jury Trial but should be tried before the Magistrates Court.

It is not in fact possible for the prosecution to have a say in that decision in the way that the system is set up here. It is in the United Kingdom and there is a category of cases there where the decision as to the mode of trial is for the court and either side get to argue about it.

Here the choice is for the accused to elect whether he wants

Jury Trial or not. The only choice the prosecution has is if the accused elects Magistrates Court Trial. The prosecution theoretically has a right to insist on Jury Trial. That is very rarely exercised. I can think of only one case, a serious commercial fraud case, where the prosecution jumped in and said we will have Jury Trial. But otherwise if the charge which is charged is an offense which can be tried either before the Magistrate or before the Grand Court and the accused says, "I want a Jury Trial before the Grand Court", the prosecution cannot stop that.

I stress that it is a question of whether the charge is one that can be tried before a jury. There are of course many charges in which the choice simply does not arise; summary-only offences and if as accused is charged with one of those then he does not have a right to Jury Trial at all and the question does not arise.

I believe those to be the points. So, I have attempted in addressing at least the main points raised by the Member to reassure him, where it is possible to reassure him. I appreciate that in some cases there is always going to be an element who are not happy with aspects of the way the legal system is administered. I regret that there will always be accused, for instance, who feel that they are being unfairly held in custody or that they are being unfairly held in custody for too long or that their cases are taking too long to come on for trial.

My own argument to the House is that the way to address those cases is through the courts on a case-by-case basis using the existing rights of appeal or of application to higher courts, if a party to a criminal action feels that he is being abused in this way. I do not think that the way to address it is to bring in an outsider to review the whole of the functioning of our legal system and in particular of the functioning of the judiciary as was done for the other Dependent Territories. I think it can send wrong signals in respect of the Cayman Islands and with respect, I do not think it would achieve very much.

I think the Member may have achieved a lot simply by raising these points in the House and it is always open for Members, who are aware of particular cases, to bring them to the attention of the authorities and I know that there is a difficult border line between interfering with the course of justice and representing a constituent. But I do not think it is wrong for a Member, who has a complaint from a constituent that he is being held in custody too long, for instance, to ask me at least to look at it.

Again, that is only a safeguard against abuse because in the end I am the prosecutor and I am not therefore, necessarily, going to be able to assist in every case. But I can say that if it appears to me that something wrong is happening, that the system is going wrong, then I would take action to ensure that the system was put right again.

There is a role for Members there and the main role as watchdog, as I have said, is the courts themselves. By raising these points, as I said, the Member has achieved something. I said last night and I think it is worth repeating today, that the Acting Chief Justice has taken an interest, a great interest in the course of this Motion. I spoke to him this morning and he listened to the debate last night and will listen again on the radio today. The Member by raising his points here has effectively raised them with the judiciary and they will, when individual cases come up for consideration, be able to take into account the fears and concerns expressed through this House.

I would be unhappy if it were to go further than that. I would not, as I said, like to see someone coming in from outside and conducting a thorough-going review. Not because I think it would turn up anything to the detriment of the way that the system operates in the Cayman Islands but I do not think it would be of any effect. I think that the awareness that we already have of the points of difficulties, is the best way of addressing them and no matter what an outside reviewer would say there would still remain the question of implementation.

One would not have to be a great expert to come in and say, "Your courts are a bit crowded," but to tell us what to do about that, is a more difficult matter. One would not need to be a great expert to come in and say that in an ideal world you ought to have Legal Aid available for everybody and the attorneys that do it should be paid the going private sector rate but whether the funds are available or not is another question.

Anyone could come in from outside and say that the professional bodies, the Cayman Islands Law Society, the Caymanian Bar Association, have a role to play in the structure and administration of the legal system. If they said that I think myself and Government and everyone would say, we agree with you and we encourage them to take up the role that they feel fits them.

So though I hear the Member's points I do not think, with respect, that the way to address them is to bring in someone from outside. I said in beginning today, I think that can always be misinterpreted. It can send a wrong signal. I do not want to put too much weight on that and I am certainly not going to say that having a judicial review is going to irrevocably damage the image of the Cayman Islands but it is something that I do not think we need and if we do not need it then the possible effect that it might have on the market and investors and so on, is unnecessary and not worth running the risk.

It is for those considerations that Government will not be acceding to this Motion. I dislike putting it on the hostile grounds of opposing and so on. The Government simply does not think that such a review would be appropriate and I would hope that in voting on the Motion, Members will not see this as a political issue but will agree with the view that I have put forward.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:**

Thank you, Madam Speaker. I rise to offer my support for the resolution before the House. I want to congratulate the Second Elected Member for Cayman Brac and Little

Cayman for bringing this resolution. I thought it was timely and I believe it is necessary. The Honourable Attorney General has given much food for thought in his reply to the Mover and he acknowledges that there are problems, but he feels that a review is not necessary. Government, it seems, feels that somebody from the outside reviewing our system and looking at what is taking place, what is happening on the Bench, could send the wrong signal. I do not see that.

I believe that no one must be afraid of any kind of investigation. When an investigation takes place it can only do one or two things in my opinion, and that is to find something wrong or to exonerate the whole matter. I believe that the United Kingdom, in keeping with their commitment of our adherence to the British system of jurisprudence that we have known on this Island, would do well to have a review in this country, the same as they did last year in the Dependent Territories.

Now we might not have some of the same problems that the other Territories may have but there are certainly many grounds for a review. Whether that review is done from the outside or whether it is done from within, my feelings are that doing it from the outside is putting it in a completely independent atmosphere and it would be more objective.

Now I support the motion and I support it not in a political matter but because we are dealing with the lives of people and with the cornerstone of democracy. So there is no question whatsoever that this should be a political matter and I do not think that anyone from this side takes it in that light. But a good legal system, a good judiciary system, is the cornerstone of democracy.

I believe that Lord Denning, that great British jurist, when he said in his book, *The Due Process of Law*, that "...there cannot be anything of greater consequence than to keep the streams of justice clear and pure, that parties may proceed with safety both to themselves and their characters," puts this matter in the frame of mind that I think it should be.

Madam Speaker, there are a few areas, that I would like to mention this morning, which I have been calling for to be reviewed. I have been calling, ever since I have been in this House, for the setting up of a Family Court to deal with all matters relating to family, a place where family matters can be dealt with outside of the criminal atmosphere.

In the matter of matrimonial disputes for instance, there should be, in my opinion, a simplification and a speeding up process when a couple agree to divorce. For instance there could be joint divorce petitions and an end to the practice of naming the co-respondent in adultery cases. I cannot agree with co-respondents in divorce cases and this is being abused where co-respondents have been named but were only involved after the petitioners were separated and had agreed on a divorce. I have had this to deal with before in several instances. The Law needs to have a leeway in that matter.

I believe that detailed questionnaires should be used to ascertain the proposed arrangements for children in a divorce case and financial claims should carry a detailed breakdown of the needs and resources. That is something that has caused a lot of injustice and I will not go into it because I do not think that I have the scope but these are matters that could be dealt with and I believe need reviewing in our legal system. This Family Court could streamline for instance, custody of children and access to the children in instances of divorce. I think the financial arrangements on separation and divorce need to be looked at and done at all times in private.

Some time ago, I think it was in 1987, I brought a motion to this House to deal with maintenance. At that point, I think maintenance used to be \$20 per week or somewhere in that region. An amendment to the Law brought it into the region of \$50 per week. But the court, once having adjudicated on a maintenance case, leaves the person to do as he pleases. Perhaps the person applying for maintenance is not well-versed in the Law or not even having as much knowledge of the Law to help him along, and does not benefit from the process he went through in the first place.

I believe that the time has come for payments to be deducted from the salaries of these husbands, common-law or otherwise, who bring children into the world and leave a home with for instance, five or six children, as if he had no responsibility whatsoever. He might have been taken to court, as I said before, paid the first \$50 or whatever he could afford if he had more than one child, but thereafter year in and year out, does not enter one penny into the court for those children. I think that matter needs to be looked at.

I think that all juvenile matters, for instance wardship, children in care, fostering and the like could be dealt with in a Family Court. There have been many problems created in these Islands for instance, by adoption. What I am talking about are cases where I know stepchildren from a foreign country have been adopted and brought here. These are old, very old children. Sometimes over 18 years of age, I heard of one case of 30 years of age. It is ridiculous! Scandalous! This is another kind of situation which could be dealt with in a Family Court.

The issue of domestic violence should be dealt with in a Family Court. I am not going to go into that because I have said before publicly I intend to bring a motion to deal with that matter. But that matter needs to be dealt with within the confines of the family. If something came out of it that just happens to be criminal, I would not deny going to a higher court. But the issue of domestic violence could be dealt with.

Legitimacy, proven on a balance of probabilities, is another matter which I think needs to be looked at in this country and is shied away from. But I want to see the Family Court set up so that those things can be taken in their proper perspective.

I have advocated the need for a Juvenile Court Judge. I brought a motion to this House, I believe in 1987, which was seconded by the present Member for Communications and Works, the Second Elected Member for George Town. This was turned down and was said that it was not needed. I believe a committee set up since then by the Member for Social Services recommended a Juvenile Court Judge. I believe that this is necessary. This could be a person who is well-versed in family law. Not that I believe

that the present system of Justices do not do a fair job and maybe it could, even still, with the appointment of a Family Court Judge, help out. But today we have a very extensive Juvenile Law which I believe would be better dealt with by a person well-learned in the Law.

Today there is tremendous call for action to be taken in this country to make parents more responsible for their children. I am a strong believer in this. Rather than making an eight-year-old criminally responsible as our present Juvenile Law does, we need to make the parents more responsible. If somehow this could be done and if parents were brought to bear the force of the Law, they would be stricter in where their children go, who they go with and what they do overall.

That matter and those who sit as Justices in the Juvenile Court, know that today the problems that come before that court are not small, run-of-the-mill, minute matters. Some are serious. We have some good parents that are Justices but they are not learned in the Law. And when a country comes to the point where we have to, as was said to me, make an eight-year-old criminally responsible, we need somebody on the Bench who is able to deal with that.

I believe that family law matters under the present structure are chaotic where some matters are dealt with in Magistrates Court, some in Grand Court and some in Juvenile Court. I believe that we have reached the time and place where we need one facility to deal with these matters. This needs reviewing and to be placed into a proper atmosphere so that this can be better dealt with, as I said, for all those affected, spouses, children and grandparents, in the proper setting of a Family Court.

Madam Speaker, I would like to give notice that for the night onto eight years that I have been asking for this, I have not heard what has been done. I would like to give notice that in the September sitting I intend to move a motion to ask Government to do so.

There are a few other areas that beg review and therefore the necessity for this motion. For instance, in recent times I have had to deal with matters in connection with my constituents, cases where persons have been charged with some other person's record. In one instance I was with the person in court, sort of representing that person and I made representation to the Bench where I could produce birth certificates after the adjournment to show that the record could not be for the person before the Honourable Court. The Judge thereafter saw the injustice that could have taken place and he adjudicated accordingly. The person did not bear the brunt of the Law for those offences.

There was another case which I had to attend to where someone in prison, seeking an appeal, was bearing the brunt of somebody else's offences. He was charged with offences that had taken place while he was abroad. But this was placed on his record. Having made representation to the Clerk of Courts and to the Commissioner of Police, whom I should say assisted me greatly, the matter was taken in hand and we are now in the process of getting the matter cleared up. But I had to ask myself how many more persons went before the court but did not have their representative with them, whether elected representative or otherwise, and therefore, suffered the brunt of the Law because of that kind of situation?

I recently had another complaint from one of my constituents who had refused a urine test. He went to court and was charged a sum of money or so many months in prison. He was given time to pay. He left the court with his sister but at 4:30 or sometime thereabouts that afternoon the police showed up with a warrant for his arrest and he was taken into custody. The mother then had to go to the court to get that matter straightened out. The Judge saw the mistake and the boy was not placed in prison but was given time to pay. He had shown up in court so it was not a matter of him not showing up yet the police came with the warrant for his arrest.

Now that begs several questions and with disrespect to no one, I must ask how could a person sign that warrant? Was it a Justice of the Peace or who was it? Because in signing warrants, a person must be able to determine the full issue of the matter. Surely we just cannot go to the Justice of the Peace and say, "Sign this." That Justice of the Peace, if he is going to sign in my opinion, should know what he is doing. But that matter was also straightened out by the parent. But the fellow was arrested falsely.

These matters are the reasons why our legal system begs reviewing. I say this with no disrespect to any Judge or to the Honourable Chief Justice, no disrespect whatsoever, but I am dealing here with things that are happening on a daily basis, happening to the people that I represent. Therefore we need some relief and I believe that that relief can come after a proper review. And as I said, it could from inside or outside but outside would be better if we have nothing to hide.

I believe that the matter of bail needs to be looked at. We know that under the system if a person gets bail, the person that signs that bail does so on a bond which he is liable to pay if that person does not show up. I have stood bail before for several people. But what is bail?

Recently I had a case where a parent, an old man - some 80-odd years old - stood the \$3,000 bail for his son. On the day that the son was supposed to show up he did not. The son is a drug addict: not a bad child, not a criminal but a drug addict. And, the warrant was put out and the father had to go to court. The judge, very leniently cut down the amount from \$3,000 to \$1,500. There is no way in this world that that man will be able to find that \$1,500. So what is going to happen? Do we put that person in jail because he cannot pay?

Madam Speaker, would it not be better for all avenues to be explored? Perhaps something happened and that person could just not make it to court and the father did not know anything about it. Maybe he was sick or something else. In this case I must say, I do not think that that was the issue. I think the son would just not show up. But should it not be that a person standing bail like that for just ordinary possession or urine testing, standing bail for that kind of matter, I think the person should only be brought before the court after all other avenues have taken place. Perhaps the person is still on the Island and I would say we only go to court or that that bond is only put in force if the person has fled the Island, but let the Police do their job in finding him and bringing him to court.

serious review. Because I believe every day there are offences whether knowingly or willingly or whether by mistake, but I believe there are offences against the citizens of this country that are incompatible with natural justice. I do not believe that it is done knowingly or willingly but because of the system and the way that the country has outgrown certain laws.

Madame Speaker, the matter of physical space was mentioned. Now, when we mention physical space the first thing that the Government does is to set up a committee which says we are going to build a building. We are going to get a new Court House here and a new office there. I have to keep asking myself this question: Where is the money going to come from? Now they say that they have run out of space. We have four or five courts, but can we not be innovative? In our districts we have large town halls and I make the recommendation that instead of building large buildings for courts, we utilise those district town halls. I know years ago it was done. If it could be done years ago without the computer, I do not see why we cannot do it today. I made that suggestion sometime back but I was told by the Members then in Executive Council that I wanted to shift the capital from George Town to West Bay, that was what I was told. Nothing of the sort, Madam Speaker. But I suggest to the Attorney General that he look at some system where the town halls can be utilised. For instance the West Bay Town Hall has been renovated and is air-conditioned and is as proper a Town Hall as is the George Town Town Hall. Why spend all this money, millions of dollars?

Madam Speaker, I would hope that we are not going to hear that Government is going somewhere to the outskirts of town to rent a building from their supporters. I hope they look at my suggestion in a good light. As I said the motion is needed and Government would do well to do as the United Kingdom did with the other territories. Let us get a review. If we have nothing to hide, well, we would be exonerated. But it is not so much of something to hide as it is a matter of rectifying the many wrongs that are within our society caused by a legal system that in many areas is not compatible to natural justice.

Madam Speaker, quite often we hear about judicial error. All I would say on that is that we, in my opinion, as I said in the debate on Capital Punishment, we can minimise or eradicate judicial errors by appointing the best men to the bench. When I say that, I emphasise that I say it without any disrespect to any of our honourable judges. But we must appoint men not only of intelligence and learned in the law, but men or women, with patience and human understanding, people that know how to deal with people and not people, that when you go to court you will be laughed at, scorned and derided.

In his book, *The Due Process of Law* by Lord Denning, he tells of a case where a judge talked so much and did exactly that, derided and carried on with the people before the court so much that both parties before the court appealed the decision on the basis that the judge had too much to say and was not listening, therefore the matter could not be adjudicated properly. And you know what happened according to Lord Denning, that judge was finally freed of his career, laid to the end of his judge's career.

Denning talked about the judge who talked too much, would not listen. I emphasise, Madam Speaker, that I raise these matters not in disrespect of our honourable judges, but in hoping that the Honourable Attorney General is getting the point and will change his mind and will take a second look as was done yesterday on the other motion after the Administrative Secretary said he would not support it, they changed their minds on it. But this needs to be done. And it is only after good reasoning without any political slur that we should come to that decision. It is needed, therefore I support it.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The Third Elected Member for West Bay.

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

Madam Speaker, I also rise to support the motion before this House calling for a review of our judicial system. I also believe that this review is timely and necessary. When we look at the present situation with regard to our courts here today, where cases before the courts are increasing, and courts are crying out for the lack of proper accommodation I believe because of the diversity of the cases which are being brought before the courts today, that a general review would be in order.

Madam Speaker, the judicial system is the essential fiber that holds any society together and avoids anarchy, because as long as the people of the country have faith and confidence that justice is being administered for one and all, then that society survives. In the absence of this you have private citizens taking matters into their own hands that should have been naturally referred to the courts. Here in the Cayman Islands where we depend so much on the idea of stability, a good judicial system is of vital importance. We must do everything that we can to ensure that this confidence continues. We need to ensure that all who need representation are properly represented and have access to the judicial process in this country. We do have provisions in place to assist with this through the use of, or the availability of legal aid, but much improvement is necessary in this area.

As a result of my concern in this area, I think it was back in 1989 that I brought a motion calling for the establishment of a Public Legal Defenders office that would be responsible for seeing to it that the indigent people in this country are properly represented. We did meet as a committee and it was the general feeling that maybe rather than establishing a large bureaucracy, that the problem could be better assisted by maybe increasing the fees made available to lawyers who handled legal aid cases. I have no problem with that but my only concern is that those who need representation have access to that representation.

But I remember a few of my constituents whom I tried to assist with the legal aid before the courts. It just appeared that justice, not in the form of sentences handed down by the courts, but just the mere time factor that these people were subjected to before they had a chance to bring that case before the courts. I am talking about people who are not in the financial position to go out and contract the high powered lawyers in this country. So I think a review would entail a look at the legal aid system that we have in

place and hopefully will result in recommendations that would improve this system. Because as I mentioned before, it is essential that anyone who needs access to the courts, have it available to them.

Madam Speaker, I really do not think that the Attorney General or anyone connected with the courts system or the judicial system has anything really to fear. I believe that this review that we are calling for will not necessarily find anything that is drastically wrong with the system. But hopefully what will result are some recommendations, be they minor, or whatever, that will further improve and enhance the system. There is always room for improvement, there is always room for improvement.

I think it was about two years ago that we voted funds for court reporters to record the proceedings in the Magistrates Court and I feel this has been a recommendation that has brought about some improvement. But I think that it must be the system where the court relies on the reporters to do the recordings. Sometimes it is comical and I have sat in on a few cases where a defendant or a plaintiff is there making a testimony and the judge has to say "You, just wait a minute, I cannot write that fast, would you talk a little slower," rather than the Magistrate being in a position where he can listen to the facts and arrive at the proper conclusions. So the use of court reporters extensively, would greatly improve the efficiency of the courts.

I also believe and support the idea of a Family Court. As in many societies, the family in Cayman is in trouble. I am alarmed by the number of cases that I understand are being brought before the Juvenile Court and also with the seriousness of some of the offences that these juveniles are charged with. I feel that the right environment for dealing with matters of that nature could be better handled through the establishment of a Family Court which is specifically responsible for dealing with matters of that nature.

The other problem we have in this country that is on the increase is the issue of divorce. With the work load of the courts, and especially when there are children involved, I feel many times that justice is not properly served because of undue pressure or delay. If there was a court established specifically for the purpose of dealing with family matters then these very painful issues could be dealt with much more quickly and in a much more sensitive and confidential environment.

I also feel that a review of the court system with regard to its record keeping, that is its files and so on, with regard to the possibility of maybe computerising that information where those at the Courts Office or even the Magistrates would have immediate and direct access to whatever information is necessary for them to arrive at a proper decision with a link possibly to the Police headquarters in the instances of crimes. I think a move in this area would greatly enhance the efficiency of the courts.

I think it was in 1989 that I also moved the Private Member's Motion entitled Traffic Offences or Speeding Offences with the suggestion that it should be looked at seriously where when a person is caught speeding that the Police, as in other jurisdictions, is in a position where they can issue a traffic ticket and the person knows exactly what the fine is, it is all there and he can go into the Courts Office within a specified period of time to make a payment on that ticket, would greatly reduce the work load of the courts because I am alarmed by the number of traffic offences that appear before the court on a daily basis. Just a move to amend the law in order to make this possible, I think would greatly enhance the work day efficiency and would also reduce the work load before the courts.

I think personally that it is very important that this review be done by an independent person or body. By that I mean someone from the outside. I think it is important when conducting this review that the person is independent and objective. I think a person from the outside would be in a much better position to look at things in a much more different light. One of the problems that you experience is that when you are too near to something you really cannot see or look at the issue in an objective fashion.

I think that a review that also looks into some of the sentences that are handed down by the courts, especially for identical or similar offences, is very necessary. I have always been one that has felt that if you commit a crime you should be prepared to pay for that crime. But what is important is that justice is not only administered but that justice appears to have been administered in all instances. Because if I go before the courts charged with possession of a stick of ganja and I get six months and tomorrow someone else comes in there and he gets six weeks or a month for the same stick of ganja, then I will be very upset and I will feel that I have been treated wrongly. So I think that it is important for us to have a few of these sentences reviewed. I am quite sure, as the learned Attorney General mentioned, that the courts do have a framework within which sentences are arrived at, but I think it is important that there is consistency with regard to sentences handed down by the courts.

I think it was the First Elected Member for West Bay who mentioned a complaint (which I have heard mentioned more than once) in that I view a Magistrate in a very high and exalted position. When one is sitting there or standing there before a judge or Magistrate, the thought that comes mind is one of standing before God himself on a day of judgment, one will recognise the authority that that person has and the ability that that person has to influence your life through a decision for good or for bad. It is very important that that atmosphere or that environment of respect, that feeling of justice prevails at all times.

I have heard of many instances of defendants walking into the Court House and appearing before the Magistrate, where the Magistrate says, "You know, young man you are very fortunate this morning that I woke up on the right side of the bed," or "I am going to send you away for six months because I do not feel too good this morning." It is important, as I said before, for everyone in this country to feel that justice has been administered in all instances. I do not think that those kinds of remarks or comments by people of that level are very likely at all.

I am glad to see that the new constitutional review gives the elected Members a much greater role or influence in the process of choosing those persons who will be appointed to administer justice in this country. I do not think that the Government has anything to fear by supporting a call for a review of this nature and as I mentioned before, I think the results of any review will not find that anything is drastically wrong with the system. But hopefully as a result of the review, recommendations will come forth for



improving and even further enhancing the system that we cherish in this country, our judicial system.  
Madam Speaker, support this motion and I thank you.

**MADAM SPEAKER:**  
eye earlier.

The Second Elected Member for Bodden Town had caught my

**MR. G. HAIG BODDEN:**

Madam Speaker, I join the other Members on this side of the House who seek this review. We know that the Second Official Member, for some time now, has seen the need for this review. I remember sitting in this Chamber a few months ago and listening very intently to a speech which he made about the pressures that the courts are under now because of the sheer volume of work which they encounter.

I am wondering if, despite his belief that this is necessary, he is simply putting forward the view of the majority of Executive Council rather than his own personal view, but I know that he too, is bound by collective responsibility.

He mentioned that the Commissioners in the Constitutional Report had said that there were no complaints whatsoever about the functioning of the judiciary. That is not surprising. They did not come here to specifically examine the judiciary. Had there been complaints, I doubt that they would have heard the complaints as they appeared to have heard only what they came prepared to hear.

We know that generally there are not many loud complaints about the system for certain reasons which are too well known. One dare not recklessly criticise the courts and find himself in contempt of court. A Member dare not question the conduct of a judge in the Assembly unless it is done on a substantive motion. One dare not ask questions or raise in debates matters that are before the courts. This is all for good reason but these checks and balances have given to the courts a veneer and a security under which they continue to do as they like generally.

I would like to draw the attention of Members to a few statistics which will prove the case so ably put forward by the Second Member for Cayman Brac. Although from yesterday I decided that when he makes a presentation there is no need to add to it. But in one of the most recent documents published by the Government itself, the Statistical Abstract 1990 I quote: "The number of crimes reported rebounded slightly in 1990 from the 1989 figure up to 2,821. The percentage of crimes cleared up, excluding drug cases, continued to improve to 68 per cent. Court cases continued to climb with civil cases showing the highest increase at 25 per cent. A new table on juvenile courts statistics show that 68 juveniles were convicted in 1990 and 187 offences were charged against these juveniles." So it is apparent, without even going into the details, that the system must be under pressure and no matter how well the system has worked, if the system has come under pressure, there is need for review.

We have heard enough about the lack of court rooms. I had occasion a few months ago to attend the Magistrates Court with somebody. Even the Magistrate himself did not know five minutes before the trial started where that case was going to be tried that morning. He did not know which court room he would sit in. These are the situations that exist. So it is foolish for us to bury our heads in the sand and let somebody that comes here for some other purpose convince us that there are no complaints against the system.

Without any reflection on the integrity of the Attorney General, I maintain that he is not qualified to say that the system does not need a review because he is a part of the system. And when you are a part of the system you are the last one to know what is going wrong. You are the last one to know when it needs upgrading. And because for years he has been using his knowledge and his ingenuity to make the system work with what we have had, he perhaps has come to the belief that the system is good. So there is nothing wrong with having an outside look, an impartial and unbiased appraisal. That is all that this motion is seeking to get.

In 1981, and we know that the crimes reported have an effect on the legal system, the crimes reported were 1,519. In 1990, they had risen to 2,821, almost double in a nine year period. This is why we have had the Educational Review, this is why we have had the Medical Review, because the Islands are not stagnant. Things are moving and we must look at all areas. If the overall increase in reported crimes and crimes that came to the knowledge of the Legal Department and the Judiciary, if that increase of 100 per cent is not enough to startle them out of their complacency then let them listen to this. In 1981 there 27 cases cleared up involving juveniles, while in 1990 there were 187, a sevenfold increase amongst juveniles. The future of the country we are talking about. We need this review and we need it as fast as we can get it.

Reported crimes of drugs alone in 1990 were 19.4 per cent of the total crimes. We know how over the last 10 to 15 years cocaine alone has risen from four per year to over 400. Let us take a closer look at the court statistics and we will see the demand for this review. In 1978 there were 1,754 criminal cases before the courts. Last year there were 5,094, an increase of roughly 300 per cent.

Cases involving the family in 1987 (and Members have been asking for a Family Court) were 57. And in 1990 they were 205, an almost 400 per cent increase. The family fabric is disintegrating before our very eyes. We need the court facilities, we need the judicial facilities, we need the legal facilities as well as the social facilities to deal with these problems and this motion is timely.

While the Grand Court cases appear to have remained more or less constant from 1978 until now, there has been a dramatic increase in the cases before the Summary Court. In 1978, 1,754 cases came before the Summary Court. In 1990, 5,522 cases, far more than 300 per cent.

We heard about the appeals that are being dealt with and the Second Official Member explained the reason. But do you know how those appeals have increased? Twenty-eight appeals in 1978 and 266 in 1990. This thing is galloping. The review is timely.

So elected Members of Executive Council cannot close their eyes any longer. They may not like what they see out there. I do not like it either. I am not happy that our country has gone this way, but my God do not close your eyes and say that it does not exist and that we should not try to do something about it.

In 1980 there were only two cases receiving legal aid and 10 years later, last year, 132 cases received legal aid. These Members of Executive Council charged, given an opportunity by the people of this country to govern, to run this country, have no interest in anything but putting up monumental structures.

In 1978 there were 47 licensed attorneys, in 1990 there were 78. Does that not say something about the system? Does that not say something about the legal system? Do you think that these attorneys are rehearsing for a play? No! They are practising for real. There is work out there to be done.

**MADAM SPEAKER:** Would this be an opportune time to take the suspension?

**MR. G. HAIG BODDEN:** Yes, Madam Speaker, because I have a long way to go.

**MADAM SPEAKER:** The House will be suspended until 2:15 P.M..

#### AT 12:43 P.M. THE HOUSE WAS SUSPENDED

#### HOUSE RESUMED AT 2:17 P.M.

**MADAM SPEAKER:** Please be seated. Proceedings are resumed. Continuation of the debate on Private Member's Motion No. 11/91 - Review of the Cayman Islands Legal System, the Second Elected Member for Bodden Town continuing.

**MR. G. HAIG BODDEN:** Madam Speaker, I will not belabour the statistics to prove our case much longer. But there are two important areas that I feel I should deal with.

The Government's statistics show that in 1990, 68 juveniles were convicted of 187 offences. Now I have before me a breakdown of those offences and one half of them, 95 out of 187 offences to be exact, are traffic offences. While I do not know what those traffic offences were that were committed by the juveniles, I believe that a goodly portion might have been simple misdemeanors such as riding a bicycle without a light or without a licence. And I say this because I remember at the last public meeting we had in George Town, I saw three ladies on that night riding bicycles without lights right past the two police officers that were taping our meeting. Now I know taping the meeting was far more important than speaking to these ladies, but the next morning in the Magistrates Court there were three little black boys barefooted in the court to be tried for riding their bicycles without lights. And this is why we need to overhaul the criminal justice system in this country. I am not saying that it was not an offence for the boys to ride their bicycles without a light. I am saying that the system is corrupt.

So out of the 187 offences charged against the juveniles to make them look bad, 95 of them were traffic offences. Only one of the offences was a breach of probation which shows a certain amount of respect for the Probation Officers. Fifty-six of the offences were burglary and theft-related offences which probably have social reasons.

Another reason for the overhaul of the system was mentioned by the First Elected Member for West Bay when he said how the Member for Education had recently put forward a Bill to amend the Juveniles Law, I think it was done during the time when he was in charge of Social Services, to charge a person of the age of eight as a criminal. Whether he was the Member responsible or not, his Executive Council (of which he is a senior Member and whom I hold responsible for most of their acts because he should know better) changed the Juveniles Law and made the eight-year-old criminally responsible.

If one examines this system one will see that children are getting into trouble at an earlier age because eight of these offences, these criminal convictions, were against mere babies, children between the ages of eight and 11. This is why the system needs to be overhauled because whatever has been done in this area has certainly not worked. I think it is our responsibility to bring these matters to the Members of Government begging them to review this entire system and not try to dodge it or to get out of it by mere technicalities or mere platitudes.

This same system found 57 juveniles brought before the court seeking care and protection. When we have 187 convicted, plus another 57 seeking care and protection in one year, it is time to take a good hard look at the system.

The other statistics that I will deal with relate to the prison population which impacts upon the legal system and the legal system which impacts upon the prison population. In 1981, the average daily population of the prison was 37. In 1990, the average daily population was 166. The total prison population in 1981 was 128 and last year it was 521. So these are alarming statistics. What is even worse is the final statistic I shall quote. In 1983 the average of the population was 30 years. In 1990 it had dropped to 28 years. The prison population is getting younger.

So it is time and we cannot dodge it and we cannot by brilliant arguments cover up what is happening. I know that people skilled in debate, like the Member for Education especially, will get up and take a superficial look at the statistics and try to make you believe that everything is well simply because they are able to provide a lot of legal care or legal aid which was not available some years ago or

because there are a lot of cases which are dealt with on appeal. But these are false assumptions because the converse side of that as. I will not be getting into individual cases, although I daily receive complaints about the courts, about the treatment, about the insults that are hurled at people from the Bench. I would only like to say that as far as my knowledge goes, there has never been a full review of the legal and judicial system, what I like to call the criminal justice system, in this country. I think the time is now.

There is one complaint which I have received on more than one occasion and it is the practice which perhaps is a Police matter but must be condoned by the courts where the Police pick up a person on Saturday night and hold him in jail for two nights and release him on Monday morning not giving him any bail with very lame excuses. These are flaws in the system which will gradually erode the confidence that the public has had. And perhaps when compared to other Caribbean Territories and certainly to countries like Haiti and Cuba in the Caribbean, we can be very thankful that we have some semblance of justice.

On a visit that the Backbenchers made to the Prison some time ago, we were alarmed to find many people, mostly men, in prison, held in custody, remanded, some of them from week to week, awaiting trial. We feel that this is something which must be corrected, that the prosecution must make an effort to deal speedily with alleged criminals when they are arrested, with accused people I should say, so that the trial can be expedited and the person will know whether he goes free or not. He must not be left to languish in jail.

There is one man, I understand, who has been there for such a long time that Amnesty International would be shocked to hear about the plight of this person. Also we find that many people are afraid to stand trial. Rather than plead not guilty when they have a case that they could beat, they plead guilty to get it over with because they know that they will be harassed. If they go to court they will be pushed around and insulted and then the case will come up for mention and will be put off because the police officer had to have his tooth extracted or needed a three month vacation. These are the things that are creeping into the system that can erode the justice system that we have been used to.

I commend the Member for bringing this motion and although I said in the beginning that I join him in its presentation, I would like to add now so that there can be no misunderstanding, I fully support this much needed review.

**MADAM SPEAKER:**

The First Elected Member ember for Bodden Town.

**MR. ROY BODDEN:**

Madam Speaker, in my brief tenure in this august Parliament, I have come to label motions discussed as being of two types; the purely political and the realistic and relevant. I am happy to say this afternoon that this is one of the relevant and realistic motions. There is absolutely no political sentiments in this at all.

Madam Speaker, this motion calling for this review touches the very soul of this country and it touches the soul of our people, some of whom, I would venture to say with no disrespect to our Honourable Attorney General, he has not spoken with and does not know.

Madam Speaker, in my time I have had a penchant for walking amongst and talking with all strata of this society and daily I am confronted with complaints, problems especially among the young people expressing to me a fear, a mistrust, a doubt in the justice system. Sometime, in my estimation, those fears are unjustified, but at other times and alarmingly so by my count, those fears are increasingly justified. I am going to cite one case because the other case that I thought of mentioning is sub judice.

I was approached some time ago by a young man whom I had taught and in the years in which I taught the young man I knew him to be an honest and an aspiring young Caymanian. I had not seen him for some years and he happened to have been hitching a ride one holiday recently when I picked him up en route into town. After exchanging pleasantries I asked him what he was up to and he told me he had fallen on hard times. So I asked what the matter was, if he was into drugs or if he was into any serious problems. He said he was into a serious problem and it had to do with drugs but it did not have to do with his dealing in drugs.

He proceeded to recount to me, in gory detail, how he went to visit a friend one evening and while he was visiting that friend, the Police raided the place and found some drugs in his friend's apartment, took him for a urine test, which was negative and upon his protestations he told them that he did not sell drugs and did not use drugs. He merely happened, quite unfortunately, to be at his friend's place. The friend did not tell him that he had drugs in the house, but what was sad he said, is that when he went to court he tried to explain to the judge that he was just a victim of circumstance. He went to visit the friend when the Police raided, he took a urine test which was negative and he told me that he proceeded to explain to the judge to please not send him to jail because he was paying upon a piece of land and if he went to jail for an extended period of time, he would have forfeited his payment and lose his land.

Madam Speaker, I have to unfortunately report that he said his pleas went completely unnoticed, he went to prison and lost his land. And you know what that young man told me, Madam Speaker, he said, "Roy, I have turned an animal." That was in Spotts. With all my persuasiveness I could not convince him to have faith in the system and how could I, how could anyone? One case, we might say. But that is not exhaustive, that is merely exemplary. I know of others and it does not matter what he was charged for, what matters is that he protested that he was merely an innocent party. The urine test showed that he did not deal in drugs, it was not his place, it was his friend's place. He could not afford to get a lawyer to defend himself and as a result two grave circumstances arose. The young man has a criminal record and he lost the piece which was his life's ambition and desire.

Quite frankly, I am alarmed. I am one of those people burning with a fire because I say if that was a case where the person sitting was a Caymanian, circumstances would have

been taken into consideration and we may not have arrived at that sentence because we are sufficiently small that A is bound to have some knowledge of B.

Madam Speaker, I listened very intently to the Honourable Member speaking on Government's behalf and with the greatest of respect to that Member, I have to join my colleague in saying that he is not the most fitting person to decide whether or not we should have a review of our justice system because he is a part of the system. I work for a firm and when the principals of that firm are ready to audit that firm they do not come and ask me if they should audit the firm, they audit the firm. It is as simple as that. And that is how it should be with everything else.

There are some things that we ourselves, being on the inside, cannot see. Sometimes we need a refreshing outside view. What is the Government afraid of? They can bring in consultants for everything else. Why can they not bring in one on this occasion or two as the case may be? There is nothing to fear but fear itself. And if the review is favourable it will allay the fears of our constituents and countrymen.

Because we are having a judicial review or a review of our legal and justice system, we will not frighten away investors, we will not frighten away entrepreneurs, it will only serve to reinforce in them that the Cayman Islands are a truly democratic society because they are not afraid of examining their bowels and their innards.

But if we do not and we allow things to fester, like the story of the young man that I just related, and we develop a cadre or subculture of people who have lost faith in the system for one reason or the other, then we will be like the mighty Roman Empire and we will fall from within because we will have created a laboratory of Frankensteins, who will have said, "It does not make any sense in my going to court, I am not going to get any justice."

And Madam Speaker, I am going to make another stark and startling revelation. I have quite recently spoken to two young, prominent and upcoming attorneys practicing in the Magistrates Court from two different law firms and they told me that they are discouraging clients, they do not wish to take any cases because all that is happening when they go to court is that they are being insulted and their clients cases are not aired. I am not, under any circumstances, going to reveal their identities so I hope that no one on the Government side dares to ask me to do so.

Do you know what that is doing, Madam Speaker? That is denying our citizens the right of representation, through no fault of these attorneys, but they have realised that they are up against a no-win situation and it is making justice expensive because people who do not feel that they have received justice in the Magistrates Court, will then have to resort to an Appellate Court which at once makes it more expensive and more time consuming. And then, the Government is going to try to convince Roy Bodden that we do not need a review? No! Shame on them. I say that we need this review for more than one reason and I am not going to rehash arguments ably put by my colleagues on this side of the House. I am only going to issue the warning that if we allow this system to fester and to rot to the core, we will have no one else to blame, when it self-destructs, but ourselves.

Madam Speaker, we, on this side of the House, were very interested in improving the procedures and relieving the Magistrates of certain responsibilities and we encouraged the setting up of court stenographers. I wonder if the fullest use is being made of those? Because no longer is it good enough for a Magistrate or a learned judge to have to listen to arguments put and then take notes too, especially in those cases where the note taking has to be copious, because he or she will run the risk of missing an important element of evidence. Then what will happen in the summation or the conclusion? I have to say that I am not satisfied that the fullest use is being made of the court stenographers. That again is reason why we should have a review.

Then I wonder what happens with sittings which have to do with offences committed on the Brac? Are we visiting there often enough, or are they having to be transported out here to be tried outside of where the offences were committed, so to speak?

I am saying that this is timely, this important and this is necessary. And you know, I sometimes have to chuckle when we talk about democracy and freedom and image and all of that. When we sometimes get a little carried away and we say, "Well, we cannot do this or we cannot say this because outside people will think that it will affect our banking and it will affect our tourism image."

But, Madam Speaker, what we have to be concerned with first and foremost is our internal image! Because if the internal image is not good, when we go to look in the mirror if we are not pleased with what we see, we will try to alter it. And in trying to alter it we might destroy it. So we had better, in this country, learn to be concerned, if not as much, then more, with our internal image as we are with the external one.

I am reminded, even in the days when things were not as progressive, from the annals of Imperial Spain, when the Spanish people set out their colonies, they had what was called the "audencia" which was the Governor down to the residencia who were the panel of judges who administered justice in the colonies and who were accountable to the representatives of Isabella and Ferdinand. But always what was dreaded was what they called the "visita", the visit from Spain of the inspector who came to review the Governor's tenure and the justice's tenure. Always it was unheralded and everyone in the annals of Imperial Spain dreaded when the boat docked and the papers were presented and the officer said that he was the "visita" and came to review the system. That was sixteenth century Spain. We are in the twenty-first century and we are dreading reviews. Pericles of Athens, the founder of democracy advocated these kinds of system.

Madam Speaker, we talk about buildings, working conditions and space. It is true that this is necessary and this is fine but we also have to talk about attitudes. The attitudes of the people who allegedly commit offences and the attitudes of the people who sit in judgement over them. I will

leave you with a conundrum or is it a simply paradox? What sense does it make for us to have nice lofty buildings and bad attitudes? It does not make sense for us to pour new wine into old bottles. All that is going to happen is that the old bottles will sour the new wine.

I think a review is necessary and I would hope that out of that review could arise a conclusion that we in this country should seek to get more of our people in positions, advocates and judges over our own people.

Thank you.

**MADAM SPEAKER:**

The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Madam Speaker, this is a motion which recommends that the Government of the Cayman Islands consider requesting the UK Government to appoint an experienced, independent, legal professional or professionals, residing outside of the Cayman Islands, to undertake a review of the legal system of the Cayman Islands. That is the operative part.

What I find somewhat difficult to understand is why the Government will not consider this. It is not a demand on the Government to do something, it is a request that the Government consider requesting the appointment of a person to review the legal system. We have had over the past few years the Education Review, the Agricultural Review, the Roads Review, the Medical Review and we have had the Manpower Review and there have been so many reviews that it is hard to really name them all. And culminating in what is the most serious of these is the review of the Constitution. So I do not believe that the fact that the Government accepts a motion considering a review of the legal system is anything that is going to be any more damaging than the many other reviews that we have had.

Reviews are not necessarily carried out because there are wide spread and serious problems within a system. There are always problems within a system. But reviews are really carried out to see where improvements in a system can be made. It must be better to have an overall review and get together a hard look at all aspects of a system in one document at one time rather than having ad hoc reviews and dealing with problems over different periods of time.

It is, I think, an accepted fact in this day and age that not just the legal system is pressed for a certain amount of time, but most areas of the system in Cayman are pressed for time and for manpower and this restricts the extent to which you can have ad hoc reviews.

So while I accept that the Second Official Member is doing whatever he can and the judiciary is doing whatever it can to deal with problems as they arise, I believe that it would be much better to have a review looking at all aspects, not just with a view to looking at criticising things, but a review to assisting the system in bettering itself in areas in which there may well be very few problems but which could be advanced and developed. And getting this altogether at one time is important. We know that because I think it was the Constitutional Commissioners who kept referring to these ad hoc amendments throughout the years and that after a period of time there should be an overall review.

There is no specific time limit in the resolution that says that the Government must go tomorrow with all haste necessarily and do the review. It may take a bit of time to put together the personnel and to get the necessary terms of reference to deal with it. But I believe it should be looked at from the positive point of view that a review (I cannot remember when there has last been one of the legal system and I do not think that there has been an overall one) and I guess if we use the situation that we had with the Constitution, and perhaps if the 17 years were thought long then putting it in that perspective, it seems that perhaps a first review could well be timely.

There will always be problems and criticism with the legal system. I am talking here generally as other Members have spoken, not just confining it to the judiciary, as such. Because like everything else it is made up of human beings and it is made up of systems. It is made up of the laws that we pass here which we know not all are perfect. But it is always good and I am not saying that they should be done often but if this is the first time, it would probably be good, I think, for Government to consider a review.

The system of justice is one of the foundations of democracy. It protects the freedom of the society, it protects the freedom of person and it also has the power to take away that freedom. We know that it therefore deals with one of the most important fundamentals that make up the democratic system.

The system itself or the number of cases coming before the courts, has increased tremendously. In fact, the load these days on the courts is far in excess and on the increase than what it has been in most other areas of development in the Islands. The advent of drugs for example, has put courts that have jurisdiction over them to where they are dealing with many, many more cases now than they did before, longer and more complex cases. I know as a fact that that is the same in areas of commercial civil cases. They get longer and more difficult and they take more time. And all of this must impact upon the system.

I believe that we have a very good judicial system. I think that many things work well in it, but there are some areas of it that need improvement. I do not believe that when we are dealing with something as important as this that we should leave any stone unturned to try to iron out even the smallest problem that may exist in the system.

Now I do not know whether the elected Government have already spent all of their money on other experts and consultants and perhaps feel that they do not have a bit of money here to pay these. Hopefully, that is not the case. But I can assure them that any money spent here on an expert will be the best spent that can be done in this country.

The load of not just the court system but also of the Attorney

General's Department and the Prosecution Department have increased. There is a lot less time these days for staff within the Legal and the Judicial Department sometimes to put aside reasonably long periods of time to deal with problems and as I have said there are many times when we hit an overload (and we do this occasionally for example with drafting) let us then get somebody else to assist us to move on with it and to get the work done.

The Magistrates Courts are very heavily worked and obviously when you get human beings under a considerable amount of pressure with cases building up, you begin to find that in certain ways, perhaps in an effort to get through, more time should have been spent on considering decisions or considering sentencing or whatever. Sometimes we see where there is a considerable divergence between the consistency of sentences of similar types of offences. I realise as a lawyer that there can sometimes be factors that newspapers never report, previous convictions or other factors which go into this, but what is obvious at this stage is that both the staff and even more obviously the physical courts, the buildings themselves are now at a stage where something needs to be done.

As one of the Members mentioned earlier, sometimes cases come up and it is somewhat late in the morning before one knows whether the defendant should be down at the Town Hall or whether they should be at the Court Building itself. All of this has to add pressure on the system.

There have been little ways in which we have tried to improve the system ad hoc. I have pressed consistently to try to do something about the court buildings themselves, but that always seems to take a back seat to roads or hospitals, or some other favourite projects. But in the end, and I would hope that would never happen here, should the system of justice begin to feel pressure and crumble at its edges then the doom of society is beginning to come from within.

I believe that many areas could be looked at that would be bound to assist the judges, the Attorney General and his staff and the people of the Cayman Islands to ensure that justice is done, that justice appears to be done, and that the Government is putting its priorities right by dealing with this most important aspect of our democratic Islands.

I do not doubt, as the Second Official Member has mentioned, that coming out of the review of the Penal and Judicial System in the United Kingdom we will find areas that can be used. But I do not know how long that will take and I do not see any reason why with such an opportunity when they are looking at their problems there, why we could not simultaneously do the same and get the benefit of what is going on there at this time.

There are many new aspects of technology these days that could cut down considerably on the work in the courts but it takes very careful consideration and it takes a lot of time. And as I said before, members, both in the judiciary and on the legal side do not have a lot of time. They too, are pressed. And I see it where someone else with that time could be brought in to assist.

Long arguments that go on in cases over confessions and statements taken, I understand now in the UK and United States are being videotaped. It is very simple then, because it cuts out a considerable amount of arguing where tapes are used, naturally with the consent of both sides. I am not suggesting taping in the open but it means that you must change certain laws to do so. It means with computers being brought in these days that the system relating to filing of the case documents could be updated. A lot of time could be saved because we have to remember that the courts here do not just deal with cases in court. The Clerk of Courts deals with many matters on the Chamber side and so do the judges, for example estates, matters relating to custody and ancillary matters in divorces. A lot of this is really done in Chambers and a large amount of its work is not necessarily even seen by the public.

Areas that could well be looked at or perhaps in speaking generally here, streamlining within the Treatise of Extradition and in due course the MLAT process. That will take time.

The Third Elected Member for West Bay mentioned the Family Court and perhaps the time has come to look at that because as the society itself comes under pressure and the family unit begins to crumble then a more elaborate and precise machinery has to be set up for dealing with it.

There will always be problems or alleged problems by defendants, people who are charged from time to time, or people who lose cases. I am a lawyer and I very well know the many complaints that one has. But accepting, even if Government accepts, which they do, that we have a good system, there has to be room for improvement and that first review of the overall system.

I appreciate the Second Official Member's concern over discipline and the code of conduct amongst attorneys. Once again, I think that the discipline and conduct is high but there once again, we see areas for improvement.

The one word of caution I would give is that one has to ensure that when you put the power to discipline in the hands of a society, the Law Society, the Bar Association or whatever the single unit would be called, to use the words of the Constitutional Commissioners when they referred to the Westminster System, "it has to be a society which is mature, which has been working for many years and which is capable of instilling the discipline that you expect."

If not, then either of those two systems be it a Constitution without the necessary ingredients of the Westminster System or a Law Society or Bar Association without the maturity and years of experience to discipline their own. And I should point out that one of the most difficult things to do is to sit and give harsh disciplinary judgements against your own. Then, it is not going to work. That, perhaps, is once again, an area which needs to be reviewed in some depth. Because it has, on occasion, been a problem.

The aim is always to ensure that trials are speedy, that justice is not delayed and that justice is seen to be done expeditiously. Overall, I believe that the problems that exist here, while some of them may be small, some, I think, need looking at, as I mentioned earlier. It would be good to get an

overview of everything at one time.

Cayman Brac and Little Cayman pose a separate problem. We know that as internationally we have gone against what used to be called Deportation of Prisoners to Other Jurisdictions when we had to stop moving our prisoners to Jamaica, just the same I believe that Cayman Brac and Little Cayman should move more towards the stage where they have as many of the cases that can be tried there, both civil and criminal, tried there. There are problems but it is something that we should look at and see how we could increase the number of cases that are tried there.

Similarly, we have a situation where, even in that short distance, people who are incarcerated here are still somewhat distant from family for regular visits. There are many of these little (not little, some of them are serious and until you are affected, I guess you never realise how serious it is), areas which perhaps we would find with a review that with the addition of one or two more judges or Magistrates, some decent buildings, a streamlining of the system, a lot of these problems would be taken care of and disappear.

So I would ask the Government because the elected Government is in the majority of Executive Council, to look at this as a positive motion. It is a motion which, as the First Elected Member for Cayman Brac has pointed out to me so many times, he likes using the word "consider" in it. It is a motion to "consider" a request and hopefully it will be looked at positively. No one is saying that it has to appear to the world that the system has extreme problems. Nobody is saying that.

But what we are saying is that a review could improve the good the system and it would also, I think, help to allay the fears of people who, from time to time, (and most people do look at the judicial system with a certain amount of awe and also of respect I should add) and it would probably give a better understanding to the people of the Cayman Islands on the working of it, where the problems arise and really it would get rid of the fears of problems that do not exist. Because many times fear, as I think the Member for Bodden mentioned, only exists in the minds of the people. I believe it would also help in the further acceptance of the system and make for a more harmonious and obedient society to the laws of the land.

So I would ask the elected Government to look at it from the point of view that what is being asked for is that they consider requesting the UK to do a review (and by way, they just did it all over the Caribbean, it is not as if it is anything new or anything unusual), and call on people within the community to assist and try to understand what is necessary to improve what is now a good legal system into one which is better understood and a better system.

**MADAM SPEAKER:**

The First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:**

Madam Speaker, Private Member's Motion No. 11/91 - Review of the Cayman Islands Legal System has created a terrific amount of debate here, yesterday and today. I compliment the mover on the very comprehensive way in which he introduced and outlined conditions which he felt existed and I think other Members have elaborated on their fears and made suggestions as to how they see the way to improve it. The Honourable Second Official Member, very ably answered many of these queries. I am very grateful for the length to which he went in replying.

Madam Speaker, I feel that we have a good legal system and a good judicial system here in the Cayman Islands. I recall last year when the review of the legal systems of the Dependent Territories, particularly in the Eastern Caribbean, and other actions were taken by the British Government in that area and the Cayman Islands were excluded, I felt it was because we were doing things right. I felt proud that at that time they did not see the necessity for the review here in the Cayman Islands and I honour their judgement.

Madam Speaker, statistics of all natures concerning crime has been given in this Honourable House today. Those same statistics could be used to say that the reason we have more cases coming before the court is because we have a Police system which is more vigilant, we have strengthened the laws here in this Legislative Assembly and stronger prosecutions are taking place. So the same figures which can be argued against a case can be used to argue in favour of a case without fear of being contradicted.

I think over the years the reason that we have seen an increase in the convictions and crime here in these Islands is not any fault of our judicial system. I think that it is the time in which we live. I think that some of the figures which were being quoted were 10, 12 or more years back. Many changes have taken place throughout the world and also here in the Cayman Islands. Also we have had a very considerable amount of improvement to our Misuse of Drugs Law and other laws which have led to more convictions.

I noted with interest when the Second Official Member said that the acting Chief Justice was listening to these debates and he would pass it on to the Chief Justice who in turn, would understand and hear each and every concern of every Member that has spoken in this Chamber. The Second Official Member as the Attorney General heading up our Legal Department, is hearing these for himself. He has given an undertaking that he will study them very carefully. Having arrived at so many concerns and I have heard many solutions offered from the floor of this House today, it would seem to me far more appropriate that we attempt, or the Chief Justice and the Attorney General deal with these in-house without the need of bringing in a professional from outside at this particular time.

I always understood that you bring in an expert when you do not know what needs to be done to get advice. It appears to me as if we understand. We realise that we have a physical space shortage. That, no professional can solve for us, he can only highlight it. That decision will have to be made by this Honourable House, but first and foremost funds will have to be available for the expenditure.

Madam Speaker, I think that the Cayman Islands are quite a model in many ways. I have not heard any foreign investor complaining about our judicial system. I think the reason that we are successful is because we are recognised as being number one and that our system is not only adequate, but it is working properly.

Therefore, at this time I would encourage Honourable Members to be satisfied with a review within. I share a lot of the concerns which Honourable Members have stated here today but I also realise that just seeing a report and reading a report from a professional is not going to solve them for us. We have identified many of our problems and I think that we can solve them from within.

With this Madam Speaker, I do not support this Bill.

**MADAM SPEAKER:**  
mover to wind up.

If no other Member wishes to continue the debate I will ask the

**MR. GILBERT A. McLEAN:**

Thank you, Madam Speaker.

Madam Speaker, if there is one thing that I have been very impressed by it is the wide and in depth debate that this motion has elicited in this Assembly. It tells me just how important this motion is to those Members who are concerned about what is happening in this country. Concerned to the extent that as each person debated it was as if it was an additional part to a puzzle. What was put forward at the time that the motion was moved but set out some concerns as was seen by the mover and then the other pieces kept falling into place.

To my mind, Madam Speaker, there is not a single shadow of doubt that there are problems in the legal system in the Cayman Islands. And the question that has to be answered is: What is going to be done about it?

I think that this side of the House had the benefit of the opinion of the Third Elected Member for George Town who is also a lawyer, who has been an Attorney General, acted on many occasions, has been a prosecutor for the Crown, has been a defense lawyer and has one of the larger law firms in the country.

He put forward a number of points which was done with the precision, or the delicacy, or whatever a lawyer does it with but I was quite impressed by the number of fine points which he raised. He pointed out, as I did when the motion was moved, that the Government is being asked to consider a review. It however, became very clear that even before a vote was taken on this motion, the Government had considered that a review is the last thing that is needed here.

Madam Speaker, the point of view was put forward by the Second Official Member of Government who is also the Attorney General and it sort of struck me as a calypso which was sung by the famous calypsonian, Sparrow. He sings, "Magistrate, try yourself." I tend to share the view of the First Elected Member for Bodden Town that it would be a better situation if an outside legal authority was invited to come to the Cayman Islands and take an overview, do a review of the legal system here. It was done in all of the other Dependent Territories. And certainly while I give my country the highest accolades as to where we have developed and where we have arrived, I am not so foolish as to believe that there are no problems here, and problems in the legal system.

If so much is going to be done by those who are part of and practicing within the legal system, now that this motion has come here, it begs the question: Why was it not done before this? If there is such alertness and concern, why then, do these things exist? And do they not exist over and beyond even what has been brought out here in debate in this House? I would venture a guess that there has to be some actual functions and procedures which go on within the judiciary that we would not normally think of or know about which a practitioner right away would say "Well, what is happening with so and so, what are you doing in instances like this?"

But I am not really surprised about this Government taking this attitude because it is the same Government which twice in six months voted down a motion that wanted to bring into this country a Bill of Rights. What this Government said is, "Look, we are taking care of your rights and what we are not taking care of the Secretary of State is taking care of 5,000 miles away, so if you get illegally arrested and so on, or your freedom is taken away from you, you can call him and he will take care of that right." So I am not in least bit surprised about this particular attitude towards this motion.

What I hope comes home to this Government is that there are people in this country who are seriously affected by the process of law after, of course, they commit an offence and we are dealing here with people's rights and freedoms in terms of keeping people in prison too long, in terms of their not having representation by legal practitioners. For example, I am told that one of the areas where legal aid is not provided for is in cases of drug offences. If that information is correct, that is the area where, I suppose, three-quarters of the population of the prison finds itself because they have been in some breach of the law in respect of the Misuse of Drugs Law. It is the area that carries some of the highest penalties under any law in the country, up to 15 years. That in itself strikes me as a major deficiency and if those practitioners, doers and givers of the law are so involved, why have they not seen anything wrong with that particular aspect?

Again, we could hardly go and count pennies when it comes to a consultancy or a review for which we would have to pay some money, to pay a professional or professionals to come here and review our legal system when we have paid for having consultancies on laundry right up to having it on the Constitution. So I do not buy the statement about the cost being such a factor and one which would put us to such great financial strain.

Madam Speaker, I think that paramount to life in any democratic society is the fact that proper laws are legislated, they are applied fairly and when there is breach of laws that



justice is carried out in the best, most proper and efficient manner.

Madam Speaker, I share the view of the First Elected Member for Bodden Town, who pointed out quite vividly by example that there is a growing situation where people are losing faith in the legal system of this country. And it is not just confined to the young, it is also the old. I am not too young to know nor too old to remember the days when families feuded, or argued, or whatever the case may be, and when out of the argument and contention they could not resolve the problem, that there was always that old statement, "All right, we will settle it in court." And they believed that once they went to court, it was justly and fairly settled. I would not stand here today and say that that is a strongly prevailing point of view in this country today.

Various persons speaking from this side pointed out certain things which are realities within this country in terms of what happens with the courts and accused persons and so on. Such is the fear. I have heard of instances too, where people go and say, "I am guilty" because they fear being there and being tried and the Police shouting, "Stand up straight. Take your hands out of your pockets." It happens. I have been there and heard it. Or getting up where I wonder if it is part of the duty of the Bench to dress people down and give them a good tongue-lashing and all the rest of it, I wonder about all of that, if that is part of the justice system? And who is in charge of that and who sees about it and who says to them, "Stop it! Stop abusing the people." We are talking about real things in this motion, real times.

I would just like to speak to a few points which were raised by the Attorney General when he replied to the points which I raised and which were certainly not all of those raised by other speakers.

He said that it was a wide motion. Well, I do not know really why it is so wide because I would imagine that it would be no wider than those areas which make up the legal system and he being an attorney, would be able to define and I think as they say, distinguish, what that would entail.

If the other Territories last years had a review of their judiciary, well, if he wished to have confined it to that, then that would be fine. If he wished to include the Office of Prosecutions or the Attorney General's Office, or whatever else, I have no problem with that.

Madam Speaker, I have tried to really grasp and understand what is supposed to happen inside of a court room in terms of protocol and I must say for the many times that I have gone there, I have not been quite able to determine that. For I have heard people jumped upon because they were wearing a T-shirt, or because they supposedly were not standing up right and so forth and so on. I cannot really see what that has to do with it, even if it is a half-invalid object and you are supposed to judge him for something that he did wrong, why whether he has a hump-back or his back is straight that has anything to do with what is determined in sentence.

Madam Speaker, the fact that the Constitutional Commissioners say they had no representation about the courts, I did not know that part of their terms and conditions of review was to review the judiciary. But I would venture a guess and I am sure that I would not be wrong, that if they had put out the word that they wanted to hear about the judiciary, there would have been a lot of people to tell them a lot of tales. One will never know because the Government does not intend to bring anyone to hear those tales. Someone from outside because it would be quite foolish for those persons affected to go and complain to the same people who they are complaining about.

I still believe that if in the United Kingdom, from whence we take our laws, could find cause to have a review or a Royal Commission it ought to be one good example that we could follow. And of course, what comes out of that, I expect, as the Second Official Member said, we would learn certain things from it and so on. As far as I am concerned, there is nothing whatsoever wrong with a review of the legal system. I certainly would not want to see any more Police powers given in this country even though they may be varied and extremely wide in the United Kingdom. I would like to see Police powers remain as reasonably diminished as is possible in this country because there is too much of the attitude that is prevailing right now in this House; that everything is all right and nothing is wrong and everything is rumour, and similarly in the Police Force where one case that I received some correspondence on, which was over a year before it was ever replied to, found nothing wrong in that particular instance where a citizen saw a fellow getting the blazes knocked out of him.

These are the types of instances that breed distrust because no one could convince me, as in that case, where that person who is an ardent supporter of this Government would have bothered to write to the Government or the Commissioner of Police. He has to know when someone is being manhandled enough to handcuff him besides getting licks thrown in his skin over and beyond the necessity to control his hands to put the cuffs on. The country would be better off if there were no such nonsensical attitudes taken. "What did you see? Do not believe your lying eyes!" So I certainly would not want to see anymore Police power. I would like it to stay as limited as it possibly can because there are already instances where the Police can break down the door to peoples' houses under the laws presently existing in this country and can enter without a warrant. So I would not want to see an increase in that at all.

Madam Speaker, I think that the Member answering for Government agreed that there was need for, or should be, marshals or ushers in the court and that some were in place but perhaps there may be a need for more.

One point I want make here is that we are in a very sad state of affairs if building the Jennett-L is more important and Government spends money on that than putting people in the courts that are necessary for the due process of law. We are in real trouble.

I would also like to make the point that simply because the organisation and management unit of Government might not see it financially feasible and so on in a particular case inside the court, but if the due process of law and justice demands it, then how can it be denied except by those

who do not recognise that there are certain fundamental rights and freedoms?

Madam Speaker, that is the case with many things, many decisions which Government has to make. Why, simply because the Water Authority may not immediately, one year after they have taken pipes up another mile or two to the houses above where it presently exists, should pure water be denied to the people of the country? It is one of those situations where the good of the people and the good of the country has to be taken into account and one really cannot count the cost. In fact, it might be necessary to move a priority from A to B.

Madam Speaker, the Member speaking for Government spoke about the sentencing policy and that it reflects public concern locally and that yes, there are certain guidelines set in the United Kingdom. So there are certain adjustments made for the reaction or the feeling of society against certain offences and I can understand that. And that this is reflected in the sentences given by the judges.

I have heard and read in the papers of various cases where a person found with, let us say, two ounces of cocaine fetched four to eight years in jail, the same sentence that people who were found with hundreds of kilograms of it got. I wonder if there is consistency in a lot of this sentencing.

The Member also said that Magistrates follow guidelines set by the higher courts. That sounds all good and proper, but I wish that was the case in all instances because there is one case in which a judge of the higher court made a ruling on a sentence which was passed in the Magistrates Court. And I would just like to read a part of this judgement and what the judge said because I think this would bear out that it really does not happen that way in all instances and that people may well be in jeopardy. It reads:

"In making his submission of no case to answer, counsel for Foster referred to the Gibson decision whereupon the Magistrate is recorded as having made this response:

"First of all Mr. Furniss, this court will not take cognisance of any judgement that was given in that Gibson case. They will have to give it again as far as this court is concerned, over and over and over again. So it is out."

The judge in referring to this remark said:

"Now, I must say that this court is not easily taken aback by that comment and the attitude behind it is most surprising.

Judicial discipline demands that each court in the judiciary hierarchy accepts and applies the law as interpreted by the court above it, unless and until that interpretation is reversed or amended by yet a higher court. It is not for this court, or the Summary Court, to refuse to apply a decision of the Court of Appeal. To do so makes nonsense of our system of judicial precedent.

I trust that remark quoted above was an aberration on the part of the learned Magistrate and will not recur and I trust that in the future the learned Magistrate will not fail to apply the correct legal principles in a case of this kind to avoid attracting the kind of criticism which he had attracted in this case."

I rest my case, Madam Speaker, on that point.

Legal aid is something which I think we need to look at. Again, if it is necessary for us to direct more money to pay lawyers and pay them similarly as in the United Kingdom where it is a notch below what they would normally earn, it would seem that even as half sensible people we would start taking steps to do this. As far as I know, the only law under which the onus is put on the person here, where a person is guilty until he proves himself innocent, is associated with the Misuse of Drugs Law. It would seem that it would only be half right for people who come up against that situation to be able to have some right to legal aid.

The Public Defender's Office, that was passed here if I remember correctly, unanimously, and it was thought at the time to be the answer and I believe that it is the answer, if the Legal Aid cannot work then set up the Public Defender's Office. And of course, it will cost some money and I guess there is no way of running away from that because even here, in recent times, I see jobs advertised in the Legal Department that are in the \$50,000 range per year. So we are facing a reality, so let us get on with it and let us re-direct money to where it justly deserves to be and hopefully we will stop some of the foolish and unnecessary spending and putting of priorities in the wrong place.

I hope too, that those in charge will be able, since they are capable of taking care of all of the problems that have been raised here in this debate, we do not need any outside help, I hope that they will be able get something as simple as collecting the \$25 or the \$40 from someone who has gone one mile over the speed put in place that has been passed by this House now for over a year and a half.

The delays in coming to trial are even with us. That is a very serious matter because for persons who are remanded in prison it is taking away their freedom. Most people like their freedom and I have not heard anyone who advocates against that, really wish or make any statement that they would like theirs taken away.

Madam Speaker, justice and legality does not deal with the lower animals, it deals with people. In many instances it is life and death. Certainly in many it is life and freedom.

The Second Elected Member for Bodden Town read statistics during his debate that clearly showed, in a way that only mathematical exactitude can, just what is happening here

in terms of offences and in matters coming before the court. I agree that the same statistics can be argued in two different lights. But what I found significant was that there was no reduction in those from any point in time to the other.

The Second Official Member also spoke at some length on the position as he sees the two legal associations here on the Island and I was very interested as I heard him outline certain areas where he thought that they could function better or more than they are doing now. I hope that those particular associations will take note of it.

From my own point of view, I believe that on the whole lawyers in this country should play a more significant role, should comment on things that are happening here publicly, by letter, by statement, or whatever the case may be because it is on those persons, in this society, that the average citizen must rely as defenders of themselves in fact, against intrusions of the law on their lives. So I would certainly encourage those associations to play a bigger role in this society in making statements and commenting on areas which have significance to the law.

And on the matter of jury trial versus trial by the Magistrate, I would trust that the Attorney General and all of the other people who are going to put this matter straight, they would take note whether or not there are instances where the accused does not have acceptance of their stated wish to be tried by their peers in a jury trial. It is the duty, I believe, of the elected representatives of the people to represent their concerns in all areas including those which are reflected in the practice of law, such as has been done during the debate on this particular motion.

I still contend that one of the most necessary things in our courts of law is court reporters and that it simply should not be left to the judge whether he wants a court reporter there or not, as was made by the amendment to the Judicature Law a few meetings ago. That should be a system that is in place because it has nothing to do with the court except that it records exactly what is said by all parties and that that cannot be wrong to do. And that the only reason why anyone involved in the practice of law would not want that would be for sinister reasons.

The Government that has consistently shown that the concerns of the people are not its greatest priority should not be worried about giving a wrong impression if they allowed a review of the legal system in this country. That might give the right impression not the wrong one. And so, Madam Speaker, the Government that does not want a Bill of Rights surely would not want a review of its legal system and they can now so attest by their vote.

Thank you, Madam Speaker.

**MADAM SPEAKER:**  
against No.

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

**AYES & NOES.**

**MR. W. McKEEVA BUSH:**

Madam Speaker, may we have a division, please?

**MADAM SPEAKER:**

Certainly. Madam Clerk would you take the division, please?

#### DIVISION NO. 21/91

**Ayes: 7    Noes: 8**

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 McLean

Hon. Thomas C. Jefferson  
Hon. Richard Ground  
Hon. Lemuel Hurlston  
Hon. Norman Bodden  
Hon. Benson Ebanks  
Hon. Ezzard Miller  
Hon. Linford Pierson  
Capt Mabry Kirkconell

**NEGATIVED BY MAJORITY: PRIVATE MEMBER'S MOTION NO. 11/91 DEFEATED.**

**MADAM SPEAKER:**  
Committee, the Pharmacy Bill.

The next item of business - Government Business - Bills,

The House will now go into Committee.

### **GOVERNMENT BUSINESS BILLS**

HOUSE IN COMMITTEE - 4:16 P.M.

### **COMMITTEE THEREON**

THE PHARMACY BILL, 1991

**MADAM CHAIRMAN:**

Please be seated.

The House is now in Committee to further consider the Pharmacy Bill, 1991 which had been deferred in order that certain amendments providing for right of appeal could be made. I have before me two amendments, one which has been submitted by the First Elected Member for West Bay and circulated to Members.....

**MR. W. McKEEVA BUSH:** Madam Speaker, having regard to the Member for Health actually putting his amendment, I would beg leave to withdraw my amendment.

**MADAM CHAIRMAN:** Thank you. The motion to be considered is that leave be granted to the First Elected Member for West Bay to withdraw his proposed amendment. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED: AMENDMENT PUT FORWARD BY THE FIRST ELECTED MEMBER FOR WEST BAY WITHDRAWN.**

**MADAM CHAIRMAN:** There now remains the one amendment submitted by the Honourable Elected Member responsible for Health and Social Services who has sought leave to propose the amendments which have been circulated. The Chair has granted leave.

The amendment before you first would be:

- (1) By re-numbering the existing Clause 9 as 9(1);
- (2) By inserting the following new sub-clauses into Clause 9:
  - "(2) Any person aggrieved or dissatisfied with any decision of the Board to refuse a licence pursuant to section 14 or section 20(3), or to revoke a licence pursuant to section 14 or section 21(1) may within 21 days of the communication of the decision to him (or such longer period as the Governor may, for good cause shown, allow) appeal therefrom to the Governor whose decision shall be final and binding upon the appellant.
  - (3) Appeals under subsection (2) shall be by notice in writing addressed to the Clerk of Executive Council and shall set forth the decision against which appeal is made and the grounds of the appeal, and shall be accompanied by any statement or other documents upon which the appellant seeks to rely in support of his appeal.
  - (4) The Governor shall decide an appeal under subsection (2) upon the written grounds of appeal and any supporting documents supplied under subsection (3), together with the response of the Board thereto."
- (3) By inserting in line 4, 20(3), a full-stop after the word "licence" and by deleting the remainder of the sub-clause."

to speak thereon.... These are the amendments before you and if anyone would like

**HON. D. EZZARD MILLER:** Just to say, Madam Chairman, that this amendment is moved in response to Members concern for having a process of appeal and it is as agreed when the Committee was adjourned on the Pharmacy Bill before.

**MR. W. McKEEVA BUSH:** Madam Chairman. As I said, my amendments were put forward. I did not quite understand what was going to happen so, out of an abundance of caution, I guess, I put forward my amendments. However, the two are similar in just setting up a process of an appeal and this is what I wanted throughout that Bill. So therefore, on my part I am happy as it sets up the appeal for section 20 and section 21 and that is good enough for me.

**MADAM CHAIRMAN:** Any other comments?  
When we considered the Bill in Committee we had reached clause 14 and it will now be necessary for us to revert to clause 9 under which will be the insertion of the new sub-clauses. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED. AMENDMENT TO CLAUSE 9 PASSED.**

**MADAM CHAIRMAN:**  
read the clauses, please.

We will take up then from clause 15. Madam Clerk, if you would

<b>CLERK:</b>	<p>CLAUSE 15: PENALTY FOR CONTRAVENTION OF SECTION 10          CLAUSE 16: APPLICATION OF PART          CLAUSE 17: LIMITATION ON SALE, ETC., OF MEDICINAL PRODUCTS          CLAUSE 18: APPLICATION FOR LICENCE          CLAUSE 19: MATTERS TO BE CONSIDERED BY LICENSING AUTHORITY          CLAUSE 20: GRANT OF LICENCE</p>
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**HON. D. EZZARD MILLER:**  
amendment to 20(3).

Madam Chairman, the amendment as circulated contains an

**MADAM CHAIRMAN:** Yes. Sub-clause (3) of clause 20 would now read: "Where the licensing authority considers that the applicant is not a fit and proper person to whom a licence should be issued for the carrying out of the any business specified in section 17, it shall refuse to issue the licence...".  
The amendment proposes that there should be a full stop at that word and the remainder of the clause deleted.

**MR. W. McKEEVA BUSH:**  
just to point out an error in the numbering of the clauses, I do not know if you have found it, but after clause 11, clause 12 is numbered as clause 14.

Madam Chairman, before you move on with your permission

**MADAM CHAIRMAN:**  
has given the Attorney General permission to do that. I shall put the question. Those in favour please say Aye...Those against No.

Well, that would be a consequential amendment and the House

**AYES.**

**MADAM CHAIRMAN:**

The Ayes have it.

**AGREED. AMENDMENT TO CLAUSE 20 PASSED.**

**MADAM CHAIRMAN:**  
reached clause 14 and we reverted to clause 9. I think that it is necessary now to put the question on clauses 10 through 20 as amended.

In order that there should be no misunderstanding, we had

**MR. W. McKEEVA BUSH:**  
the Member would briefly explain the reason in clause 12 for not allowing the business to carry on under the Death of Pharmacist, to carry on a period not exceeding five years?

Madam Chairman, before we move on I am wondering whether

**HON. D. EZZARD MILLER:**  
long enough for a temporary situation where they would be operating under a pharmacist licence and they would have to make a permanent arrangement with a pharmacist to manage the business.

Because, Madam Chairman, it is considered that five years is

**MR. W. McKEEVA BUSH:**  
situation?

So am I understanding that this clause relates to a temporary

**HON. D. EZZARD MILLER:**  
pharmacist to continue to operate and manage the business under the supervision of a pharmacist who was not necessarily employed with them. It is considered that five years is an adequate period to solve a bankruptcy case or make permanent arrangements for whatever the problem is to have a pharmacist in this situation, whether it is a liquidation of estate or whatever.

You could licence the owners of the business if they were not a

**MR. W. McKEEVA BUSH:**  
worded. I took it to mean that it could not carry on beyond that period, generally. I thank the Member for his explanation.

That sets the matter clear. It really was not clear the way it is

**MADAM CHAIRMAN:**  
against No.

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

**AYES.**

**MADAM CHAIRMAN:**

The Ayes have it.

**AGREED. CLAUSES 10 THROUGH 19 AND 20 AS AMENDED PASSED.**

<b>CLERK:</b>	CLAUSE 21:	SUSPENSION OF LICENCE
	CLAUSE 22:	VARIATION OF LICENCE
	CLAUSE 23:	APPLICATION OF SECTION 17
	CLAUSE 24:	REGULATIONS
	CLAUSE 25:	CONDITIONS FOR SALE, SUPPLY, ETC., OF MEDICINAL PRODUCTS FOR CLINICAL TRIAL.
	CLAUSE 26:	MEDICINAL TEST ON ANIMALS
	CLAUSE 27:	DURATION OF CLINICAL TRIAL OR ANIMAL TEST CERTIFICATE
	CLAUSE 28:	OFFENCES
	CLAUSE 29:	RESTRICTIONS ON RETAIL SALE OF MEDICINAL PRODUCTS
	CLAUSE 30:	RESTRICTIONS ON SALE OR SUPPLY OF PHARMACY MEDICINES
	CLAUSE 31:	POSSESSION OR SALE OF PRESCRIPTION ONLY MEDICINES
	CLAUSE 32:	REGULATIONS
	CLAUSE 33:	ALTERNATION OF MEDICINAL PRODUCT PROHIBITED
	CLAUSE 34:	PENALTY FOR CONTRAVENTION OF SECTION 29, 30, 31, OR 33
	CLAUSE 35:	PACKAGED PRODUCTS TO BE CORRECTLY LABELLED
	CLAUSE 36:	LEAFLET RELATING TO MEDICINAL PRODUCTS
	CLAUSE 37:	PENALTY FOR CONTRAVENTION OF SECTION 35 OR 36
	CLAUSE 38:	INTERPRETATION OF PART
	CLAUSE 39:	REGULATIONS
	CLAUSE 40:	CONTRAVENTION OF REGULATIONS
	CLAUSE 41:	THE POISONS LIST
	CLAUSE 42:	CONDITIONS OF SALE OF SUBSTANCE ON THE POISONS LIST
	CLAUSE 43:	PENALTY FOR CONTRAVENTION OF SECTION 42
	CLAUSE 44:	REGULATIONS
	CLAUSE 45:	APPOINTMENT OF INSPECTORS
	CLAUSE 46:	RIGHT OF ENTRY ON PREMISES BY INSPECTORS
	CLAUSE 47:	POWERS OF INSPECTOR
	CLAUSE 48:	DISCLOSURE OF INFORMATION AN OFFENCE
	CLAUSE 49:	INSPECTOR NOT PERSONALLY LIABLE
	CLAUSE 50:	OFFENCES BY BODY CORPORATE
	CLAUSE 51:	PUNISHMENT WHERE NO SPECIFIC PENALTY PROVIDED
	CLAUSE 52:	FORFEITURE OF SUBSTANCE OR ARTICLE
	CLAUSE 53:	REGULATIONS
	CLAUSE 54:	REPEAL AND SAVING

**MADAM CHAIRMAN:** I shall put the question that Clauses 21 through 54 do stand part of the Bill. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED. CLAUSES 21 THROUGH 54 PASSED.**

**CLERK:** A BILL FOR A LAW TO CONTROL DEALINGS IN MEDICINAL PRODUCTS AND POISONS HAVING POTENTIAL DANGER TO HEALTH IF MISAPPLIED, AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

**MADAM CHAIRMAN:** I shall put the question that the Title do stand part of the Bill. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM CHAIRMAN:** The Ayes have it.

**AGREED. THE TITLE PASSED.**

**MADAM CHAIRMAN:** That concludes proceedings in Committee on a Bill entitled the Pharmacy Bill, 1991. The House will resume.

**HOUSE RESUMED AT 4:30 P.M.**

**MADAM SPEAKER:** Please be seated. Proceedings are resumed. Report.

## **REPORT ON BILL**

**THE PHARMACY BILL, 1991**

**CLERK:** The Pharmacy Bill, 1991

**HON. D. EZZARD MILLER:** Madam Speaker, I have to report that A Bill For A Law To Control Dealings In Medicinal Products And Poisons Having Potential Danger To Health If Misapplied, And For Matters Connected Therewith And Incidental Thereto was considered by a Committee of the Whole House and passed with two amendments.

**MADAM SPEAKER:** The Bill is accordingly set down for Third Reading.

### **THIRD READING**

#### **THE PHARMACY BILL, 1991**

**CLERK:** The Pharmacy Bill, 1991

**HON. D. EZZARD MILLER:** Madam Speaker, I beg to move that A Bill For A Law To Control Dealings In Medicinal Products And Poisons Having Potential Danger To Health If Misapplied, And For Matters Connected Therewith And Incidental Thereto be given a Third Reading and passed.

**MADAM SPEAKER:** The question is that A Bill For A Law To Control Dealings In Medicinal Products And Poisons Having Potential Danger To Health If Misapplied, And For Matters Connected Therewith And Incidental Thereto be given a Third Reading and passed.

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

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. THE PHARMACY BILL, 1991, GIVEN A THIRD READING AND PASSED.**

**MOMENT OF INTERRUPTION - 4:32 P.M.  
STANDING ORDER 10(2)**

**MADAM SPEAKER:** I shall now take motion for the adjournment.

### **ADJOURNMENT**

**HON. THOMAS C. JEFFERSON:** Madam Speaker, I move the adjournment of this House until 10:00 a.m. Monday, 8th July.

**MADAM SPEAKER:** The question is that this Honourable House do now adjourn until Monday, 8th July at 10 o'clock in the morning. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it. The House is accordingly adjourned until 8th July at 10 o'clock AM.

**AT 4:33 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., MONDAY, 8TH JULY, 1991.**





**MONDAY,  
8TH JULY, 1991  
10:09 A.M.**

**MADAM SPEAKER:**  
Communications, Works and Agriculture.

Prayers by the Honourable Elected Member responsible for

**PRAYERS**

**HON. LINFORD A. PIERSON:**

Let us Pray.

Almighty God, from whom all wisdom and power are derived:

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

Bless our Sovereign Lady Queen Elizabeth II, 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 Speaker of the Legislative Assembly, 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.

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done in earth as it is in Heaven; Give us this day our daily bread, and forgive us our trespasses, as we forgive them 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.

**MADAM SPEAKER:**

Please be seated. Proceedings are resumed. Presentation of Papers and Reports: Report of the Standing Business Committee the Honourable First Official Member.

**PRESENTATION OF PAPERS AND OF REPORTS**

**REPORT OF THE STANDING BUSINESS COMMITTEE**

**HON. THOMAS C. JEFFERSON:**

Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee for the Second Meeting of the 1991 Session of the Legislative Assembly.

**MADAM SPEAKER:**

So ordered.

**HON. THOMAS C. JEFFERSON:**

Madam Speaker, the Committee met on two occasions, on Friday, 14th of June, when they dealt with matters on Business Papers No. 1 and 2, and Monday, 24th of June. There were a total of 10 Business Papers produced for this meeting, and I believe it may also be a record number of questions asked during any particular meeting - I think it was nothing short of 100. The Report which I will give has allowed to be Tabled forms, and is recommended by the Committee as, a Report of the Standing Business Committee.

**MADAM SPEAKER:**

Questions, Deferred Questions No. 158 standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

**QUESTIONS TO HONOURABLE MEMBERS  
DEFERRED QUESTIONS**

**THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES**

NO. 158: Would the Honourable Member say what is the average number of patients attending the hospital in Grand Cayman and the Faith Hospital in Cayman Brac?

Answer: During the first four months of 1991, the daily average of outpatients attending the George Town Hospital was 115 patients. During the same period, the daily average of outpatients attending the Faith Hospital was 14 patients.

## SUPPLEMENTARIES

- MADAM SPEAKER:** Supplementaries, the Second Elected Member for Cayman Brac and Little Cayman.
- MR. GILBERT A. McLEAN:** Would the Member say if he has available to him the average number of persons admitted to hospital for that particular period?
- HON. D. EZZARD MILLER:** Madam Speaker, I do not have the average admissions, but I do have the discharges. For the George Town Hospital it is eight per day and for Cayman Brac it is one.
- MADAM SPEAKER:** The First Elected Member for West Bay.
- MR. W. McKEEVA BUSH:** Can the Honourable Member say how many doctors we have in Cayman Brac?
- HON. D. EZZARD MILLER:** Two, Madam Speaker.
- MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.
- MR. GILBERT A. McLEAN:** In light of the fact that there are only 14 people average per day attended at the Faith Hospital in Cayman Brac, how does the Member project this particular number to the recommended number of additional rooms - 18 rooms - to that hospital?
- HON. D. EZZARD MILLER:** Madam Speaker, one has to take into consideration the fact that Cayman Brac is an aging population and also that they have a growing tourist industry.
- MADAM SPEAKER:** We shall proceed to the next question No. 168 standing in the name of 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 HEALTH AND SOCIAL SERVICES**

- NO. 168:** Would the Honourable Member state if any official inspection is carried out at any time by any Department of Government on the conditions of apartments and other accommodations offered for rent to local people?
- Answer:** No, there is no requirement for inspection of rental premises at the present. However, if a complaint is received by the Environmental Health Department from a tenant, Personnel will investigate and deal with the complaint under the Public Health Law. In addition, the Environmental Health Department will conduct routine inspection of rental properties in the course of its general public health surveillance.

## SUPPLEMENTARIES

- MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.
- MR. GILBERT A. McLEAN:** Would the Member say if the Environmental Health Department has had any complaints from tenants in the recent past who reside at various rented accommodation around the corporate area?
- HON. D. EZZARD MILLER:** Yes. Most of them have been dealt with satisfactorily. Some are still on-going.
- MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.
- MR. GILBERT A. McLEAN:** Would the Member undertake to look at the possibility of including some clause in the Public Health Law, if that would be the most appropriate (and I imagine it would since it is the Member who is answering this question) to cover inspections in or on premises that are offered for rent to local people because of the atrocious conditions in which people live in some of these places? The numbers of people and also the terrible unsanitary conditions?
- HON. D. EZZARD MILLER:** Yes, Madam Speaker. In fact two weeks ago the Environmental Health Department submitted to my office a draft set of Regulations to be passed under the Public Health Law

which will include all of the things that the Member is concerned about. For instance, the number of people to one bathroom, the number of people to a kitchen, and all of the other sanitary conveniences. We hope to have those regulations finalised within the coming months.

**MADAM SPEAKER:** If there are no further supplementaries, we shall proceed to the next item of business. Government Business - Motions. Government Motion No. 2/91, The Public Finance and Audit Law, 1985. To be Moved by the Honourable Third Official Member.

## **GOVERNMENT BUSINESS**

### **MOTIONS**

#### **GOVERNMENT MOTION NO. 2/91**

##### **The Public Finance and Audit Law, 1985.**

**HON. J. LEMUEL HURLSTON:** Madam Speaker, I beg to Move Government Motion No. 2/91, The Public Finance and Audit Law, 1985, in respect of a matter relating to Northward Prison.

WHEREAS by subsection (1) of section 30 of the Public Finance and Audit Law, 1985 it is provided that the Legislative Assembly may, by resolution, approve the establishment of a suspense account for the purposes of any commercial or industrial activity carried on by or on behalf of the Government and specified in the resolution, subject to such conditions and limitations as may be specified in the resolution:

AND WHEREAS pursuant to the said section 30 the Government desires to establish, with the First Home Banking Ltd., a special suspense account entitled "Cayman Islands Government - Priscraft Account" to be operated by the Director of Prisons for the following purposes -

- (a) to receive monies from the sale of items and work by the inmates of the prison at Northward comprising the sale of farm produce, items of sewing and carpentry, payments for repairs to vehicles and engines, and any other services;
- (b) to receive interest on bank balances related to the deposit of money from the sales and services specified in (a);
- (c) disbursements, at the discretion of the Director of Prisons, of sums of money designed to improve the beneficial use of the prison service, and particularly to improvement in, and expansion of, training and vocational facilities in the prison for its inmates.

BE IT RESOLVED that this Honourable House do approve the establishment and operation of the aforesaid special suspense account subject to the following conditions and limitations -

- (a) The Director shall -
  - (i) maintain records of the goods and services produced or rendered;
  - (ii) maintain a record of receipts and payments into and from the account with supporting documents in an easily verifiable manner;
  - (iii) ensure that receipts are issued for all monies received;
  - (iv) furnish to the Accountant General, as soon as possible after the 31st December in each year, a copy of the bank statement showing the balance of the account as at the preceding 31st December;
  - (v) as soon as possible after 31st March, 30th June, 30th September, and 31st December in every year, furnish to the Accountant General, a summary of the transactions in the account, in a form approved by the Accountant General;
  - (vi) obtain the approval of the Financial Secretary before any debt may be written off;
  - (vii) from time to time, but not less than once a year, review with the Administrative Secretary the pricing of goods and services produced by the prison;

- (viii) not later than 1st January in every year, prepare a statement of estimated income and expenditure for the ensuing year and submit the same to the Administrative Secretary;
- (b) The Accountant General shall -
- (i) upon receipt by him of the statement referred to in paragraph (a) (iv), cause the balance stated in the account to be included under the head of bank balances in the accounts of Government, as "Priscraft account";
  - (ii) include, in the accounts of Government under a deposit account, an amount equal to the balance shown in the statement referred to in paragraph (a) (iv);
  - (iii) examine the accounting records at least one a year and furnish to the Director a certificate and his report on the account;
- (c) the maximum balance of the account at any time shall be fixed by the Financial Secretary and the amount is now approved at \$20,000.00;
- (d) any amount in excess of the prescribed limit shall be notified by the Director to the Financial Secretary and shall be paid to the Accountant General as miscellaneous revenue of the Government.

Madam Speaker, I do not propose to address the House at any length on this Motion. The Motion itself is comprehensive and self-explanatory. It is a departmental convenient arrangement for the Prison to be able to operate its own account, separate and apart from the Government accounting system, on a day to day basis, and to bring the transactions into account at the end of each year with the balance in the account being reflected in the balance in the Government's annual accounts. So it is merely a departmental arrangement to separate the weekly and daily transactions from the formal Governmental accounting arrangements. The maximum balance that would be held in such an account is proposed to be fixed at \$20,000 and any excess will be paid over to Government's Miscellaneous Revenue.

As Honourable Members will appreciate, the Prison is operated on a self-sustaining basis insofar as certain activities are concerned. They are self-sustaining in respect of fruits and vegetables, eggs, poultry and they are endeavouring to be self-sufficient in as many other areas as is practicable. In order to do this, the Prison provides certain services and renders accounts and collects fees in respect of those services and this account is the account in which those transactions are recorded.

It will be noted that proper accounting procedures are required, receipts have to be issued, proper records have to be kept, estimates have to be produced and prices have to be examined.

I commend the Motion to the Assembly.

**MADAM SPEAKER:**

The question is, as proposed by the Honourable Third Official Member on Government Motion No. 2/91, Public Finance and Audit Law: "BE IT RESOLVED that this Honourable House do approve the establishment and operation of the aforesaid special suspense account subject to the following conditions and limitations -" The Motion is now open for debate. (Pause) If there is no debate, unless the Mover would like to add some additional bits of information, I propose to put the question.

The question is that Government Motion No. 2/91 be passed.

All those in favour please say aye, those against no.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. GOVERNMENT MOTION NO. 2/91 PASSED UNANIMOUSLY.**

**MADAM SPEAKER:**

The next item, Government Motion No. 3/91. Amendment 1/91 to the Development Plan 1991 to be Moved by the Honourable Elected Member for Communications Works and Agriculture.

**AMENDED GOVERNMENT MOTION NO. 3/91  
(The Development & Planning Law (Revised))**

**AMENDMENT 1/91 TO THE DEVELOPMENT PLAN 1977**

**HON. LINFORD A. PIERSON:**

Madam Speaker, I beg to Move Amended Government Motion No. 3/91, the Development and Planning Law Revised. Amendment 1/91 to the Development Plan 1977 which reads as follows:

BE IT RESOLVED by the Legislative Assembly, pursuant to section 8 of the Development and Planning Law (Revised), that the Map forming part of the Development Plan 1977, being the development plan of the Cayman Islands, be amended by the re-zoning of the land specified in Column 1 below to the zoning specified in the corresponding part of Column 2:

COLUMN 1 - LAND	COLUMN 2 - NEW ZONING
1. Block 13D, Parcels 71, 72, and 73. (amendment 003/88)	Commercial.
2. Block 14D, Parcels 34, 35, 36, part of 38, 55, 56, 63, 65, 136, 137, 142, 285-288, and the remainder of 317 and 318. Block 14CJ, Parcel 108, 109, 101 and 102. (amendment 006/88)	Commercial.
3. Block 13E, Parcel 88. (amendment 008/90)	Commercial.
4. Block 13D, Parcels 17-21, 23, 93, 183, 258. (amendment 015/88)	Commercial.
5. Block 14E, Parcels 296, 297, 298, 299 and 300. (amendment 004/90)	Commercial.
6. Block 9A, Parcels 84, 199, 203 and 212. (amendment 006/90)	Commercial.
7. Block 45A, Parcel 50. (amendment 016/90)	Medium Density Residential.
8. Block 10A, Parcels 132-139, 198, 199, 200, 206, 224 and 173. (amendment 017/90)	Low Density Residential.
9. Block 10A, Parcels 105-127, 140, 155, 156, 157, 160, 213, 214, 219 and 225. (amendment 018/90)	Low Density Residential.

Madam Speaker, the original Government Motion 3/91, contained a total of 10 applications for re-zoning. However, as a result of representations made by members of the public affected by Amendment 3/90 which was the application in respect of Block 13(C) Parcel 1, it was agreed by Government to withdraw this particular application.

On Thursday, the 4th of July, the Honourable Member for Health and Social Services made a statement in this Honourable House which provided details relative to Government's decision to withdraw the application for the 26 acres of the 48 acre parcel contained in Block 13(C) Parcel 1. As I have explained to Members, including the Third Elected Member for George Town, it is proposed to confine the landfill extension to the remaining 22 acres of this parcel of land which is already zoned heavy industrial, and thus already suitably zoned for the proposed use.

I wish to point out that there is no intention by Government, of which I am aware, to utilise any section of the 26 acres of land which is now zoned heavy density residential for the purpose of a landfill or dump, as it is commonly known. The *Caymanian Compass* of Friday, 5th of July, is to be commended for carrying full coverage of the Honourable Member's statement and there should therefore not be any doubts in the minds of the public regarding Government's intention in respect to the wishes of the residents in that area who have made representation to myself and Government in this matter. In the *Compass'* Editorial of the same day, that is Friday, 5th July, it queried exactly where the extension of the dump would be located and I quote from that Editorial. It stated: "Unfortunately, it was not revealed where the garbage dump extension was to be located. Few people would have expected it to be moved closer to inhabited areas."

Madam Speaker, I can fully understand the concern expressed in the Editorial and it was for this reason that I arranged for the proposed plan to be brought to the Honourable House to allow for scrutiny by Members and to assure the Members of this Honourable House that the closest point to any residents in the Whitehall area is now approximately some 2,100 feet under the Revised Plan. I think it is around 1,300 feet to the closest structure in the vicinity of the Cayman Courts area.

I wish to thank the Honourable Member for Health and Social Services, and Government, for agreeing to the Revised Plan of action, as I personally would have found it somewhat difficult to have acted totally against the expressed wishes of my constituents. As with most Members my prime duty as a representative is first to my people who elected me to this Honourable House. If any Member of this House can come up with a viable alternative for a dump, I am sure that Government would be pleased to give

any such proposal its very serious consideration.

I have so far discussed the matter of a dump site with various Members from all of the districts in Grand Cayman, and not one Member would wish to have, or even entertain, the idea of a dump being placed in their district. Nonetheless, Madam Speaker, the Government will continue to examine various alternatives for the long term land fill needs of Grand Cayman. I trust, having provided this information, that no Member of this Honourable House will find it necessary or will see any virtue in attempting to turn this problem into a political issue, unless, of course, he is able to suggest viable alternatives to address the country's landfill requirements.

I wish to now turn my attention to the Amended Government Motion No. 3/91 which seeks to have nine amendments made to the Development Plan 1977, in respect of the remaining applications. Section 1.2 of the Development Plan 1977, provides a definition of its objectives which states, inter alia, that the primary objectives of the Development Plan is, and I quote: "To maintain and enhance the environmental character of the Cayman Islands and the well-being and prosperity of its people."

The Development Plan 1977 in its current use is certainly badly in need of revision. Under the Law it should have been revised every five years to keep pace with the country's development. Unfortunately, this was never done until recently when I commissioned the first comprehensive revision of the Plan since it came into effect some 14 years ago. It is because of the failure of previous Governments to carry out the necessary review of the Development Plan 1977 every five years, as stipulated in the Law, why this House is today having to consider the re-zoning under these nine applications.

I am informed by the Planning Department that there are a number of other re-zoning applications before them at present which will ultimately have to be brought to the Legislative Assembly for approval. Thus, one can readily see that review of the Development Plan 1977, is urgently required and should have been undertaken many years ago. I have been told by certain well-meaning individuals that because of the volatility of the Revision of the Development Plan, that I should have not brought the Revision in a pre-election year. But, Madam Speaker, the records of my stewardship as a Member of Executive Council will show that I have never reneged or failed to carry out my duties because of fear of becoming politically unpopular. I have always tried to do what I feel is in the best interest of my people and of these Islands. I do not think that anyone can successfully contradict that statement.

In this connection, I have written to each Elected Member of this Honourable House requesting their recommendations of names - that letter went out on Friday and perhaps they have not yet received the letters - but asking them to recommend names to be appointed to the district sub-committees and I would hope that each Member of the districts, including Cayman Brac and Little Cayman, will find it possible and necessary to become a part of those sub-committees as it is most important that we also receive their input as well as the input of a cross section of the community.

Amended Government Motion 3/91, seeks to re-zone six of the nine applications to commercial, two to low density residential and one to medium density residential. For the information of the listening public I would at this point provide a brief description of each application.

Number 1, Amendment 3/88, is a proposal to re-zone Block 13D, Parcel 72, 73, 274, and 275, currently designated medium density residential, to commercial. The property is located off Eastern Avenue. Parcel 72 and 73 are severely limited to access as the road width is only 12 feet to 15 feet. Parcel 274 is a logical extension of parcel 70 and parcel 275 which lends itself to a commercial designation. Parcel 71 has been subdivided and is now parcels 274 and 275. The Central Planning Authority recommended approval of this re-zone at their meeting on the 30th January, 1991.

The second amendment, which is 006/88 is a proposal to re-zone land currently designated medium density residential to commercial. It consists of approximately 15 acres and is located just southwest of the round-about and north of Smith Road. Specifically it is Block 14D, Parcel 34, 35, 36 part of 38, 55, 56, 63, 65, 136, 137, 142, 285-288 and the remainder of parcel 317 and 318. 14CJ, Parcel 108, 109, 101 and 102. The area is well served by three main roads and is being developed commercially. The immediate trend in the area appears to be commercial, several parcels within the area have already been allowed a change of use to commercial. This is a logical area for business to expand being close to Elgin Avenue and the Government Offices.

Of course, any change to commercial zoning will increase the traffic onto Thomas Russell Way. But with the round-about and possible road right-of-way expansion onto the Sports Field, it should be able to handle it. The Central Planning Authority recommended approval of this re-zone at their meeting on the 4th of May, 1988.

Amendment 015/88, is a proposal to re-zone block 13D, Parcel 17-21, 23, 93, 183, 258 from high density residential to commercial and it is located off Eastern Avenue. Most of the parcels are split zoned, half being commercial. By approving the re-zoning requests it will allow the whole parcel to be one zone. The Central Planning Authority recommended approval of this re-zone at their meeting on the 30th of January, 1991.

The fourth amendment 003/90, is a request from the Crown to re-zone Block 13C, Parcel 1, but as mentioned earlier that was withdrawn, therefore, leaving nine amendments. Amendment 004/90, is a request to re-zone Block 14E, Parcel 296, 297, 298, 299 and 300, from low density residential to commercial. The properties are situated near Smith Road and Hospital Road intersection. The sites are suitable for commercial purposes because of their location at the junction and the fact that two of the sites are presently developed as commercial. The Central Planning Authority recommended approval of this re-zone at their meeting on the 30th of January, 1991.

Amendment 006/90, is a proposal to re-zone Block 9A, Parcel 84, 199, 203, and 212 from low density residential to commercial. The Parcels are located in Jacksons Barcadere,

West Bay. It is roughly 400 feet North of Morgans Harbour Bar and Restaurant. The size and present zoning renders the site almost useless, the property is conducive to commercial development. The Central Planning recommended approval of this re-zone at their meeting on the 30th January, 1991.

Number 6 amendment 008/90, is a request to re-zone Block 13E, Parcel 88 from low density residential to commercial. The property is located to the immediate north of H.O. Merrens shopping complex and approximately 200 feet east of the West Bay road and to the north west of Benjamins Concrete Works on Watlers Road. Some of the properties have moved toward commercial in the area. This site is accessible via a 20 foot road and this may create a problem. The Central Planning Authority recommended approval of this re-zone at their meeting on the 30th of January, 1991.

Number 7 amendment 016/90, is a request to re-zone Block 45A, Parcel 50 Northside from public open space to medium density residential. The property is located at Grape Tree Point and is bounded on the east by the Chisholms families private cemetery, on the south by Ralph Drive, the west lot is vacant and on the south by the sea. The Central Planning Authority recommended approval of this re-zone at their meeting on the 30th of January, 1991.

Number 8 is amendment 017/90 and it is a request to re-zone Block 10A, Parcel 132-139, 198, 199, 200 from hotel tourism to low density and Parcel 206, 224 and 173 to public open space. The property is located at the Cayman Islands Yacht Club. When the original applicants applied to have their site re-zoned from low density residential to hotel tourists it was specifically to enable them to have their Master Plan approved by the Central Planning Authority. By doing so, it conversely restricts the use of these lots because single family homes cannot meet hotel tourist set-backs. The parcels proposed to be re-zoned from hotel tourist to public open space are already designated on the land registers as public open space, thus this re-zoning will make them identifiable on the map. The Central Planning Authority recommended approval of this re-zoning at their meeting on the 6th of February, 1991.

Number 9 which is the last amendment and which is amendment 018/90 is a proposal to re-zone 31 parcels from hotel tourism to low density residential. The Parcels are located at Vista Del-Mar and that is specifically Block 10A, Parcels 105-127, 140, 155, 156, 157, 160, 213, 214, 219 and 225. The sites have the same problem as the previous amendment - the single family homes cannot meet hotel tourist zoned set-backs. The Central Planning Authority recommended approval of this re-zone at their meeting on the 6th of February, 1991.

As mentioned earlier, these amendments would not have been necessary if the Development Plan 1977 had been periodically revised to keep pace with our economic growth and development. The planned comprehensive review of the Development Plan 1977 will cover areas of concern on all three Islands with particular emphasis on land use demographics, economic trends, the natural environment, housing and infrastructural requirements, zoning and standards for new development in line with the criteria of the objectives of the current plan.

Government has already appointed an Advisory District Committee for Little Cayman and it is hoped that their report will be submitted to my Portfolio in the not-too-distant future. For various reasons, we have asked that top priority be given to Little Cayman which will assist Government in issuing a policy statement on future development in that Island.

Madam Speaker, I commend the amended Government Motion no. 3/91, to this Honourable House and would ask that each Honourable Member give his full support to it.

**MADAM SPEAKER:**

The question is Amended Government Motion No. 3/91: "BE IT RESOLVED by the Legislative Assembly, pursuant to section 8 of the Development and Planning Law (Revised), that the Map forming part of the Development Plan 1977, being the development plan of the Cayman Islands, be amended by the re-zoning of the land specified in Column 1 below to the zoning specified in the corresponding part of Column 2:" The question is now open for debate.

The Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

This Motion embodies as the Honourable Member for Communication mentioned several areas of re-zoning. I would like to deal first with the principles relating to re-zoning and the Law and then go on to deal with some of these specific matters. The Development and Planning Law, which came into effect 1974 and was amended in 1977, was revised by the Government recently. This now has consolidated the several revisions that have been to the Law over the years.

Section 8 of the Law, provides as follows and I would like to read this because this is the basis upon which this Motion has arisen. It says:

"8. (1) The Authority shall, (and that is the Central Planning Authority) in the course of preparing a development plan relating to any land, or proposals for alterations or additions to any such plan, consult with the Board and any other public authority concerned with the development contemplated in the area concerned and may consult with such other persons or bodies as they think fit, and the Authority shall, before submitting any such plan or proposals for approval by the Legislative Assembly, give to the Board and to any public authority as aforesaid and to any such persons or bodies as aforesaid an opportunity to make objections or representations with regard thereto.

(2) Notice shall be published in a public newspaper circulating in the Islands in two issues in each of two consecutive weeks that the Authority has prepared in draft any such plan, and of the place or places in each district where copies of such plan or proposals may be inspected by the

public.

- (3) (a) If any objection or representation with regard to any such plan or proposals is made in writing to the Authority within two months after the publication of the notice referred to in subsection (2), the Governor shall refer the matter to the Tribunal for an enquiry into all such objections or representations; and the Authority shall, before submitting any such plan or proposal for the approval of the Legislative Assembly, take into consideration the objections or representations together with the report thereon of the Tribunal and shall include such report with the plan or proposals submitted to the Legislative Assembly. "

The Tribunal means the Tribunal established under section 38 which is basically the Appeals Tribunal that consists of a Chairman and four other Members, even though there was an amendment to that recently, I think, increasing the number of members or altering something in relation to the Chairman.

The Law, Madam Speaker, is geared to ensure that whenever there is a change of use under the Development Plan, either through an amendment or an alteration of it, that proper notice is issued in the newspaper for two consecutive weeks and I would strongly submit that, that notice must be sufficient to draw to the notice of the public what the re-zoning is, what the change of re-zoning is, whatever the alterations or additions to that zoning or that plan are going to be. This seems to be the first principle that the Law sets out. You must notify the public in sufficient detail that they understand what zone is being changed or what alteration or addition you are making to the plan.

The plan that is referred to is, the Development Plan of 1977. After that is done, then there are two months during which objections can be made, in writing, to the Central Planning Authority and these are then referred by the Governor in Council on to the Appeals Tribunal or deal with them and give people a right to put their case and be heard. Most of what I am saying here will deal with the one significant instance mentioned by the Member relating to the dump site in the George Town area, near to the several housing subdivisions, beginning in the Watlers area and extending through the Whitehall area, all the way down to the area in front of the Treasure Island Ramada Inn, on the opposite side of the road.

I do not see anything, or there have been no objections and nothing has been raised in relation to these other ones and I will be voting for them, however, this defect that has arisen I think now needs clearly to be corrected for anything that is done in the future. There is a considerable difference changing from one use to another use that is not damaging to its surrounding area. There is a totally different thing when you take and change residential zoning into zoning in which the purpose is to set up a new landfill dump site.

What is significant on this is that, the Law appears in the instance of the dump site not to have been followed fully in relation to the publication in the newspaper because at the meeting, 60 or 70 people there did not know about this. When that many people, in fact, the application came up to the Legislative Assembly stating there were no objections to it. We know someone along the line should have realised that, if there is nobody objecting to this, something has gone wrong with the machinery of Government.

In fact, it should have been obvious to not only the Authority, but to Executive Council themselves, to have said this cannot be right, nobody is objecting to putting a dump beside them. Something must have gone wrong and they should have gone back and checked it out and made sure that there was proper publication. In fact, the notice merely specified a change from residential to heavy industrial (North Sound) I think was the only description there. That is the first thing that makes it very important that this Executive Council and this Board make sure that there is full compliance with the intent of the Law in the that respect.

If there is failure in that respect then people have lost their right to object and to make representations to the Planning Tribunal. Seeing the number of persons who did object when they found out, there was obviously a grave error on the part of complying with this area of the Law. Once this process has been carried out then what normally should come before this Legislative Assembly would be the objections representations and the Report of the Appeals Tribunal together with the Central Planning Authority's recommendations.

The whole section relating to the Appeals Tribunal are missing and I submit, at least in the case of the dump, it is missing because of non-compliance with section 8. The Member for Communication and Works has patted himself on the back by saying that he is bringing an amendment to the 1977 Development Plan. But, Madam Speaker, he has been in that seat for three years, what has he been doing with this urgent matter for three years?

We have had reports on agriculture, we have had reports on the Hospital, we have had reports on the Master Ground Transportation Plan, we have had reports on just about everything in the world but nothing has been done on the Development Plan. This is a plan that came in 1977 and it was during a stage of political upheaval, the 1974 to 1976 problems that arose around it and obviously, as he has stated, there is always reluctance to do an overall zoning in the three Islands. In fact, only the major plan, at least the detail plan related only to Grand Cayman.

I do not think that it is good enough to say, "previous Government should have done something than these situations would not have arisen." This is the present. What has the Member done up to this stage? Everything else in the world has been given priority, and he has sat on this one. Now the Development Plan originally was something that was dealt with in committees within the districts and when it was produced it was obviously a good plan. It stood the test of time.



During my eight years in Government (if it will make the Member for Communication and Works feel a bit more justified in what he is doing) it was up for revision. But you must remember the Plan was then a new plan and it would have gone when the 1984 Government left. And, I will point this out - his Government (because it was two Members who are now in Executive Council, along with Capt. Charles Kirkconnell and Mr. Vassel Johnson, who were in there at that time) did not touch it either. What has happened now is that the plan has been left until the country has gotten into a fairly chronic stage in relation to zoning. Thus, we have these ad hoc and single applications coming up to the Legislative Assembly.

Even if there can be a bit of criticism on the year and a quarter that it should have been revised before 1984, much more criticism must rest on the past seven years when this Plan has not been touched, either by this Government in this last three years or by the previous Government which, as I said, was really their Government too, for four years before.

We now have a plan that for some 14 years, has stood with practically no amendments. I do not believe that the failure in the last seven years of the Governments then and the present Government, to deal with this Plan, is a good reason why it should not now be dealt with. One of the things I do point out, however, I do not know if the best time to deal with a matter as controversial as this is going to be in the middle of the heat of the elections for 1992, so I may question the wisdom of the Member in that respect and would say to the Member for Communication and Works; whatever you are going to do on it, I think we need to move fairly quickly before we get embroiled into the 1992 elections and the Plan itself gets distorted in respect of not being given the attention or having too much politics in it when it does come up.

I should point out the process through which an amendment to the Plan has to go and it could well be that there may have to be a total revision - a new plan, perhaps. I do not know. It may have to come out and that process takes time and cannot be curtailed because you are dealing now with people and their rights. Moving on from that, it is most serious when there is a change of zoning to something that is heavy industrial because even with a heavy industrial zone there are strict limitations placed in the Development and Planning Regulations. The Member for Communication and Works and the Member for Health seem to have glossed over this (at least the Member for Health, the night that he had the meeting for objections to this) in that it is not sufficient to say that if something is zoned heavy industrial you can go and put down a landfill dump site/garbage site there because Regulations 10 of the 1977 Regulations, which we are still working under, provides in section Regulation:

- 10 (1) Industrial development is permissible within industrial zones provided that -
  - (a) it is not detrimental to the surrounding area;
  - (b) it provides centres of local employment;
  - (c) access to industrial areas is ensured; and
  - (d) this regulation is complied with fully.
- (2) The Authority may in each case, determine-
  - (a) the minimum size of the lot;
  - (b) the minimum height and bulk of structures;
  - (c) ancillary uses permitted on the site;
  - (d) ancillary uses prohibited;
  - (e) the maximum permitted floor area;
  - (f) the maximum site coverage;
  - (g) the location of development including structures, loading and unloading areas and other facilities;
  - (h) the number and location of parking spaces; and
  - (i) the amount, type and location of screening and landscaping required.

Because heavy industry is something that may damage people and the environment, the Legislature in 1977 wisely laid down in the Regulations that it was permissible, provided that it was not detrimental to the surrounding area. We know that Executive Council in its classic phrase believes that it must always have its way and what we are now seeing is Executive Council attempting to have its way indirectly by doing within a few hundred feet of the dump site, proposed and objected to, precisely what was only going to be done if they could have the re-zoning changed.

I want to point out clearly that the zoning of the site itself does not mean as a right that Government or anybody else can put down, a heavy industry. It has got to go back to the Central Planning Authority, and therein lies the wisdom of the 1977 Legislature. Some 13 or 14 years later, perhaps for the first time, we are having problems of this nature. Having dealt with the Legislation, I would like to go on to deal with what the Member has set out in the different amendments and I have only a few comments on some of these, but I will have comments in relation to the statement and the references to the garbage dump site.

What I find is that, with the exception of two where I think there was a supporting letter and the other one was a request that an adjoining piece of land be re-zoned to the commercial zoning, most of these applications appear to be non-damaging to the area itself. I do not intend to go into details in all of these, as I think the Member has set out clearly what they are doing, but I did find that in a few of these we seem to have had re-zonings. For example, in 004/90, the Central Planning Authority said it was also resolved not to include Block 14E, Parcel 275, due to the distance from the subject re-zoning the general area adjacent to Parcel 275 exhibits residential usage. But it does not appear that there was any application for that. I do not know how relevant that was.

In an other one, it seems like in 006/90, if paragraph 1 is correct

the application was to re-zone 9A, 212 and it looks as if the Central Planning Authority rezoned Block 9A, Parcels 84, 199, and 203 - and I would just point it out to the Member, and he may wish to check on this, I do not know whether that was an application. It was not put in the earlier part, but there seems to be a discrepancy in what was applied for and what was re-zoned. Sometimes it can be difficult to fully understand some of these applications. We are given the maps, but not all of the time are the photocopies sufficient to locate everything.

Those were the two main discrepancies I saw and they may really not affect the Member's Motion, but I just pointed them out. To get on to what I found as a very worrying situation, we have an application that has now been withdrawn. It is relation to the dump site, but it is relevant from the point of view that a statement which the Member has referred to in this and he has had a reasonable amount to say on it.

That application came up with these comments of the impact and I will read these very briefly and go on to develop my argument. It said:

The major impacts as a result of the development are;

1. Decreased land values.
2. Biophysical degradation.
3. Social.
4. Restricted future land uses.

1. Decreased Land.

Presently the site acts as a buffer between the present land fill and sewage treatment sites and residential developments mentioned previously. (This is bringing the dump site nearer into town, I will point that out).

Needless to say the inclusion of this site negates that positive situation and as a consequence existing property values will probably suffer substantial depreciations.

2. Environmental.

Depending on the method of disposal, considerable damage could occur to the surrounding areas. If incineration is used substantial environmental problems may result to the vegetation and nearby residence. Burning may result in leaking of gases and other detrimental substances into the ground water and subsequently into the sea, possibly resulting in irreparable ecological damage or an extremely costly after the fact clean-up.

3. Social.

Other than the above negative impacts having a land fill site next door is very disturbing psychologically. This is presently experienced by residents of low-income, high density developments world-wide and the nearby residents in this situation are no different. The purpose will also influence to a degree the future development of the area.

4. Developments.

Unless there is a substantial amount of green spaces left between the proposed development and that which can be accommodated in low density residential zones, it is very unlikely that there will be any considerable profitable development activity in the immediate vicinity in the foreseeable future. However, based on the Chief Environmental Health Officers observations and a Draft Report Feasibility Study of Solid Waste Disposal, in Grand Cayman, this site is the most cost effective and environmentally acceptable.

The Central Planning Authority stated that at a meeting of the Central Planning Authority on the 30th January, 1991, it was resolved to recommend Block 13C, Parcel 1B be rezoned from High Density Residential and Heavy Industrial to Heavy Industrial to the Legislative Assembly."

Madam Speaker, it has to be good common sense that dumps sites are moved further away from residential areas and not brought nearer to them. As is pointed out in this Report, which is a very damaging Report and I am really surprised that the Central Planning Authority actually approved it. You are looking at the possibility of leaking gases, and I understand that some of these gases can be fatal. This is being brought nearer the site, but most significant, it is being brought nearer the site of the residences with the wind blowing towards the residences.

This whole thing, despite whatever happens, applies to the statement that the Government is going to continue to set up a new dump site, basically adjoining this land. One area of this land looks as if it is only a few hundred feet wide at the most. Instead of heeding some requests put forward quite strongly at the meeting with the Member for Health, asking that he move this somewhere away from residences, especially where the wind is blowing towards the residences, what does Government do? It makes its statement saying, "we cannot do it on half of the land, but the adjoining half, so to speak, we are going to go ahead and do it on." When I questioned the Member for Health, he made the statement that the residents in that area objected to the dump site going on either piece of land. The Member for Health acknowledged that there was no doubt the intention of the objection was to it going in that site and I am just repeating that, as one of the Members

nodding knows. But that was an acknowledged fact. In fact, what is being done does not change the position materially.

Looking at the statement that the Member for Health and Social Services referred to, it is just not good enough, I submit, to say, as the Member specifically stated at the meeting, that there are only two other alternative sites in Grand Cayman that they had looked at. One of these called the Bodden abandoned marl and the other one Bodden property east of Bodden Town.

No-one can tell me that with a bit of effort and the fertile mind of the Member for Health that he cannot go and find a site somewhere else in Grand Cayman that is not near residences and is not going to blow down-wind on residential areas, to place the site. It is a fact that he estimates for up to five years it is going to take, that this is going to be a land fill site and is going to attract the rats and whatever else flies and whatever else goes with it and is going to have the stench that comes from it. No one can really tell me that there are only these two alternate site upon which this can go. I cannot see that, at least 95 per cent of Grand Cayman is not developed area.

It is not good enough for the Member for Communication and Works to come here today and say, "you go out Backbenchers and look for a site". They are the Government. When they get in trouble, they cannot run to us. If they wanted to do that, then they should have left the Finance Committee where it was and took a decision at that stage for an alteration of the Government.

I think it is poor policy when the Government gets in trouble then tries to blame somebody else for it. They have a problem, so I think they must go out and find a site somewhere that is suitable and that is not located near a high density area where a large number of people are living - stretching from the Watlers Road area all the way down to the property in front of the Ramada Treasure Island.

I know that the Member for Health has experts down, because one of them spoke that night, to advise on this land fill. Well if the Government cannot find where to put it, let them get that expert and let him go and have a look at some other sites and let us see where it can be put. It is not good enough for the Government to expect the people to accept a serious depreciation, a serious loss of their property in the area because it is the cheapest way for Government to go. I think Government has to weigh this in the balance. It has to have a view to assist rather than to hurt the people.

To be very frank, I hope that the residents who were at the meeting held by the Member for Health who issued this statement, remember very well his attitudes that night in the meeting. Not only do we find Government doing this, but where are the Conservationists? I understand that today, for example, there is sewage in people's yards because of a pump breaking down. Apparently there is no back-up on it. This is just not good enough in an area where this is going to be increased 10 or 20 fold in the future.

Now the Member for Health in the Government's statement stated that, "however a small number of people still have reservations over the original proposal."

#### POINT OF ORDER (S.O.36)

**HON. D. EZZARD MILLER:** Madam Speaker, on a Point of Order. Under Standing Order 36, do you regard this debate as relevant to the Motion before the House?

**MADAM SPEAKER:** It is relevant because it was mentioned by the Honourable Member, so I think he can proceed.

**MR. TRUMAN M. BODDEN:** The Government says that a small number of people still have reservations over the original proposals. I submit that statement is not correct because everyone there that night, I believe, left there with probably far more reservations and worry than when they went into the meeting because they realised the attitude of the Member for Health in that meeting and his approach to this whole matter. I do not doubt that there is going to be a buffer zone and that in due course (as has been stated in the statement) there is going to be a comprehensive review of the entire solid waste management programme. But knowing that Government's generally rarely ever do anything on time, I do not see this coming into operation in the very near future. In fact I think the Member for Health pointed out that it is going to be phased over some five years.

Secondly, regarding the question of the controlled burning of the solid waste, it is going to take a considerable amount of money to put in the necessary equipment to do this. So I see a period of considerable time before this can come about.

In this statement there was a reference to the unfortunate article in the *Caymanian Compass*. I think a lot of what appeared in that article made sense because they said that these matters should not be done piecemeal. That was in the Editorial. In the other one they were saying that it seems that people's rights were being brushed over, walked over because there had obviously not been the proper notice given to the people. We have seen Government with its many excuses when it hits problems. When we have a situation as we have now, which is a very immediate problem, it is bad enough to have to deal with the present amount of the sewage plant and the remainder of the old Land fill site, to find that there is no sympathy when they have gone to the Government and asked for some help.

I would like to sum up my objection to this reference and the statement by the Member of Health to it. Firstly, I submit and I would ask that, in future section 82, which requires that proper notice be put in a newspaper so that people know exactly what zones are being changed; that there be compliance with that because obviously it was not complied with in dealing with the dump site. I would expect the Member for Health can come up with a lot more excuses, but I am sure in due course the two reasons given here stating that the area is not going to be affected, has obviously been dealt with by submission to the Central

Planning Authority, which I read earlier.

The Regulations of 1977 provide that even if an area is zoned industrial then, as I read under that, it is only permissible to have heavy industrial use of the property when it is not detrimental to the surrounding area. That is something that residents of the Watlers Road and Whitehall and the other subdivisions may wish to pursue when the application is made. By the way, it appears that a lot has been done on the site, a lot of vegetation cleared, holes starting to be dug and apparently there has been no Planning Approval, otherwise there would have been a right to object to that. I guess it just brings out the way the Member for Health just moves on regardless.

The other point is that the objection here by residents is one which Government has to take seriously. It is not good enough to say, "we are not going to zone this property, but we are going to do it on the piece of property right next to it", because no matter what is said (and while I accept there was a dump site there before, it is much further back) this is bringing the garbage site nearer into the residential area. The Government should go back and find alternative waste dump sites which are not near to residences and which are not up-wind from residential people. You know, there are a lot of children even living in that area as well and they now, like I said earlier, have to put up with the nuisance of the sewage which today, I understand, is over-flowing in the area in some of the yards.

The aspect of saying that because one Government has not dealt with the Development Plan, you are going to criticise them and use that as the basis for bringing these ad hoc applications to the Legislative Assembly, I have pointed out that for seven years, since 1984, no one has revised this but what is so important now, is the present. We need to get on with it and even though it is somewhat late, I commend the Member for Communications and Works for his movement in getting the committees together and getting this under way. I did give the caution that it is so important. I hope it will not come too far down towards the 1992 elections.

I assume that the Government is not taking the approach that they are not going to look for an alternative dump site and we the Backbenchers must go out and look for it. I do not think it is good enough for Government. They are in there, they have a problem on their hands, they do not consult us on most of the other things when they are spending money around the place or doing their pet projects. Now they have a problem on their hands, they should be man enough to go out there and deal with it.

The position, I submit, is that with this type of change of use, the Government must have some sympathy for the residents. The Government should not take the approach that because they have lost one battle, which was withdrawing the change of use on a part of this property, that they are going to go on and do the same thing on the adjoining piece which at the most is only a few hundred feet away from where they were going to put it before. Government should go and look at Grand Cayman as a whole and find a site which, even if it is a bit more expensive to Government, is one which is more acceptable to the people. Most of all, I think that it is an environmental disaster to take and put a sewage dump, bring it nearer towards an area where there are hundreds of residents living and which are down-wind from it.

So I would ask the Government to assist the residents in solving this solution. In any way I can assist, I will, but I have to point out that this is Government's problem and Government must find an acceptable solution to it.

**MADAM SPEAKER:**

The Honourable Member for Health and Social Services.

**HON. D. EZZARD MILLER:**

Madam Speaker, I rise to support Government Motion for the Re-zoning of certain properties as listed in the Motion before the House. It is rather unfortunate that the debate seems to have turned into a debate on where to put the garbage dump or to expand the present sanitary land-fill site. The Third Elected Member for George Town, is obviously attempting to continue to placate the people who attended the meeting - called by my Portfolio, I might add - which was not required by Law. So I wonder how he can now get up and say that the Government had no sympathy for their concerns, when my Portfolio staff and myself actually took the time to have a public meeting to hear their concerns. The problem he has is that he got up in that meeting and made some promises based on what he put across, which were some erroneous facts. I think the time has come to set the record straight.

There is an acronym known as 'NIMBY' or 'Not In My Back Yard', which applies to things like sanitary land fills. Everybody wants their garbage picked up three or four times daily and, as that Member in his irresponsibility charged, it is the Government's problem what to do with it after that. Now, the Government accepts that it has a problem and the Government intends to deal with the problem. One of his charges is that the dump must not be upwind of any residential areas. The only place that you could put a dump in Cayman that would not be upwind of somebody would be on Seven Mile Beach, because everybody knows that the prevailing winds in this country are either south easterly or north easterly most of the year, with a couple of Nor'westers thrown in between.

He went to great lengths to complain about my attitude at the meeting. I was asked direct questions, I gave direct answers. I did not give people this bureaucratic political mumbo-jumbo and pretend that it was not the Government's intention to expand the sanitary land fill in that site. That was the Government's decision. I am bound by Executive Council to defend that decision. That is what I did at the meeting.

He tried to make people believe that he had not heard about the land fill being expanded in that area. He voted for the money to buy the property, and every person in this Assembly knew what we were buying that piece of property for. Everybody is a Member of Finance Committee; purchase of the property came to Finance Committee and it was explained even a year before we actually closed the deal. Members knew what we were buying the piece of property for. To make matters worse, Members knew

that the Government was hiring consultants to properly design the land fill on that site. How could he get up in a public meeting and tell people he had never heard of it? Then, he comes hear and laments the provisions of the Law - which he wrote, and I followed - and then tries to chastise me and the Government for not informing the people. Why did he not go down in Watler Road or Dog City and have a public meeting and tell them about the garbage dump? All of a sudden there is a big out cry because of half of a dozen wealthy expatriates do not want the sanitary land fill expanded in the present location.

We have a number of alternatives: put a garbage dump in each district and only the garbage from that district will go into that dump. Will the Member support that? No, he is like those same wealthy expatriates at the meeting who are quite content to put it up in Breakers over a water shed - where there is absolutely no pollution at the present time - and next door to houses because, after-all, the houses up there are only worth \$25,000 or \$30,000 and you would not be de-valuing anything, just stay away from their \$450,000... and he is talking about my attitude at the meeting? I make no apology for my attitude in telling them the facts at the meeting when confronted with that kind of thing. Only about a half a dozen of them are going around collecting petitions and stirring up the people.

That sanitary land fill was at that location when they came to the island, and was there when they built their house in that area. They went down in that area and built their houses in swamp. Half of the stench that they are getting is the button wood rotting in the swamp over where they have a house built. If they have rats in their back yard, they are not coming off of the garbage dump. You doubt me? Go up and take a walk over the garbage dump and tell me where they find rats!

Now they are claiming that one of the reasons they do not want it expanded is because that is where they go for their nature walks - next to the garbage dump! If it is so awful, if there is such a stench, why walk towards it? He alluded to my statement. That statement was factual. Government bought the piece of land for that reason. Half of it is already zoned heavy industry and commercial, the Government intends to apply to the Planning Department for permission to expand the land fill and to build certain things like offices for the Environmental Health Department on the remaining 26 acres.

The public has an opportunity to object. If Planning Department turns us down, well I guess we will stop picking up garbage because we do not have anywhere to put it. It is as simple as that. It is up to the people of this country. If they want to allow a half a dozen expatriates who came here and made some money to tell them they cannot have a sanitary land fill site, then we will stop the pick-up of garbage. We will see who in this country really has the power - the citizens of this country or a half dozen people who can write fancy letters to the paper and go around and collect petitions.

We have not been trying to trample on or deny anyone's rights. We made it quite clear that we are going through all of the processes. The Government did not just randomly select this site. Of course the Third Elected Member for George Town, trying to get his couple of votes for 1992, read what suited him out of the documents we handed out. We handed those out to the people. We looked at other sites. I will bet you they are not going to be prepared to have their garbage fees increased because certain ones of them have not paid the \$50 they should have paid now. I suggest that if they are so concerned about the environment and this country, they should go to Treasury or to the Environmental Health Department and pay their outstanding garbage fees.

We are not trying to create an environmental disaster. The Government has said that it is going to be developed into a proper sanitary land fill, with all of the regulatory devices that we can put on it to ensure that it stays that way. The sanitary land fill has been there for more than 20 years. People in this country know where the sanitary land fill is; it is easily accessible. We average 42 private visits to the garbage dump every day, that is, people taking their own garbage, lawn clippings, or construction companies taking garbage to the dump; besides the nine to ten trips that the actual Environmental Health Department makes on a daily basis. It is accessible to the public.

We will endeavour to improve the way the garbage is disposed of to make it less of an environmental threat. But, despite Government's having looked at all of the alternatives, that is the proper place to put the sanitary land fill for the next 25 years.

**MADAM SPEAKER:**

The Second Elected Member for Boddan Town.

**MR. G. HAIG BODDEN:**

Madam Speaker, the Motion before the House is a clear example of a Government in trouble, a Government that is now managing by crisis on a day-to-day basis. One knows the Development Plan, under which the country prospered, came into effect in 1977, and had a provision that it would be revised every five years.

When the first five years were up in 1982, it was thought at that time and the statistics bore it out that there was absolutely no need to make any substantial change in that Plan. But that was almost ten years ago.

In the years that have passed much has happened and the Plan which once brought massive development, now needs a revision. There is no question about it. The Plan was not intended to last for eternity. I will not go into a lot of figures on this but it is a known fact that under this Plan construction and businesses grew and Government's revenue increased from about \$13 million in 1976 to some \$65 million eight years later.

Since that time Government's revenue, although increasing, has not seen such growth and, in fact, I will look at a few areas later on that will show this Plan is now causing a decline in our growth. The whole Island is aware that one of the reasons for the change in Government in 1984, was that the people who were successful at the polls had promised to change and to revise this 1977 Development Plan. But from that night in November, 1984, when the votes were counted we have not heard very much about the revision of the Plan. Only when they get in trouble, one or more of the present Government get up and blame

somebody for not having changed the Plan. But this Government has been here for three full years and always had the majority, which they needed, that one deciding vote, to put through anything which they liked to put through and they have never done it.

The Member, in opening this Motion, constantly referred to the Central Planning Authority having approved the re-zoning of this bit of land or that parcel of land; the Central Authority requesting, recommending to changes - Government by crisis.

It is not the job of the Central Planning Authority to initiate and approve land use in this country. It is the job of the Legislative Assembly. It is the responsibility of the Member for Communication and Works who is charged with responsibility for this Plan under the Constitution, and it is the job of Executive Council, if he fails, to force him on a collective basis to do what needs to be done. I know that land use or the zoning of land is a controversial issue. If anybody doubts it, we can ask the senior Member of the House who lost the 1976 election over the 1975 Development and Planning Regulations Law and Development Plan. Land use will always be controversial.

I understand that the Government did make a couple of half-hearted attempts to amend the Development Plan, but nothing came of it. They claim - not publicly - they could not get the support. Why? Because their ideas were too far out, they were not acceptable. They could not have their way, and so would do nothing. We have heard the attitude of one Member.

The Motion before the House is seeking wholesale amendments to the Development Plan. In fact, the original Motion, which has been amended, sought even more changes. We had a long statement from the Government in which it made excuses for making the amendment to their Motion and so taking out of it that section which would have changed the use of certain parcels, Block 13C, Parcel 1 to heavy industrial use. This amendment was made not because the Government thinks it is reasonable, this was made in the face of fierce political pressure.

One Member referred to half a dozen rich expatriates. I do not think Executive Council is afraid of those half dozen rich expatriates, I believe it is afraid of the many people that are listed in this petition addressed to the Honourable Linford Pierson, the Honourable Norman Bodden, and the Honourable Truman Bodden. Solid Caymanian citizens. But people with the guts to know when they are being taken advantage of and despite any political affiliations they may have had or may have, stand up when the time comes to be counted. These are not rich expatriates. I see people here like Mr. Stanley Scott, Mr. Anthony Scott, Mr. Burns Rutty, Miss Sheri Anne Bodden (I believe that might even be Mr. Norman Bodden's daughter), Mr. and Mrs. Peter Webb... and I could go on, and on. But I just want to congratulate these people by saying, "Right on! Exert your democratic rights and when you feel that the Government is being autocratic, or is taking advantage, you speak up and you shall be heard."

The Member spoke about the rich expatriates. Let me tell you, sometimes it is good that you have people with the ability to fight the Government because when they fight the Government and gain a right for themselves, other people benefit.

I see in one of the letters of protest the name of a very prestigious and expensive law firm. I do not believe they sent out that letter to get some practice in letter writing. I think that letter was written for a fee, so it is good and I only wish to God we had more people who could afford to stand up for their rights. Perhaps we would not see what is happening in central George Town under this Development Plan, where the bull-dozer has been run up to people's doors when they sleep at night and they are being thrust out of their beds in the darkness; the sick and the maimed treated just the same.

My contention is that this amendment, this wholesale amendment, which is before the House as an indictment against this Government. There have been amendments to the Development and Planning Law before. I think three 1988 amendments were circulated to us and there is nothing wrong with amendments, but when they reach the stage that we see in this Motion before us, and particularly when the Member putting forward this Motion tells us that the Central Planning Authority has informed him that there are more to come. There is time to take a look at this Plan.

This amendment seeking to change the use of 91 parcels of land in nine separate blocks is a mammoth one. As mentioned by one Member, this type of wholesale change to a Plan is bound to have a ripple effect on the traffic, on maybe disposal of garbage or whatever other services are connected with the use of land. So Government must do its job.

It was amusing (and perhaps the Member introducing the Motion only said this for the benefit of the First Member for Cayman Brac) to hear about the top priority being given to Little Cayman in the Planning Law or in his overall perspective of planning. The Government's vital statistics do not justify making planning for Little Cayman a top priority when the other two Islands beg for it. And I want him, through you, Madam Speaker, to look at the statistics. The population of Little Cayman in 1979, was 74; at the last census was only 33. Only half of what it was. The population density per square mile of Cayman Brac is 96 but the population density of Grand Cayman is 314; while the population density for Little Cayman is only three per square mile. So how can he tell us that he is concentrating his efforts on Little Cayman? I am not saying that Little Cayman does not need to be looked at. It is just like spending \$350,000 to build a post office in North Side where the population is declining, when they cannot spend \$25,000 in Bodden Town to build a playfield. Pure politics and not good Government. Not a proper expenditure of Government's money. Not that I begrudge Little Cayman any efforts that the Member may choose to expend on it.

If we look at the physical structures, in Bodden Town alone the separate households have more than doubled in the last ten years, an 11.6 per cent over 1960 with a 100 per cent increase in the last ten years, compared to North Side with a 3.2 per cent. What I am trying to say and show is that Executive Council simply does not have its priorities right.

The Motion before us is an example that Government has

neglected (ignored is a better word) the whole area of planning despite all the economic indicators. Quoting from the Government's Statistical Abstract 1990, page 67, I read: "The value of land and property transfers continue to decline in 1990 by 4.3 per cent compared to 1989. The number of transfers, however, showed a slight increase of 2 per cent." My contention is that the reason why these properties are falling is simply the fault of the Government. When Government makes arbitrary decisions which change the use of land, devalue the land, depreciate the assets, the value of land and property will continue to decline.

I believe one area that the Government must look at very shortly is the area of providing jobs in this country. Our major industries are suffering and I invite Members to look at the statistics. In this same document I referred to, we have this year in 1990 a big percentage decline in the value of approved developments for hotels, commercial and industrial properties. The figures shown here is minus 97 (which I think is minus C\$97,000) for hotels, minus 52 for commercial and minus 77 for industrial over 1989. This should spur the Government on to having a speedy review of the Development Plan. But they sit and laugh and hope this will go through and that when the next supporter comes they will be able to offer him a little carrot, as well, and amend his little parcel of land and give him his little use, whatever he wants, and this will be termed good Government.

We are going backward because of Government's failure to properly administer the Development Plan, to revise it and to make it work for the country. Just listen to these two other statistics: Stamp Duty collected on land and property transfers - 1988, \$12.3 million, 1989, \$11.9 million, 1990 \$11.3 million. We are going steadily backward. Downward! It is a good thing this Government will only have control for one more year. Transfers on condominiums show the same downward trend. These figures, Members are coming from the Statistical Abstract 1990 of the Government, page 72. In 1988, \$55,666,892.00 and the next year, 1989, 55 has been replaced by 51, and in 1990 it has been replaced by 30. One-half almost of what it was two years ago because the Member for Communications and his Elected colleagues have failed the country in the vital matter of administering and keeping up-to-date the Development Plan of this country, because the country has reached a saturation plan under the 1977 Development Plan, which needs to be revised and that, speedily.

The Motion before the House is simply an ad hoc Motion to appease the owners of the individual parcels, to give them a little bit of relief, but it is not the answer. It needs sensible planning by the Government of the day. That is their business and if they are not qualified to plan, they should step down. This Motion shows that they are taking away land, which had been earmarked for residential use and turning it into commercial use. As far as the individual land owners are concerned, this gives them a better price, I would think, for the land. The Government is doing this without any thought to the overall picture of planning because they are taking away the land for houses at the time when this country has the greatest demand for houses. If anyone doubts me, look at the Government's own statistics and they will see that what I am saying is correct.

In 1970, people between the ages of 20 and 24 made up only 6.6 per cent of the population. These are the young people who are going out on their first jobs entering the housing market for the first time and looking for cheap land for houses, and, today, 9 per cent of the population falls between the age of 20 and 24. That, simply translated into housing needs, shows that 50 per cent more people need houses, yet the Member brings a Motion to take away the land for residential and turn it into commercial, without providing the needs of these people elsewhere.

One final statistic on that is even more alarming. In 1970, the people between the ages of 25 and 44, the real builders of homes where the highest demand is, made up only 23 per cent of the population. Ten years later, between 1979 and 1989, that had risen from 23 per cent to 29.2 per cent and now, in this last census it stands at 38.1 per cent. So the need for houses is growing. And the Member is taking away the land, without addressing the needs of these people.

The Member spoke about the volatility that you can encounter in a pre-election year. I do not know why he should be afraid to do what is right, whether it is pre-election or election year. I think his job is not to go along with the Member for Health but to do what is right in his Portfolio.

In closing, I believe that the whole problem with the Government has been that it would like to ignore the public and rule as a unit by itself and I am glad that the people who wrote to them had this to say, and I will close by making this also my suggestion: "For the sake of good Government and just plain old fairness we strongly urge you and all those involved to create a moratorium that is so desperately needed to enable everyone to exercise his/her right to learn all that he/she can and to be heard on the subject before such a precipitous and far-reaching decision to re-zone is taken." That is what we say. Just let everybody know, just give us time, just let us discuss. Do not act as if there is no tomorrow because every mistake this Government is making, and they have made many, will have to be paid for.

**MADAM SPEAKER:**  
proceedings until 2:15 P.M.

This will be a convenient time to suspend. I suspend

**AT 12:45 P.M. THE HOUSE WAS SUSPENDED**

**HOUSE RESUMED AT 2:18 P.M.**

**MADAM SPEAKER:** Please be seated. Proceedings are resumed. Debate continues on Amended Government Motion No. 3/91. If no other Member wishes to debate, I shall ask the Mover if he would like to... the First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:**

Madam Speaker, Government Motion No. 3/91, now before this

House, the Development and Planning Law Revised, Amendment 1/91 to the Development Plan 1977, which concerns re-zoning; I had not planned to speak on the portion that has been withdrawn in the amended Motion, but since other speakers have done so, I shall comment on it briefly.

I would like to say my observation is that one of the major problems, I think we have, with this zoning here in Grand Cayman is the fact that the zoning that was established in the Development Plan of 1977, was really not thoroughly thought out. In most areas where zoning is the practice, the zonings are from heavy industrial to light industrial, then to commercial, then to high density residential and into residential.

Unfortunately, in establishing the zoning in Grand Cayman, what land had been used for in the past and the projected future use went directly from industrial to residential with no buffer zones whatsoever. So it has become very difficult with requests from individuals. I sat on the Central Planning Authority as a member for many years, and as these applications for re-zoning come before the Central Planning Authority from people desiring to make better use of their land, naturally there is some area where the two zones have to meet. Where industrial or heavy industrial or whatever the commercial zoning is established, the person living in that area or owning areas that are zoned residential become concerned; but the value of their land will appreciate if they want to use it for an industrial purpose, those remaining with residential are devalued as a place to live; not necessarily that the value of their land is less, because later on they too might seek to re-zone their area.

I think that is one of the major stumbling blocks to re-zoning that we face as members of the Central Planning Authority. We have really no choice, after we advertise, as is set out in the Development and Planning Law, and nobody comes across with an objection, but to approve. Then the other step in finalising the re-zoning is to send it to the Legislative Assembly for approval here. So, I think that must be taken into consideration when we face this problem here today. It is not a matter of blaming anybody, but if you look at the map, the entire area of East End has no commercial area. There are many areas in Grand Cayman that have no commercial or industrial zones. Enough thought was not put into it when the Development Plan of 1977 came into force. Enough of that.

I have studied each of the nine numbered parcels that are before us here today in the Central Planning Authority, I have looked carefully into this and have given it my approval. So, I likewise give my approval on the floor of this Honourable House to the amendments here. Again, I say that if we want to correct future problems with the re-zoning of certain areas here in Grand Cayman, then we are going to have to address that in the Development Plan. It may be advisable that we consider buffering it out like it is done, as I said earlier, in other areas of the world that the impact will not become so severe on the residential sections.

I can fully understand an individual owning property where his neighbour's land has an inflated value because it is commercial or industrial and, he, having a piece of land which he could sell but it is residential, is forced to lose a sale on that land. I think all of us must realise that each individual has a right to get the best value for his land and all of this must be taken into consideration when re-zoning is taking place.

Madam Speaker, I would like to leave the listening public with a guarantee that when this goes before the Central Planning Authority, it is dealt with very thoroughly, all steps of the Law are fully implemented and every member on that Board does the very best he can to do what he was appointed to do. With these words, Madam Speaker, I support the Motion.

**MADAM SPEAKER:**

Would the Mover like to exercise his right to reply? Honourable Members you must try to catch my eye, you know we cannot sit here indefinitely. Would the First Elected Member for West Bay like to speak?

**MR. W. McKEEVA BUSH:**

Yes, Madam Speaker, since it seems that other Members are reluctant. I guess they will rise after I finish.

I have been looking at the proposals and I cannot see where they, under the circumstances, are unfair bearing in mind that the one in contention, the proposal for the extension of the garbage dump has been withdrawn and rescheduled. I was at the public meeting mentioned, and I listened intently to what residents, the Member and others had to say. What was revealed at that meeting was that there had been three sites looked at and they said that this was the most feasible.

If I was in that Portfolio, I would have looked at it a long time and in a different light before making the kind of proposals that caused the Government the embarrassment it has. What I feel should have been the policy, is that they should have taken into consideration that the dump was being extended further on to West Bay Road, further into the tourist-related area and further into a residential area. That should have been the paramount concern.

Whether they are expatriates or whether they be local people, they are all residents in this country and to get up in this House and to do what the Member for Health has done, is uncalled for. I do not suppose that he would want a dump extended into his house in North Side. They were not all expatriates there, Madam Speaker. There were a lot of Caymanians who have interests, who have property, who have begun homes in the foundation stages and it was going to come right into them.

The Member has said that he has other alternatives. He should have put forward to this House those other alternatives. While he said he had others, the one alternative that he mentioned was to put the dump in the districts and let the garbage for each district be collected and dumped there. I do not think he would find that too feasible. Let us look at the cost that would incur. I could never accept that, but it shows how that Member thinks, and it shows why this Government has gotten into so many problems since that



Member took over the Portfolio. The whole matter is indicative of what this Government is all about and why it has fallen into disrepute with the people. One only has to look at the statement made by the Member for Health some days back on this particular subject, I quote: "Our commitment to the environment and to neighbouring developments remain firm. The change of plan will enable an even larger area to be dedicated to the proposed nature wild life zone. This will feature a bird sanctuary and lakes for marsh fish. In addition to the aesthetics and the environmental benefits the lakes will be designed so as to contain surface water within the site."

My question to him is, if he can do all this now, why could it not have been done from the very beginning? Why? If a plan can come up after the public has risen up against them, why could it not have been done from the beginning and save all of the problems and headaches? This matter sums up his attitude. If he says so, it is so; never mind what anybody else says. The Member for Health is never wrong. What has happened? The country goes deeper and deeper into problems. I will support the proposals, as I said, the one in contention has been changed. But, this whole thing bears out a fundamental need in this country and that is, Planning.

Since I have been in Government there have been numerous occasions when we have brought people from outside to look at our situation here. And because those people recommend certain things to them, they send them back. We have had people from Tennessee, we had people from Florida - numerous occasions. The Government needs, without delay, to set up proper committees to look into the planning of this country. I have heard that they intend to do so, but this is not something that can be shoved on a back burner and we continue building and planning harum-scarum. This Government has only performed by crisis management and hodgepodge grasshopper approaches.

We have seen it daily and it causes problems in every phase. We see it in the road programme, we see it in our hospital programme and this country cannot carry on like this. Not on the whims and fancy of one person. We are not planning for the four Members of Executive Council or the eight Members on this side. We are planning for the future of this country and it is time that they buckle down and get on with this matter whether it is politically hot or not. We hear, for instance, the Member for Health saying at a public meeting that he does not care because this was not his constituency, he did not have to get votes here, it is not his worry. As I said, this is only one more time when the Member for Health has gotten this Government into a flurry, into embarrassment and they forget what made us strong from the beginning. That was to discuss and take consensus but anytime we get one person believing that they can change this country overnight, regardless of whom it might topple, it is no wonder that the Government is back peddling on practically every subject.

I say that the Member for Communication and Works has tried to handle the matter fairly and I say to him, do not let junior Members, like the Member for Health, push him around. Take a stand because the Member for Health is going to ruin them all, he has lost them the majority in Government, he has brought them into ill-repute with their people and before the end, he is going to do much worse. I only hope that time will catch up on him first.

**MADAM SPEAKER:**

Mover like to exercise his right of reply?

If no other Member wishes to speak, would the Honourable

**HON. LINFORD A. PIERSON:**

I would first wish to thank all Honourable Members who spoke in support of the Motion and those who by their silence have perhaps given similar indication. I would also wish to comment briefly on some of the remarks made, in particular, by the Third Elected Member for George Town, as I realise that not even the Member himself believes a lot of what he was saying.

For the sake of the listening public I feel that it is proper that I should clear up some of the misinformation that he gave during his debate. I first wish to point out to the listening public and to this Honourable House that the Member voted in Finance Committee for the money to purchase the land for the dump and it is not my fault if he voted, not knowing what he was voting for. I believe the Member is astute enough to know that he was voting for money to purchase the land for the purpose of a land fill area but I also know that he is using this opportunity to enhance his own political image. But I believe that the listening public is wise enough to know that his main interest is not the people in that area, but his political future.

The Member mentioned that the Planning Department did not follow the procedures of the Law and I am amazed to hear him say this, being a lawyer himself, because he is quite aware that the Planning Department followed the procedure of the Law to the letter. I will accept that perhaps the procedures were not as clear cut as they could have been but they are the current procedures under the Law. This is one of the reasons why it is seen now to be necessary to upgrade and review the Planning Law to avoid any ambiguities or misinterpretation that may now exist. I cannot accept that the Planning Department did not follow the procedures under the Law.

In my presentation of the Motion, I mentioned what I thought was quite clear that Block 13C, Parcel 1, was withdrawn and that this was done on the basis of representations which had been made to myself and Government. So, for the Third Elected Member for George Town to stand in here and state that Government ignored the wishes of the public, is giving the public misinformation in this whole issue, and I would have thought that if he had the interest of the public at heart, he would try his endeavour to give more accurate information.

He also stated that the people of this country have lost their rights but it would seem in making his point in this regard that he momentarily missed the point, in that, Block 13C, Parcel 1, or the application in relation to that Block has been withdrawn and it is not one of the applications before the House now. He mentioned that the Member for Communication Works and Agriculture patted himself on the back for bringing the comprehensive plan. He also mentioned that it should have been brought long ago because, he stated, that I had brought a comprehensive plan for agriculture, I had brought a proper plan for upgrading the

postal services, and he gave me a number of other compliments, perhaps he was not aware of and I am sure that Members of this Honourable House as well as the listening public will see that within the two plus years that I have been in the Portfolio, that I have indeed, accomplished a lot.

Unfortunately, as I stated earlier, the Member, together with his Government, did not review the Development Plan in a timely manner. So I can only say that he is to be blamed for that and the country, as a result, has suffered. He said that during his eight years the last two years of those eight years, were devoted to revising the Plan, yet, nothing was done. This is not strange. Because history will show that the 1976 - 1984 Government shied away from doing anything which was regarded as politically unpopular.

I think it will be seen, and history will prove me right, that this Government will attack and will approach any subject which is regarded to be in the best interest of this country. Otherwise, I would not now have commissioned a comprehensive study of the Development Plan, which is perhaps the most controversial issue that this country will have in a long time because many of us know how our Caymanian people feel about land and anything to do with land. It needs to be done and this is the reason why I have commissioned that a proper investigation, a proper review be made in order to upgrade the Development Plan Laws and Regulations.

The Third Elected Member for George Town has stated that he wishes to assist. Perhaps he could first start by telling the people the truth and secondly, he will have the opportunity for his input because I will be asking him together with myself and the Honourable Member for Tourism to become an integral part of the sub-committee which will be an advisory committee to the Development Review Committee. He is always quoting a statement that was once made in this House, sometimes it has relevance, sometimes (most times) not, that Executive Council must always have its way. It is surprising how short that Member's memory is. Because this was always his policy as an Executive Council Member and I think many of us know that and I will not go into any details. But even in his convoluted argument, he supported the Motion.

Madam Speaker, he mentioned that there were certain worrying situations with regards to the Motion. He stated that it was good common sense and I am not hear to support or not support the Honourable Member for Health. When any of us on this side bring a Motion, it is a Government Motion. It is not the Member's Motion. We act under collective responsibility. So we support it before it comes to this House. He stated that it is up to us where we want to put the dump, but a dump in the Cayman Islands is not a personal issue. It is a national issue facing this country. So he has an interest in this. He cannot sit back and say it is Government's problem. If he knows of alternatives that can solve this problem, as a representative of the people of this country, he has a responsibility to assist in the process; to get up and say so. But do not just criticise, for criticism sake. If you have to criticise, come forward with constructive criticism.

As I stated in the substantive presentation, I have spoken with every Member within the five districts of Grand Cayman and not one indicated that he would wish to see a dump in his district. Where do we put the dump? It has to go somewhere. I would dread the situation if tomorrow the Planning Authority turns down the application for the 22 acres and people had to have their garbage piled up by their doorsteps for three to four weeks.

The East End Member does not want it in his district, the Bodden Town Member does not want it, the West Bay Member does not want it. Madam Speaker, it has to go somewhere in Grand Cayman. What the Member did not clarify was that the Motion had been withdrawn mainly because of the representation we received from the public. He should have said this and he should have stated that we took into account the views of the public in this matter and that the 22 acres that are proposed to be used is already being used for that purpose, and it is contiguous to the sewage dump or sewage ponds up there. It is not next to any residential area. I would be the last one that would want to do something against my people and the Member knows that. But he is playing politics.

It is difficult to state the relevance of all he said because he was jumping all over the place from post office, back to the dump, but he did mention that there was some pump that had a problem in somebody's yard and was flooding it. I do not know the relevance of that, so it is hard to even comment on it. He stated that proper notice was not given to the public. He knows that this is not true. Section 8 of the Law which he was referring to was followed to the letter of the Law and he knows it and it is not right that he should get up in this House and give a different slant or slant the truth in anyway.

That Member had quite a lot to say about or against Government, but I will not go into the detail because I know that the listening public, as well as Members of this House, have taken those remarks for exactly what they are - political rhetoric.

The Second Elected Member for Bodden Town, whom I regard as a friend, also had his few bits of politics to throw in. He mentioned that Government is managing by crisis. But if this were indeed true it would not be surprising because actually we would be trying to clear up the crisis which was built up by his 1976 to 1984 Government. So if there is a crisis being managed, it is the crisis which they built up. What he did not point out is that their Government failed to carry out the periodic review every five years as stated in the Law and he, the Second Elected Member for Bodden Town, was the Member responsible for that.

I have heard phrases in this House such as, 'the Member abrogated his responsibility'. That is a favourite phrase from my Second Elected friend for Cayman Brac. But if there was any abrogation of duties, the abrogation of duties was during the period that the Second Elected Member filled my Portfolio. He gave a lot of statistics about the downturn in the economy. He read from the Statistical Abstract. But I believe, as is usual with that Member, he read exactly what he wanted to read - and perhaps between the lines. In reading *The New Caymanian* for last week, the week of the 5th - 11th of July, in bold letter on the front page, it reads, "Economy Grew 20 Per Cent Last Year". This is not to say that there are not a lot of people feeling the pinch in the economy. There are a lot of people feeling the pinch, but the Member must give the facts as they are.

Whether we are happy with the structure of our economy or not, I feel that it has some weaknesses. The facts are the facts, nonetheless. This headline states:

"The Cayman Islands' economy grew an estimated 20 % in 1990, continuing the trend of double-digit growth which began in 1987."

Not 1976 or 1980 but 1987.

"That is according to economics statistics of the Gross Domestic Product (GDP) and Gross National Product (GNP) released last week by the Government's Statistics Unit.

The GDP, which reflects the value of goods and services produced locally, totalled \$596 million - a 19.8% increase over 1989. It was the second greatest increase in GDP in the past five years. In 1988, the GDP increased 24.2% and in 1987, 19.4%. When price increases are discounted, the economy actually grew 11 percent in 1990.

The GNP, which reflects the value of incoming accruing to local residents, totalled \$539 million, compared to \$438 million in 1989. In 1989, per capita income stood at \$19,200 but rose to \$21,800 in 1990."

The article continues, Madam Speaker, but I think that is sufficient to make the point.

Again this Member in his debate seemed to have missed the point in that, the applications before the House excludes the application for re-zoning of 13C, Parcel 1, which is in relation to the dump site. The major issue in that application, and I want to reiterate, was that the application of that area included 26 acres that are zoned high density residential. It was the proposal at the time to re-zone that whole area to heavy industrial commercial. But, in view of the representations which we received, we as a responsible Government decided to work as closely with our people in this issue as possible, bearing in mind that there is the practical issue of finding a proper dump site, an issue that we can not push under the carpet.

I also want to point out that adequate notice was indeed given under the Law. The Second Elected Member for Bodden Town stated, and I am sure this was said as a joke, but you never know these days, he stated that I had given top priority to Little Cayman to appease or to keep on the good side of the First Elected Member for Cayman Brac. This is not the case. I do not think that is necessary with the First Elected Member for Cayman Brac because I think his record in this House proves that he votes his conscience.

The reason why top priority was given to Little Cayman and is being given to Little Cayman, is because of the amount of attention that is now being placed on Little Cayman as an area for development. I know that the population is small, but so was the population of Grand Cayman, many, many years ago and so is the land area. But we do not want to make the same mistakes in Cayman Brac and Little Cayman, as we made in Grand Cayman. So this is the reason why that very action contradicts the statement of management by crisis. We plan well in advance.

As regard to the statement made on allocations for sub-post offices in North Side, I did not hear anything mentioned of West Bay, but yes, we are putting in a proper sub-post office in West Bay. If these issues had been properly addressed during the past Government, 1976 to 1984, I would not today have to be paying so much attention to them. So this is where the crisis management came in. We are now trying to clear up the crisis that they created.

For instance, the Building Code has been some 15 years in the making. Hopefully, I will be able to bring it to the House this year (if not this year early next year) for approval. This is what is happening in Government today. Things are being done regardless of how politically unpopular they may be. The road in George Town, the Third Elected Member for George Town has given opposition to it but he knows deep down in his heart that it is badly, badly needed in this country. Yet, despite the political jabs that I and Members of Government have received, we continue to do what we feel is in the best national interest of this country.

One of the Members speaking said, that this Government has only one year to go. I do not know who made him a prophet because that is not what I am hearing out there. But, I leave that issue, the people will decide. As is the custom of the First Elected Member for Cayman Brac, he did not make a very long speech but what he said made a lot of sense and I want to thank him for the points that were made by him because in all the speaking he was the only Member that got up and made a constructive suggestion as to how we should now be looking at future zonings of the three Islands.

I am not going to have a lot to say about comments made by First Elected Member for West Bay because in making these notes, I can see that a lot of those were political but there was one statement he made and I think he knew the answer to this. That was, that Government needs to set up proper committees to look into the planning of this country. He knows that this long awaited service has recently been commissioned by my committee, even though the Second Elected Member for Bodden Town said it should have been done long ago. I took over my Portfolio in 1988, and I will pit my stewardship for the past two-plus years against any other Member who has filled that Portfolio.

I believe that the country does not expect the impossible. If some of the critics of the Backbench were in Government today, they would be facing similar problems to what we are facing. It is easy to sit back on the Backbench and criticise. I found that when I was a Backbencher I could

always sit there because I did not have to produce, I could criticise everything. So it is nothing strange to me when I hear that happening today.

What I do not like to hear in this House is a blatant attempt to give the public the wrong impression and the Third Elected Member for George Town knows better. As the Bible states, "He that knows better, should be beaten with many stripes." And I expected better from him.

I thank the Members for their support and I commend this

Motion to the House.

**MADAM SPEAKER:** I shall put the question, Amended Government Motion No. 3/91: "BE IT RESOLVED by the Legislative Assembly, pursuant to section 8 of the Development and Planning Law (Revised), that the Map forming part of the Development Plan 1977, being the development plan of the Cayman Islands, be amended by the re-zoning of the land specified in Column 1 below to the zoning specified in the corresponding part of Column 2:"

Those in favour please say aye, those against no.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. GOVERNMENT MOTION NO. 3/91 PASSED UNANIMOUSLY.**

**MADAM SPEAKER:** The next item, Other Business, Private Member's Motions. Private Member's Motion No. 12/91, Re-establishment of Bluff Roads. The Second Elected Member for Cayman Brac and Little Cayman.

## **OTHER BUSINESS**

### **PRIVATE MEMBERS' MOTIONS**

#### **PRIVATE MEMBER'S MOTION NO. 12/91**

#### **RE-ESTABLISHMENT OF THE BLUFF ROADS**

**MR. GILBERT A. McLEAN:** Madam Speaker, I beg to Move Private Member's Motion No. 12/91 Re-establishment of Bluff Roads.

"WHEREAS from the earliest times the people of Cayman Brac only had access to lands on top of the Bluff by footpaths along the face of the Bluff in various places on the north and south sides known as Bluff Roads;

AND WHEREAS these footpaths or Bluff Roads were the only form of access to the various parcels of land on the Bluff until the Government constructed some public roads that improved and created new access to some lands;

AND WHEREAS most individual parcels of land are still only accessible by the original Bluff Roads;

AND WHEREAS many of these Bluff Roads have not been shown, or are only partly shown, on the Registry maps created by the Cadastral survey;

BE IT NOW THEREFORE RESOLVED THAT Government, through the Survey Department, and/or any such other relevant Department as necessary, reestablish the old footpaths known as Bluff Roads; register them on the Registry maps; and, in accordance with the Roads Law, gazette these, and such easements from the public road to the foot of the Bluff Roads, as has existed, or as is required."

**CAPT. MABRY S. KIRKCONNELL:** Madam Speaker, I beg to Second the Motion.

**MADAM SPEAKER:** The Motion has been Moved and Seconded, Re-establishment of Bluff Roads, and is now open for debate.

**MR. GILBERT A. McLEAN:** Madam Speaker, the Motion that has been brought before this House is motivated by various requests from people on Cayman Brac who see the need and realise that their lands are affected by not having, as in times past, the footpaths or access ways to their properties.

On the Island, prior to the road running centrally east/west on the Bluff, the only access to any parcels of land was along the sides of the Bluff in the area known as Bluff Roads on the north and south side. When the Cadastral Survey surveyed the Bluff and demarcated the various parcels, for some reason it seemed that the Cadastral Survey did not take notice of the fact that the very roads that they were taking on to reach the Bluff, were roads which should have been placed on the registry maps. In some instances the roads were put in and clearly shown on the maps and to some extent, in other instances, they were only

partially shown.

As far as I can determine and understand from the people there who know, there were a number that were left out. Even today where the Central Road has considerably assisted access to various parcels of land and, in fact, goes through some parcels of land, and while there are some other roads which run north/south, the majority of the parcels of land on the Bluff really still do not have access through those roads. If those parcels of land are to be reached, as is necessary quite often by the owners, they normally still use the Bluff Road. With the development of the Brac and particularly the Bluff, one can perceive that the value of land is going up. Although it might be shorter for a landowner to reach his parcel of land from the main central road, which runs through the centre of the Bluff, they may find that there is resistance from land owners over whose lands they would have to travel.

The solution, as has been stated to me (and I certainly see the logic of it), is that Government could respond in a way to assist all parties concerned. They have on the one hand, by putting the roads there, but they need to assist all persons who have properties there. If the Government were to simply have the Lands and Survey Department verify from the many people who can indeed point out these roads, have them surveyed to the extent necessary that they can be indicated on the map with the necessary *Gazette* notice.

The situation on Cayman Brac, with the roads to the Bluff, can definitely be helped and it will give, at least now, what has been long looked upon as an established right of way - again, the opportunity of accessing their lands.

As I see this Motion, it is not a controversial matter that is being asked for, nor is it something which should place the Government to any great expense, as far as I can tell, because there is now on Cayman Brac a resident surveyor. I daresay this work could be something scheduled over a period of a year, or longer if necessary, but once it was undertaken it would make a considerable amount of difference there, based on what I have said. I trust the House may support this particular request as set down in the Motion.

**MADAM SPEAKER:**  
Agriculture.

The Honourable Member for Communications Works and

**HON. LINFORD A. PIERSON:**

As the Mover of the Motion stated, the Resolve section of the Motion asks: "That Government, through the Survey Department, and/or any such other relevant Department as necessary, reestablish the old footpaths known as Bluff Roads; register them on the Registry maps; and, in accordance with the Roads Law, gazette these, and such easements from the public road to the foot of the Bluff Roads, as has existed, or as is required."

Madam Speaker, according to the Land Registry records, all public footpath Bluff Roads which existed at the time were recorded during the land adjudication process or the Cadastral Survey in the 1970s. The adjudicator worked closely with District Administration and the Registrar of Lands to ensure that all public accesses were preserved. On Grand Cayman, especially in the eastern districts, a network of public rights-of-way currently exist. These rights-of-way are primarily for interior lands and are largely six foot paths. When one reviews the registry maps of the Bluff in Cayman Brac, one will observe that such a network is virtually nonexistent.

It should be noted that the onus was on the land owners to claim an access, not the Crown. The Crown claimed and had the public footpaths registered. To name some of these Bluff Roads: 1. Charlottes Bluff Road in the Creek; 2. Peters Road in Spot Bay; 3. Anne Tatum Road in the Creek. The Bluff Roads claimed at Cadastral may have provided access to many properties at one time. But, according to the Land Registry, only parcels along the route of these footpaths actually enjoy this status. Government, subsequent to Cadastral, gazetted 30 foot roads, extended the length of the Bluff, along with agriculture roads. It should be noted that the three Bluff Roads which I have mentioned, actually link in to the public road on the north coast of Cayman Brac.

As there are hundreds of parcels on the Bluff without access, even to the main Bluff Road and originally in the original Bluff Roads, mentioned earlier, it would not only be cost prohibitive but impossible to provide them all with an access. Government is therefore prepared to consider any case that comes before us on its own merits. It should be noted that Government cannot reestablish rights-of-way that were not previously registered.

With the fore-going few remarks, Madam Speaker, and on that understanding, I am, on behalf of Government, able to support this Motion.

**MADAM SPEAKER:**

The First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:**

As the Seconder of this Motion, naturally I support Private Member's Motion No. 12/91, Reestablishment of Bluff Roads. I also concur with what the Second Elected Member for Cayman Brac has said in Moving the Motion. I listened carefully as the Member for Communication Works and Agriculture replied on behalf of Government, and I agree with some of what he has said. But I would like to point out that one of the problems that existed in Cayman Brac and Little Cayman, and I guess here in Grand Cayman, the majority of the public did not fully understand really what the Cadastral Survey was all about. Each individual owner was told to demarcate his parcel of land and they did that to the best of their ability. It was never explained to them that the rights-of-way that existed for generations were their responsibility to have demarcated.

Many roads, some of, and many more than, what the Member named out, were considered Government Bluff Roads and traditionally over the years District Administration, when

they were being used for agricultural purposes, maintained them by having men chop them out periodically to make them accessible.

The non-Government roads were not done. Nevertheless, they had been walked far in excess of the 20 years required by the Road Law. Had it been pointed out at the time that anyone having land on one of these should have had the right-of-way demarcated, it would have been done. As I said, it was your responsibility to take your own land out. In fact, some of the roads that Government had prepared for cattle to access the Bluff that were not demarcated, although they are on the lease to Government for 99 years, they were not demarcated for the simple reason nobody felt, since it was a Government road, that it was necessary.

So I fully appreciate the fact that to completely establish a network throughout the many hundreds of parcels, many of them very small and some fairly large tracts, would be a substantial expenditure. But there are many roads that need it.

Some of the main Bluff Roads, as the Member mentioned, and Charlotte Road - that was only demarcated about one-third of the way in from the north, it was never demarcated right to the south edge of the Bluff and down off of the Bluff - the job just was not completed and I would like to ask the Honourable Member that if we, as representatives, gave him a list, if somehow they would prioritise them, and do it at the convenience of the surveyor.

As the Mover mentioned, not to incur Government to a lot of expense but to get the access established because, as is well known today, it is impossible to transfer land without a right-of-way being established to it. It is becoming more difficult as some of these parcels go into foreign ownership to get these rights-of-way established. The earlier we can get it done and the most economical way it can be done would be appreciated by the people of Cayman Brac in particular.

Madam Speaker, I fully support the Motion and I ask the Member for his cooperation. Thank you.

**MADAM SPEAKER:**  
Mover of the Motion like to reply?

If no other Member wishes to continue the debate, would the

**MR. GILBERT A. McLEAN:**  
I am happy that the Member responsible for this subject has agreed that it will be acceptable with certain provisos. That is, that it is acceptable to Government to be done on an individual request basis.

As has been pointed out by my colleague, the First Elected Member for the Brac, many of the major roads have not been placed on the Land Registry, and these are roads which, I have been made to understand, have been in existence for over a 100 years. They are, if such roads can be so termed, main roads that lead up onto the Bluff. In some instances they only went part way, and it is also my understanding that few of them, that is, the main trails, ended half way across. They went north to south, and it was secondary trails, then from those main roads that people accessed each parcel.

It is a problem there and perhaps the suggestion offered by my colleague, the First Elected Member, might prove to be a solution if we could give a list to him of these main roads, and the Government would then prioritise those and work at them individually. If the main road is reestablished from north to south, it would then be left to the individual person, who might have a small parcel of land on either side of the road, to seek to have that also placed on the map through the process of having affidavits done or requests to Government. I am not quite sure how it would be done but I would ask that the Member look at that condition and perhaps he could advise the other Elected Member and myself as to how any property owner may proceed to make a request of Government to establish that particular road.

It is of concern and the fact is that I would say that two-thirds of the land is there and if those roads are not put in then the only way one could reach them would be by helicopter. There are no access ways shown, whatsoever, to a large, large amount of the parcels on the Bluff and that is the reason why this request is before the House today.

One cannot let the Government undertake more than it wishes to do, but this is a concern and if the Member would take into account a particular request and suggestion to him, then perhaps at least something can be done to assist the situation and take it point by point, after that.

Madam Speaker, I think the case has been made for this particular request and I look forward to the Government undertaking to help as much as it possibly can in rectifying what was obviously, I believe, a Government oversight. For if the populace was better informed they would have been in a better position to say that, "while I have gone on the Bluff, demarcated my parcel please, Mr. Surveyor, you had better put this trail on here because I am taking you here once but after this, I will have to access it by helicopter." So it is basically that type of condition we are dealing with and what we would like the Government to take account of.

Thank you, Madam Speaker.

**MADAM SPEAKER:** The question is that Private Member's Motion No. 12/91, Reestablishment of Bluff Roads, be passed by this House. I shall put the question. Those in favour please say aye, those against no. The ayes have it, the Motion is duly passed.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. PRIVATE MEMBER'S MOTION NO. 12/91 PASSED UNANIMOUSLY.****MADAM SPEAKER:**

Programme at Northward Prison.  
The Third Elected Member for West Bay.

The next item is Private Member's Motion No. 13/91 Pre-release

**PRIVATE MEMBER'S MOTION NO. 13/91  
PRE-RELEASE PROGRAMME AT NORTHWARD PRISON**

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

Madam Speaker, I beg to Move Private Member's Motion No. 13/91 entitled Pre-release Programme at Northward Prison and the Motion reads:

"WHEREAS the prison population at Northward Prison consists of many young Caymanians;

AND WHEREAS many prisoners are repeat offenders, caused mainly by their inability to secure jobs to support themselves when released;

AND WHEREAS it is essential for prisoners to be able to secure jobs upon being released to complete their adjustment back into society;

AND WHEREAS no such programme presently exists which assists prisoners in finding jobs upon release from prison;

BE IT NOW THEREFORE RESOLVED THAT the Government investigate the possibility of establishing a programme which will assist prisoners in securing jobs upon being released from Northward Prison."

**MR. W. McKEEVA BUSH:**

Madam Speaker, I am pleased to Second the Motion.

**MADAM SPEAKER:**

Private Member's Motion No. 13/91 "BE IT NOW THEREFORE RESOLVED THAT the Government investigate the possibility of establishing a programme which will assist prisoners in securing jobs upon being released from Northward Prison", is open for debate.

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

Madam Speaker, our Prison population at Northward Prison is on the increase. At the present time, according to my information, which was as of the 28th of June, 1991, the total population stood at 213 prisoners. And according to my information, the capacity of the Prison is approximately 165 prisoners which means that at the present time our prison is over populated. I understand that the situation is so bad that a lot of the prisoners, especially male prisoners, find it necessary now to sleep in the shower stalls at night and anywhere else that they can find a place to put a cot or a bed. What is so sad, is the fact that the majority of these prisoners are young Caymanians with lots of talent and potential. As a matter of fact, 89 per cent of the prison population consists of persons 40 years old and under.

I was able to gather some very informative statistics, Madam Speaker. Like I mentioned, for example, that there were 213 prisoners and a breakdown of these prisoners by age are as follows:

21 years of age	42 prisoners
30 years of age	85 prisoners
40 years of age	74 prisoners
50 years of age	5 prisoners
60 years of age	6 prisoners
70 years of age	1 prisoner
For a grand total of	213 prisoners

To break that down even further, that consisted of 196 male prisoners and 17 female prisoners.

21 years of age	2 prisoners
Under 30 years of age	8 prisoners
Under the age of 40 6 prisoners, and one was 41 plus	

For a total of 17 prisoners.

Of the total Prison population there were 137 Caymanians; 39 Jamaicans; 9 Americans; 6 Cubans; 9 Hondurians; 3 Colombians; 2 Dominicans; 2 British; 1 Guyanese; 1 Nicaraguan; 1 Canadian; 1 Peruvian; 1 Italian and 1 Barbadian. So out of 213, 137 are Caymanians. What was also alarming was the fact that 53.66 per cent of the convicted population at the Prison, are recidivists, or repeat offenders. Of this, the female population made up 3.66 per cent and male 50 per cent. So more than half of the Prison population at Northward Prison are repeat offenders.

It is my contention that some of the reasons for this are as follows: The lack of proper rehab treatment and counselling for drug abusers. We also learned that the majority of prisoners were convicted on drug related offenses. I also contend one reason why we have so many repeat offenders is the inability of prisoners to find jobs upon release. Many prisoners come out and face society with very low self esteem and embarrassment for their conviction. They need help or otherwise they will have no option but to return to crime.

I recall some years ago that the Prison Ministry group had a programme, similar to what I am calling for, that assisted prisoners in finding jobs upon being released and this was of tremendous value because the prisoners who were soon going to be released, knew that they had a job they could come out to, which would help them adjust back into society and learn their way and support themselves and their family. I feel that it is time for proper programmes to be established in the prison to educate and teach our prisoners proper skills.

I must commend the efforts of those who volunteer their time in teaching prisoners presently in academic classes. I think one Prison Officer has been basically responsible for this. This is commendable, but I think more has to be done in this area and it should not be left to anyone to take it upon themselves to provide such services on a voluntary basis to our Caymanian prisoners. I feel that educational programmes must be supported and expanded to improve the level of education of those prisoners who are deficient in this area. I feel that it is also necessary for proper additional workshops to be established in carpentry, plumbing, electrical and auto mechanics. I feel that this programme could be best and most effective if it is coordinated under a proper pre-release programme that is headed up by a coordinator whose responsibility it will be to attract the progress of prisoners during their term in Prison identifying their particular skills or weaknesses and through enrollment and the respective workshops or educational programmes eliminate their weaknesses or improve their skills in the respective areas.

It would also be the responsibility of that coordinator to be aware of prisoners who are about to be released (that is, Caymanian prisoners), and it should be his responsibility then to contact potential employers with the possibility of placing those prisoners in jobs upon being released from Prison. In order for such a programme to be effective and to work, the cooperation of the business community is essential because it is the business community who will be sought to basically provide jobs for our people who are being released from Prison. However, the community should be prepared to give our people a second chance. I feel as a community we should all realise that if we are able to help prisoners adjust back into society we all benefit as a result.

Many of our prisoners can be trained to fill many of the blue collar jobs we are now forced to fill with imported labour. I think this request is practical, I think it can work and I do ask the support of Government and the Honourable Members of this House in seeing to it that we put such a programme in place that will greatly assist our prisoners once they are released and adjusting back into our community.

**MADAM SPEAKER:**

The Honourable Third Official Member.

**HON. J. LEMUEL HURLSTON:**

Madam Speaker, I rise to speak on Private Member's Motion No. 13/91 entitled, Pre-Release Programme at Northward Prison. It is well known, as has been stated in the Motion, that the population of Northward Prison is statistically, and regrettably, getting younger. More and more young people in the Caymanian society appear to be going wrong. It has also been accurately stated that many of these young persons are repeat offenders.

It is true too, that in any small society there is going to be a natural amount of astigmatism associated with persons who have got criminal records and sentences of incarceration. And it is true, that for persons who suffer such sentences that to secure jobs, particularly jobs that the former inmate may first choose to apply for, is not always readily amenable to potential employers. It is true too, that there presently exists no formal programme to assist inmates and former inmates in securing jobs upon their release from Northward Prison, and this Resolution is inviting the Government to investigate the possibility of establishing such a formal programme.

As I understand it, the Mover of the Motion envisages something of a coordinator who would act as the facilitator in developing this programme to ensure that needs of inmates are met in so far as is possible and that inmates be given every opportunity. If that is the case, without the putting in place any formal programme, there are already in place a number of features that resemble such a facility. If I could describe those features the Mover of the Motion will appreciate that to a great extent much is already being done to address this issue.

He mentioned too the lack of formal drug re-habilitation and treatment facilities as part of the regime of the institution and the lack of appropriate on-going technical and vocational training. He also mentioned the work of the Prison Ministry and it is in relation to these three areas that I believe the semblance of assistance is already in the making.

First, the regime already includes modules of technical and vocational training as well as weekly drug counselling. During the First Sitting of the Legislature this year I circulated to Members a typical time-table of the amount of time that is dedicated to education and training. That time-table has been enhanced more recently and a greater percentage of time has now been devoted to drug counselling. On the question of technical and vocational education, I am happy to say that the Education Department has recently responded with renewed enthusiasm and is working vigorously with the Prison Authorities in the development of improved technical and vocational facilities for inmates. A number of useful ideas have been canvassed and a number of propositions relating to staffing and programme management is now under review.



The essence of the problem is that the roll-over of the population within the institution does not readily lend itself to effective long-term training programmes. The programmes have to be short-term, by nature, because of the short-term nature of the average sentence that is currently imposed. The matter is further compounded by the fact that, as the old saying goes, 'one rotten apple can often spoil the crate.' That, in these kinds of close knit programmes, there are many unfortunate accidents which tarnish the effectiveness of the programme.

The rate of success, however, is not discouraging. The general effectiveness warrants the attention that it is getting. The recent successes in the GED certificate examinations, for example, of persons who studied for those examinations whilst in prison were very encouraging. The work of the Prison Ministry must, as has been recognised by the Mover, be given appropriate credit because the Prison Ministry is the first organisation to have responded in any meaningful way to rendering assistance to inmates and their families. This programme started primarily because of the regular contact established between inmates and representatives of the Prison Ministry during their weekly visits to the prison. That is a contact and a useful one that must be encouraged and emulated.

There is, however, one underlying requirement that is going to determine the success or failure of any such programme, and that underlying requirement is the dedication and determination of the inmates involved in promoting their own success. No programme in and of itself, is going to generate success because the securing of jobs and the holding of those jobs is very much a matter that is in the hands of the individual job seeker. In that respect it is a little similar to the philosophy that goes into the drug counselling sessions where inmates are accepted in the counselling programmes on a voluntary basis only. Only those who voluntarily engage in the programme will stand a chance of benefiting from it.

The Government also has in existence and in operation a facility to assist Caymanian Nationals in seeking jobs. I speak of course of the Government's Labour Office. This office was established a few years ago to promote and implement the provision of the Labour Law and to assist Caymanians wherever possible in filling job vacancies. I spoke to the Director of Trade and Labour recently and he advised me that last week he had 46 Caymanians registered with him seeking employment whilst on the other hand he had only 20 vacancies registered by prospective employers. So one can readily see the competition in terms of the number of jobs that are registered vis-a-vis the number of persons registered seeking jobs.

Anyone who has any experience in employing people will appreciate when I say that it is a very volatile and delicate market at the best of times. When one is an employer, one is looking for persons with particular skills and with particular qualities and one is also looking for the best that is available in the market. There is, therefore, going to naturally be a certain amount of resistance in the market place in the job market situation relative to persons with criminal records.

The persons who find themselves seeking jobs in this situation have to therefore make a concerted effort to demonstrate, not only to themselves and to their immediate family, but to the society as a whole that they would like to be judged by their own rehabilitative efforts. One has to therefore be careful that we do not substitute a programme in place of those individual efforts. The position is that advice is a little bit like castor oil: It is easy enough to give but it is dreadful uneasy to take. It has also been said that experience is a school where a man learns what a big fool he has been. When those two things are taken together, experience and advice, one determines that the choices are not easy.

If I could just describe finally, one additional opportunity that exists at Northward presently, that the Mover of the Motion did not mention but which I think is relevant to the subject is what I will describe as the Pre-discharge Programme. This is a programme provided for under section 32 of the Prisons Law as Amended. This is a programme that is available only to Caymanians serving a sentence of three months or more and to Caymanians who are not considered high-security risks. It is also available to those inmates who have not committed any serious disciplinary offence whilst in prison.

This Pre-discharge Release Programme comes into play shortly before the inmate is discharged from the institution, and in fact, it operates within the last fortnight before the discharge and it is a programme where the Director of Prisons, upon receipt of an application by an inmate recommended by the Principal Officer responsible for programmes, may grant to an inmate, leave up to a maximum of five days, excluding weekends, for the purpose of returning home and beginning to prepare for re-entry into the community and into family life. It is at that time that perhaps there is some room for a bit more interfacing between the Prison Officer responsible for programmes and the Labour Office responsible for job placements.

In speaking to the Director of Labour recently, he had certainly expressed a willingness to work more closely with the Prison Authorities with a view to ensuring that advice and information relevant to this subject is made available to all inmates who are about to embark on these Pre-discharge Programmes.

Finally, there is the question of medical examinations of inmates which could be useful upon their release. This is another area which can be more closely examined with a view to determining if such medicals would be of assistance to inmates; whether or not the institution would have the capacity to grant such medicals to all inmates on their release. This too would facilitate their compliance with requirements in the job market.

Lastly, the entire regime and philosophy of incarceration is predicated on the need to discharge the inmate into this society in a better frame of mind than he was in upon his entry. The entire regime is predicated on standards of decency, respect and honesty. If the institution is able to release inmates with those qualities then the society has some assurance that the period of incarceration has not been totally worthless.

With the understanding that everything that can be done will be

done by the Government to ensure that wherever possible assistance is given to inmates this will be the goal of the Government. We find it impossible to agree to establish another formal programme which will require additional staff at a time when we are criticizing ourselves about the growth of the Civil Service and bearing in mind that assistance is already in a number of other sources and a variety of other means, the Government will not be able to vote positively for this Motion.

**MADAM SPEAKER:**

The First Elected Member for Bodden Town.

**MR. ROY BODDEN:**

In rising to speak on this Motion, I would like to pose a question which I think begs an answer, and that is, I wonder what is the purpose of Northward Prison? Is Northward Prison a mere holding institution where the inmates who go there, especially those who are still young and malleable, are mainly sent there to pass time? Or is one of the purposes a rehabilitative one, where the prisoners can be encouraged to ponder and reflect upon the consequence of their misdeeds and also can avail themselves of opportunities to develop skills which they perhaps were not in possession of prior to arriving there, and most importantly, to develop a sense of self worth and self-esteem?

I have to say that I believe from what I have been told here, from the statistics on the rate of recidivism, that the Government sees the function of Northward Prison as being wholly and solely a holding block where our people can be stigmatised and some of them ruined. In this day and age, that is absolutely not good enough. I am not a criminologist but I have enough common sense to know that in other civilised countries crimes are categorised according to the seriousness of those crimes and certainly there are some, which are labelled victimless crimes and the persons who have committed those crimes are encouraged to avail themselves of every opportunity to acquire new skills and to develop self-esteem so that when they have come back to the out-side, they do not have to resort to their old ways.

I will say, from the answers given to a question I raised earlier during this sitting, that the Government had better realise that whatever programmes they have in Northward, is a resounding failure because the rates of recidivism say it is. And that is not the making of the Backbenchers, that is the makings of the Government. I get a little irreverent when I hear about the well-meanings of the Motion but the Government cannot support it. They cannot spend money on this because the Civil Service is growing at too rapid a rate, but you know what?

I have said before, we have created a Frankenstein and we are going to have to live with that Frankenstein created. If the Government can in all good conscience rest with the realities of the situations, then I do not know what kind of Government we have. It is incumbent upon the seven of us on this side to always bring the realities of the situation to their attention and to the nations attention. While it is true that the efforts made are commendable, they are but tokenism because my memory reminds me that the little programme they have now established, where some of the prisoners get coaching to do the GED was mired in a morass. If it was not for the efforts of the Backbenchers bringing questions and prodding and embarrassing the Government that would have probably been abandoned.

We have to juxtapose our position now against what it will be if we continuously allow a population, which is growing younger as far as Prison statistics are concerned, to fester and smoulder at Northward, when young men and young women have come out stigmatised; when they say to themselves, 'it makes no sense for us to try because nobody is interested in us, nobody thinks we are worth anything.' We have to juxtapose that against what we, in here, are trying to build up and realise that the very society we are trying so hard to build up, will be torn down by people whom we have conveniently ignored.

Is it because we sit in our air-conditioned, ivory towers overlooking the waterfront; that we are far removed from the realities of the situation, that we do not have a grasp and the sense to see that the world goes beyond our offices and beyond our homes? Is it because those people there are no relatives of ours or no friends of ours? And because we do not meet them up on the circuits in which we move? In our cocktail circuits, in our banks, in our churches? So we are going to make these callous and insensitive feelings ruin the country.

This Motion is timely, and I would go so far as to say it is incumbent upon the Government, at whatever cost it will incur, to make this investigation. I would have hoped that a sensitive Government would have said, "not only will we investigate, but after we have investigated and it seems desirable and feasible to implement this programme, we will go the next step and encourage prospective employers to give some of these people a chance".

I submit that the people who are in Northward for committing what is termed 'victimless crimes' deserve a chance. I have said before that there should be some form of psychological assessment and counselling for these inmates so that they can understand themselves and the consequences of their actions so that they will not be repeated.

Are we measuring success on the number of convictions and the number of incarcerations? Or are we going to measure success on the reduced rates of recidivism and on the reduced rates of those people who commit new crimes? What is the purpose? Is it simply to build a concrete structure to let them loose in? Or, is it to prevent them? May I remind us of the old West Indian adage which Sparrow made popular in a Calypso, "an ounce of prevention is better than a pound of cure."

This is a needed programme. We need to expand beyond the point where we are now because that is but a rudimentary effort. We need to go to the point where there are resources available for counselling prior to them being released, where there are resources available to follow up their progress once they have been released, where these people themselves can come in and serve as role models and as examples to people who are in the prison.

Several weeks ago I was watching a programme; an experiment

conducted in the prison system in Boston Massachusetts. These people allowed felons to pursue university degree courses. There were ten examples given of former felons who had pursued degrees at the University of Massachusetts and at Boston University successfully, and had then rehabilitated themselves and fit into Massachusetts society to the point where they had returned to their prisons as lecturers and role models. Indeed some of them went as far after their release as to have pursued Masters and Doctorates.

I do not buy this about not being in a position to take chances. Are we Calvinists here, that we believe in the doctrine of pre-destination? That because someone commits a crime he is inevitably bound for Hell? Or are we pragmatic people who say that we are prepared to give chances? This society is ours. If we continue along the route we are going we are going to destroy that, which some of us are trying so hard to create. This is the least the Government can do and certainly the argument that the Government cannot spend any money on this because the Civil Service is already growing at an exponential rate is a spurious one and it does not hold water at all.

The Third Official Member remarked that the rate of success is not discouraging. Well if the rate of success is not discouraging, then I wonder what the rate of recidivism is? That is discouraging and I am arguing that the rate of recidivism is so great because we send people out with no tools, no skills, no self-esteem and no confidence in themselves, so that all they can do is resort to their old ways and what the Prison is doing is simply serving the purpose of a holding tank. You spew some out today and tomorrow they are spewed back in. It makes little sense to continue like that. We have to invest in programmes which are going to help these people acquire the skills that they need.

I am reliably informed that many of the young prisoners at Northward Prison are what we call in educational jargon, 'functionally illiterate.' That means they can do little or nothing besides read and write their name. Certainly I have been approached by a few, after their release, who have told me, "if we had the skills to hold down the jobs that are going, there is no way that we would wind up in Northward. But we can do nothing, because we are not equipped to do the kinds of jobs that we see advertised. So what happens? We get into trouble".

These people are victims of circumstance and what I am fearing is that while we have a high number now who are committed for what is termed 'victimless crime', they will graduate and if they believe that the society has written them off, what have they to lose? What have they to lose when they turn burglars and break and entry artists and assault artists? And we in our ivory towers stand up here pontificating about we can not spend a dollar because we are spending too much. Pontificating about our good intentions. The problem is that we have too many people from yonder telling us too many things. We have too many consultants, too many people viewing the situation through foreign eyes, who, when they are ready they put it in their little carpet bags and go back with it. I have always been a 'Jeremiah' when it came to these kinds of problems.

We can continue forming excuses. I and the people on this side are doing all that we can do, that is bringing it to the attention of the Government, but when the roles are reversed, as we expect they will be shortly, you will see programmes which are effective because we have the desire and we have the brain power to put them in place.

Enough said, Madam Speaker.

**MADAM SPEAKER:**

The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:**

Madam Speaker, I stand in amazement when I hear the kind of excuses that Government can spew forth, when it does not want to do something. How many times have we come here, summoned on a day's notice, to Finance Committee to supplement expenditure in the Budget through over-spending, by these same very people who come here in this House and bring messages from, where I do not know, telling us that we cannot help the people incarcerated in Northward Prison because the Civil Service is already too large?

Have they tried to cut down on their expenditures? Just recently, Executive Council brought a Motion here to fix up themselves with their pension, but they talk about they cannot activate what this Motion is seeking to do. I am sick and tired, I tell you, of this peacocking of this Government. Where they strut about and do as they please without due regard to the sufferers in this country. I am tired of seeing \$600,000 put up in this country to take out teeth, but we cannot look at this kind of programme.

I am sick and tired of hearing of conferences which are not benefiting the people of this country. We get nothing from them except some Members being glorified in the press; banner headlines. But they cannot do what we are asking. Is it any wonder then that more and more young people are going the wrong way? They have to go the wrong way because the Government is not willing to provide the necessary programmes where it can reach them and be effective. They must go wrong.

The Member himself says that in these Cayman Islands more and more young people seem to be going wrong. If that had come from across the way, you might have thought, as sometimes is done, you might have heard, you are playing politics. But the Member answering for Government had no reason to say that, except that it is a fact, it is the truth, it is the bare truth and I do not blame him for not accepting this. I am going to blame the four Members of Executive Council. The Elected Members who are the majority responsible for policy in this country. We are not asking the impossible. We are asking them to investigate the possibility. They themselves acknowledge that what they are doing is not good enough.

Do you mean to tell me in the face of these realities that the Government can stand here and say we cannot accept this?

**MOMENT OF INTERRUPTION - 4:30 P.M.**

## Standing Order 10(2)

**MADAM SPEAKER:**

Honourable Member, it is now 4:30. Moment of interruption.

**ADJOURNMENT**

**HON. THOMAS C. JEFFERSON:**

Madam Speaker, I believe we are on the eve of the 13th sitting of this Honourable House today and I wondered whether in an effort to ensure that we complete the business tomorrow by 1 o'clock, whether Members would agree to begin a little earlier tomorrow, like 9:30 rather than 10 o'clock?

It appears, Madam Speaker, that we have silent agreement. That being so, I move the adjournment of this Honourable House until 9:30 tomorrow morning.

**MADAM SPEAKER:**

The question is that this Honourable House do now adjourn until 9:30 tomorrow morning. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it. The House is accordingly adjourned until tomorrow morning at 9:30.

**AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 9:30 A.M., TUESDAY, 9TH JULY, 1991.**

**TUESDAY,  
9TH JULY, 1991  
9:32 A.M.**

**THE SPEAKER:**

Prayers, by the Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:**

Let us Pray.

Almighty God, from whom all wisdom and power are derived:

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

Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, 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 Speaker of the Legislative Assembly, 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.

Let us say the Lord's prayer together: Our Father who art in

Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done in earth as it is in Heaven; Give us this day our daily bread, and forgive us our trespasses, as we forgive them 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.

**MADAM SPEAKER:**

Please be seated. Proceedings are resumed.

Other Business, Private Members' Motions No. 13/91

Pre-release Programme at Northward Prison. The First Elected Member for West Bay continuing the debate.

## **OTHER BUSINESS**

### **PRIVATE MEMBERS' MOTIONS**

#### **PRIVATE MEMBER'S MOTION NO. 13/91**

#### **PRE-RELEASE PROGRAMME AT NORTHWARD PRISON**

(Continuation of debate thereon)

**MR. W. McKEEVA BUSH:**

Madam Speaker, yesterday afternoon before the adjournment I was trying to reach the heart of this Government which seems to want to do so much, but still does nothing when it comes to social programmes that really affect the lives of our people. The Honourable Third Official Member said yesterday that this programme we requested has not yet been provided for. He admitted this to the House. They have no such programme he said. He said that they have a provision in the Law where somebody can be released two weeks before their appointed time.

I know that there is this provision in the Law where two weeks before the prisoners are released they are allowed out, but what is not provided for is a means or the assistance for them to become productive citizens again. I do not know whether this provision is being carried out to any extent or whether it is even effective. I doubt it, Madam Speaker, seeing that so many prisoners are repeat offenders and end up back in Northward.

How many persons, sent to Northward for 16 months because of being caught two times through the Urine Test, have been released to take part in any meaningful employment? How many times have repeat burglars, trying to get money to support their habit been released under this provision with a job, with guidance of any kind? Madam Speaker, none! What is Government doing about it? I am sorry to say, but they display a 'don't care' attitude. They are doing enough to be able to say they are doing something, but when we look at the effects and the results, it all boils down to one thing - They are doing nothing!

I would like to take the steps recommended here by the Third Member for West Bay, the Mover of this Resolution, one step further. We know why we have so many people in prison; we know that they are in the working age; we know that they are very young and we know that the prison is very much over-crowded at least by 48 to 50 people. People sleeping in the bathrooms, people sleeping on the floors and they are not all drug people, by the way. There are mental cases as well.

There is nothing wrong with a programme where eligible prisoners are released to work on a daily basis during the last three months of their sentence. Payment for work in this scheme could be dependent on the current rates of the normal labour market. The wages earned would become the property of the individual prisoner and would be required to be kept in security until his release. A number of factors would be considered before a prisoner would be selected for the Pre-Release Scheme including

the prisoners tendency towards violent or deviant behaviour. Certainly we are not suggesting a prisoner who is there for serious crimes like murder or a prisoner who would pose a security threat of some kind. But this suggestion of mine could be a means of bringing those who have been incarcerated into the mainstream of life again.

The act of bringing them out to work before they are released, Madam Speaker, I believe has several positive aspects to it. It will help them to develop a positive work attitude and this is one of the reasons they are in Northward. Nobody cares about them, to an extent. There is nothing to force them into any kind of rehab centre so they come out of prison and they go back in. They do not get work, but this Release Scheme would help them to develop a positive work attitude as they will be dropped off to work at a given time and picked up at a given time.

The Government could take it one step further, if they wanted to do something. Perhaps this could be a condition of release where non-performance on the job might affect their release and this I believe would also do several things. It might help their attitude towards work and there could be no greater positive effect than that one. So why not take the two weeks instead of releasing them altogether, where they are free as a bird and do the same thing again, look at a scheme where they can be working, as I said, for three months.

This Government likes to copy from other countries. If they go to Bermuda, Bermuda has a similar scheme, so I cannot see what is so tedious or what is so expensive about this. We already have a large prison staff, an experienced Director of the Prison, we already have a Government Labour Office and all of these could work together; find a job and the most that would cause an expense would be the transfer of the prisoner to a job and pick them up again. But it cannot be all that expensive with all these Departments of Government and so much staff in those Departments.

Madam Speaker, they are always talking about innovative ways to do things. Why not try it? Why do they just get up and say they cannot accept it?

Yesterday, we had a lesson here or what they thought was a lesson on constructive criticism, but how many times have Members on this side of the House offered suggestions and every time you offer a suggestion, the excuse is we do not have the money. We cannot do this, they are not making any promise to do this, they are not making any promise to do that. They will accept it but they do not know what they are going to do about it.

This is so disheartening to a private Member or a Member like myself, Madam Speaker, because I know during my time in Government that Government has the means. They have the means and it is just that they cannot see fit to do these things. You would have thought that they would have grabbed up the suggestion and run with it. And I am not blaming the Administrative Secretary, he only comes to the House to deliver a message.

The other day we asked them to get proper patrol for interdiction and again the cry was, they do not have any money. But I see a request to buy a \$25,000 boat! Madam Speaker, they are not going to get my support on it. I will not support it! I am not going to support any request for any scheme for pleasure purposes for the Governor and his cohorts to go out on the sand bar and drink beer all day long and cruise outside the reef catching little barracudas! It is time that the people's money be spent on the people of this country in ways and means that help them bring those downtrodden ones who are living in decadence, back into the mainstream of life! Stop spending it on cocktail parties and glamorous conferences!

It is time, Madam Speaker, that the people responsible for drug interdiction in this country, do something about it! And they are not! Maybe it is because some of them do not have any children that can get involved with drugs! They do not have a 14 year old son that they have to worry about! They do not have an eleven-year old daughter that they have to worry about!

No, Madam Speaker, they dress up in their nice suits and their nice canes and walk down the street like Master Willy with their head stuck in the air, but one day they will trip, and their nice suits will burst and their canes will break.

Madam Speaker, we have supposedly all kinds of people doing something these days, but drugs are still the most or the worst enemy of the young population of this country. It is still being used more than ever and I am here today to say, that in spite of all the hoopla, in spite of all the conferences (which never become effective) the drug problem has increased because the drug policy is not working in this country.

I want to ask the Council Members today how many times has the Drug Council met in recent times? The Drug Advisory Council that is. Is it not the policy of that Committee to monitor the extent of drug abuse and to assess the effectiveness of existing services and to foster their effectiveness? Is it not? What are they doing about drugs? They are not even meeting.

I am not blaming the Members, I am blaming Executive Council who is responsible for policy. They ask me if I am doing anything? They have the gall to ask me if I am doing anything? They ask me if I am criticising constructively?

Madam Speaker, how many times have I brought programmes, workable programmes, to this House and been derided for it? I could cry sometimes. How many times have we pointed out the need for action where it can strike at the heart of the drug problem in the districts and been derided for it? How many times have I been scorned for suggesting these things? Numberless! Not only in the House; but they take it on their political platforms and they get out there and they cry us down for every suggestion we make. But we on this side of the House can only be asking, we can only ask because we have not the wherewithal otherwise. When we were in control of Finance Committee we could do the job but they have castrated us in those matters. And they come begging a boat! For \$25,000 I am not going to give them \$10.

**MADAM SPEAKER:** Honourable Member, the matter of the request for \$25,000 for a boat is not under consideration, it is not part of the Motion.

**MR. W. McKEEVA BUSH:** Madam Speaker, they ask me what I am doing and I tell them what they are doing. I said to them, give me the chance and I will do the job. When we look at the agencies responsible for curbing misuse of drugs, they are not funded properly. Bob Jones is an over-worked person, therefore, the Centre will not function properly. It cannot function properly because it is under-staffed, under-funded and without direction.

Yes, Madam Speaker, there are several good people, several good groups, sincere groups trying to do something but without proper funds and being misdirected, how much can they accomplish? Do not talk about people to get involved. Madam Speaker, there was a good move on several years ago to get people involved but it has become a glamorous entity, and I tell you what I hear; people are disgusted and shy away.

The whole drug policy is not working for several reasons but the main reason being misdirection. The second reason is misconception of the drug situation and the third reason is their failure to change those things that are not working. Changes need to take place now, not next year - election year.

I promise this country, changes will come next year, God willing. I know that if the people of this country will give me the chance and I promise this House first of all, the country first of all, that there will be a House cleaning. There will be a House cleaning; run out the carpetbaggers, run out the glamour seekers and effect proper drug interdiction by having proper patrols on land and most importantly - by sea. And I will change the national structure and put in place a proper council to devise at our national level an overall framework of drug prevention policy and to recognise that, that body would be ineffective in the absence of a more localised structure for the development of prevention practice and the coordination of relevant services.

It is needed, I cannot do it now but I know that the people are going to give me the chance to do it and there is going to be a House cleaning, believe you me. Then after that get down to business to effect change in the districts where the young girls get hooked on drugs and strut around the bar room or under some tree producing more cocaine babies for Government to spend more money on.

They cannot fund these kinds of programmes, but they are going to have to give money to fund those kind. They cannot prevent, they can only put on band-aid effects. It is no wonder that we are failing because there is misdirection, misconception and a failure to change those things that are not working.

**MADAM SPEAKER:** The First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:** Madam Speaker, I rise to make my contribution on Private Member's Motion No. 13/91 entitled Pre-release Programme at Northward Prison. The problem of inmates at Northward Prison has always given me great concern. The concern of prisoners has been mine long before Northward Prison was a reality. Having visited our prisoners in Jamaica, when as a sea Captain I traded with Jamaica. Occasionally I took the opportunity to visit Caymanian inmates incarcerated there also at Bellevue, the mental institution there. I have great concern for people who are incarcerated, some because it is their own fault, some the victim of circumstances.

I have no intention of addressing this Motion with any political slant, whatsoever. I intend to speak strictly on what I see and what I feel. Visiting Northward Prison, I see a crowded situation, a situation where young men, maybe after the gate is shut behind them and they are deprived of their freedoms, realise they have done wrong and may not repeat. But shortly after they are there, and the very close contacts they have with many more hardened criminals (if I can use that word), than they themselves, they become less interested in what the norm is. They tend to follow their peers.

Some, and most of them, are incarcerated for rather short periods; six months, a year or so. When the time for their release back into society, being a very small society, everybody knows where John Brown has been for the last six months and they tend to have a stigma attached to them. Some employers do not want to employ them because their customers might be offended by having someone who has been incarcerated in their employment. This, Madam Speaker, tends to destroy the very purpose for which Northward Prison was built: to take people out of society when they are doing a harm to society hopefully to rehabilitate them that when they have paid their debt to society (as handed down by the learned Judge) they return, they are not accepted by society. Cayman is an expensive place to live, if they do not have a weekly check to cover their expenses, very shortly they are in problems again; soon before maybe that very same Judge and back to Northward they go. This continues.

I fully realise that our Government is spending a lot of money to keep these men and women at Northward. I do not believe that a concerted effort was made to establish a programme and I would suggest that all Elected Members of this Legislative Assembly who represent distinct constituencies, be a part of this programme. All of us know who is in prison from our districts and we know when they return. Most of them get in contact with us, at least that is the way in the small constituency which I represent. Unfortunately, we are not able to do very much as it stays now unless you are able to employ them yourself. But I think if a programme endorsed by the Government was established, maybe with the cooperation of the Prison Ministry, the service clubs and all concerned Caymanians who are interested, we could certainly turn around.

The problem which we face today is an over-crowded situation at Northward. That is a situation that we need to correct. I do not agree that the way to correct it is to double its capacity because society will be much worse off if we have double the number of people who need to be

incarcerated. I think the way to solve this problem is through rehabilitation and helping them to find jobs when they are out.

I feel it is not enough to just say, all right, come to work on Monday. Maybe they come Monday, Tuesday, Wednesday and they do not come back and you say, well that is all right. It is their life, I am not worried. I do not think that is going to ever solve our problem. I think it has to be an organised plan where they have to report at least once a week and that if they need help, you can give them help; because they were in trouble, their mind is muddled, they are mixed up.

Fortunately, when I was a young man there was not the problem of the great drug addiction that it is today, and once there is a desire for drugs the means of securing money to purchase drugs is not a big obstacle to them. Whatever is necessary to secure the money to purchase what they need, they are going to do.

I feel, Madam Speaker, we need to look very seriously, and as I said before, I think it is a responsibility of all of us as Elected Members of this Honourable House to urge our Government to help us to organise and establish a programme whereby we can help the people of the Cayman Islands as a whole, and each representative his own district in particular. We must realise that the percentage of young men and women that are at Northward is a large percentage in a population as small as the Cayman Islands. I was once told that the female population percentage of our prison, based on our population, is one of the largest in the world and that is alarming, Madam Speaker. Therefore, I would urge all of us here today to accept this as a job for each and every one of us. This is not the responsibility of the Administrative Secretary or the Government bench, nor the Backbench, or wherever I stand; it is a problem that the whole Cayman Islands face. It is getting worse, it cannot cure itself, we have a problem and we must endeavour to do something about it.

In my district, which is separated by water, the situation is even compounded. When a person who has been incarcerated for involvement with drugs is released from prison, they are often required to visit the Drug Counsellor here in Grand Cayman on a regular basis. When this is done the former inmate is unemployed. Cayman Airways requires \$78.95 for a round-trip ticket from Cayman Brac/Grand Cayman and return. The person who does not have a job, having been incarcerated six months or a year prior to that without being able to earn, finds himself in a very, very serious position. They need help, but if they cannot afford to pay their air-passage, they cannot afford to pay accommodations here in Grand Cayman - what are they to do? This is a problem that is of great concern to me, as I think it is to all of us.

In conclusion I would like to thank the Member, the Mover of this Motion, for bringing this to the attention of the House. I think it is healthy that we have had an opportunity to debate this issue and I am asking that united we attempt to solve it.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The Honourable Member for Education.

**HON. BENSON O. EBANKS:**

Madam Speaker, I am sure that we all appreciate that this is a very emotional subject. I had no intention of speaking on this Motion but having listened to all that has been said, I thought that I should remind the House of what the Honourable Third Official Member mentioned that was in place.

There is one service in place that I consider works exceptionally well, which I believe the Honourable Third Official Member neglected to mention. That is the provision whereby prisoners are released on what is known as a Licence. That is, Madam Speaker, where prisoners with relatively long incarceration sentences are released often as much as six months before they would normally be entitled to be released on what is known as a Licence. This is done on the advice of the Parole Commissioners and I have personal knowledge of at least half a dozen young men from my district who were released in this fashion and who have walked the straight and narrow ever since.

Under this arrangement, when they are released they must go to a job, they must attend church regularly, they must attend counselling sessions, depending on what their offense was, and this is recorded. A record is kept of this, for example, when they appear at church some person in a responsible position, be it the Parson or Preacher, Minister, whomever, must sign it and as I said, that is a system that has worked well. It eases the person back into society and it integrates them back into society in ways that benefit them. I have not known of either such release that has not worked well.

Madam Speaker, I wish the Member would keep his mouth shut. When he was spewing off, nobody interrupted him.

**MR. W. McKEEVA BUSH:**

Madam Speaker, on a Point of Order. I was asking the Member if he could say to the House, how recent these people have been and how many?

**MADAM SPEAKER:**

Member has not given way.

Two Members should not be on the floor at the same time. The

**HON. BENSON O. EBANKS:**

Madam Speaker, I am assured that that system is still in effect but it has to work with the individual. The person, Madam Speaker. Jail of itself, does not remake a person. Nor does it cause him to go bad. The end ambition or ideal of incarceration in a prison is to reform people but the individual himself has to help with that exercise. These are systems that are there to help those people who want to help themselves.

That, Madam Speaker, goes as much also for this business of employment. I do not believe that any well thinking employer, in this country, will deliberately not re-employ someone who made a slip. I have seen references, and shall I say, asking for leniency by employers that brought



tears to my eyes. Some of those were not on the first instance, it was on the second and third. So, I do not believe that we should get so carried away with the emotions of this exercise as to try to convey that all employers are so hard-hearted that when an employee emerges from prison they do not offer them re-employment.

Now, in certain categories of employment, Madam Speaker, it might be that that employee does not get re-employed in the same capacity that they left. I do not believe that in all instances, with the best intentions in the world, that could be expected. If somebody had been entrusted with cash and other valuables and made off with it, I do not believe that society or anybody demands that that person be put immediately back into that same responsible position, when he emerges from incarceration. He must accept that he will have to prove himself all over again if he is reformed.

As I was saying, when I was trying to develop the explanation of the release on Licence System, this works with prisoners who have been in for a considerable length of time. The release on Licence does not apply to prisoners whose sentence is less than one year. It is my belief that this is why some people think it has gone into disuse. But whenever the person has a lengthy sentence, and the person shows that he is repentant and that he has made a change, this system is still available to him which includes putting him into a job.

I have difficulty reconciling the rhetoric that I have heard in here over the past two days and also what we heard a few days ago while debating the Capital Punishment Abolition. In that instance it was an eye for an eye. In this instance it seems to me that because the situation might call for different rhetoric, that if you listen to some people they will treat people, who are incarcerated better than those that are outside. I believe there is some need for consistency in people's attitudes and opinions. I am one who will go to any length to help people who flounder, but those people must be willing to accept help and they themselves must be willing to attempt to help themselves. When people are not prepared to help themselves, no amount of help from somebody else is going to cure their problems.

I thought that it was important that it be put on record the service that is offered, in addition to what the Third Official Member said because to listen to some of the rhetoric, one would believe that Government does not try to do anything to reform or help people who get into trouble.

This Government, Madam Speaker, admittedly has been putting a lot of effort on trying to prevent people from going to prison in the first instance. This is where the emphasis has been and I believe that that is the best place to put it. If it takes some time to succeed, Madam Speaker, so be it; but as long as the programmes are in place, I believe that that is much as any human being can do.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

The Second Elected Member for Bodden Town.

**MR. G. HAIG BODDEN:**

Madam Speaker, I support the Motion which is before the House simply because all the recitals in the Motion are true and correct. The Motion says that "the prison population at Northward Prison consists of many young Caymanians". Without going into the statistics, which I believe have been given here over the last week, on different occasions, we know this statement is a true one. The average age of our large prison population is now 28. Mostly young men in the prime of youth, young men with many years ahead of them. The majority of these young people are Caymanians.

Again, without going into the details of the statistics which I gave yesterday, I believe, and another day last week, we know that the prison population is now four times what it was 10 years ago. Although the total population, according to the census, has increased over that period by having a greater number of non-Caymanians coming to the Island, the sad fact is a higher proportion of Caymanians are filling the prison cells.

The Government's own statistics show that while the prison population as a whole has increased four times in the last 10 years; it shows on a break-down, that the non-Caymanian prison population has increased three times, while the Caymanian prison population has increased five times. So the fact is that more young Caymanians, as the Motion says, are filling the prison cells.

The Member for Cayman Brac, who spoke this morning, mentioned that we have, for these Islands, a very high proportion of female prisoners. The Government's statistics, from which I quoted yesterday, also show that the female prison population, is now nine times what it was 10 years ago. These are statistics that Government ought to examine because what is the use of having an expensive Department of Statistics and having computers that can keep records, if these statistics serve no purpose. The second recital in the Motion is also true. It reads, "many prisoners are repeat offenders, caused mainly by their inability to secure jobs to support themselves when released;".

Many prisoners are repeat offenders. The Third Official Member of Government gave, in answer to a question during last week, the figures on the repeat offenders. These figures were startling, indeed. In fact, I think they shocked the nation. To quote from his answer:

"In the categories cited by the Honourable Member, the following number of persons have offended more than once:

(a)	Drug Offences:	Adults	389
		Juveniles	Nil
(b)	Burglary Offences:	Adults	76
		Juveniles	3

(c)	Assault Offences:	Adults Juveniles	247 1
(d)	Disorderly Conduct:	Adults Juveniles	224 Nil
(e)	637 persons convicted of driving whilst intoxicated of which 116 (18.2%) are 'repeat offenders'.		

We are looking at nearly 1,000 cases of repeat offences. So when the Motion says "many prisoners are repeat offenders," that is a true statement and the Motion offers as one of the reasons that the inability to secure jobs to support themselves when released and the purpose for this Motion is an attempt to rectify the situation.

The third recital in the Motion reads "no such programme (that is the type of programme sought to be instituted by this Motion) presently exists which assists prisoners in finding jobs upon release from prison;". I think this was confirmed by the Third Official Member of Government who I consider to be very honest in his opinions.

The Member for Education attempted to let us believe that there are certain programmes, and he identified one particular programme, which he believes will take the place of this Motion. He had an opportunity to clarify his ambiguous statement but he, in his usual fashion, declined to use that opportunity and preferred to offer his rudeness, if I can use that term in a light manner, to the Member who sought the clarification. Anyway, he did not, but the Member for Education spoke on a system of releasing of prisoners on Licence.

I believe this came into effect a long, long time ago when the Prison Law was amended or when a new Prison Law was put in. The Member did not tell us when the last action was taken under this programme. Perhaps it is because it is so long ago that even his brilliant mind is foggy on the details.

He also did not offer any help to the Members on the category of offences that were considered for release on this Licence. He tried to brush this whole thing aside by letting us believe that prisons do not remake a person. But prisons do not make the person in the first place; they do not make the criminal. My literature tells me 'stone walls do not a prison make, nor iron bars a cage'. But prisons have been used from time immemorial and the Member (that is the Member for Education) in his debate seems to agonise over the fact that we treat our prisoners like human beings.

He spoke about how we must be consistent; and I would like to say here and now, that I am not for making restrooms of prisons but we must humanise them. We cannot continue to warehouse kids because that is all we are doing. We have a magistrate whom I call, 'Fill-'er-up Joe', and keeps the prison full. Northward is bulging. The Government enjoys the lucrative fees that are collected from crimes and seems to enjoy the incarceration which follows when the exorbitant fees cannot be paid. But we have reached the stage in our development when we must stop warehousing kids and the philosophy that we have lost a whole generation, must be taken out. I believe this will only be done when we change the guards in Executive Council, because I remember there was a time when the Member for Education was in charge of Social Services and in charge of the prisons.

Under the present set-up (I believe some other Member is now in charge of prisons) I had hoped that a new day would have dawned for us, but it seems that that Member still, by remote control, carries on the same policies. All that has happened is that the Member for Education has moved to Jack's house and Jack has moved to his house. I started out by saying that I support this Motion because the three recitals in it are true and I think I have tried to show why I believe those three recitals are true.

The Resolution is: "BE IT NOW THEREFORE RESOLVED THAT the Government investigate the possibility of establishing a programme which will assist prisoners in securing jobs upon being released from Northward Prison.". That Resolution cannot go into play when the prisoner is released. To be effective that Resolution would have to start working on the day that the prisoner enters the prison.

I have visited the prison on more than one occasion and it is a fact that little or no training is provided for prisoners and I believe we have come to a stage now, when we must seriously look at putting more money into these services, even if we have to take it from the Jennett L, or the consultants, or wherever it has to be taken from, because I understand we have a limited pie, so that every prisoner is given one or two days per week where he is prepared for the day when his sentence will finish. This preparation for some will include a basic education, where he learns to read and write because there are people up there that cannot read and write; where they will learn skills that will fit them for jobs, even if it means taking one of them one day per week and sending them with four or five of those policeman that do nothing and let him work with a good mechanic.

I cannot believe that those young people that are in Northward are happy about the situation. Perhaps a small percentage do not care, but I believe upwards of 90 per cent of them, if we could enter into their minds and hearts we would find that if they could acquire the skills that could provide for them a good livelihood when they come out; give them back their ambition and their dignity; give them back their self-worth, we would be doing something.

I am afraid that task will not be accomplished with the present Executive Council who believes that providing land to build roads to rectify the mistakes of the Planning Department are far more important than providing a pre-release programme for prisoners.

Finally, Madam Speaker, I would like to close by congratulating the First Elected Member for Cayman Brac, who spoke in favour of this Motion. I have studied the statistics on the

prison system and Cayman Brac seems to have fared quite well, although there are isolated cases and I am glad that he has joined with us in supporting this Motion and I trust that, as he always votes his conscience, he will put his vote where his conscience is, when the vote is taken.

Thank you.

**MADAM SPEAKER:**  
Cayman.

The Second Elected Member for Cayman Brac and Little

**MR. GILBERT A. McLEAN:**

Thank you, Madam Speaker. I rise to support the Motion which is before this House and to join with the Members from this side who have so eloquently spoken to this Motion, this very important Motion that is before the House today.

We need only reflect to the findings of the Judge, who was brought to the Cayman Islands from England, after there was a jail break a few years ago, when the whole Island was in fear and trembling about what those escaped prisoners would do. This man, we were told, had wide experience with prisons. In fact, he was the man in charge - the director or whatever the post is in England, where prisons are concerned. One of the startling things that he found was that the Cayman Islands has more people in prison per capita than all of the industrialised nations of the world.

Madam Speaker, that is hardly a flattering situation for these three small Islands of an indigenous population of about 15,000, with about another 15,000 of non-indigenous people. That situation has not changed except to get worse and that is something to be frightened about. The majority of people there are very young people - men and women. The majority of persons are there because they have been incarcerated for drug usage (most of it, I think, is drug usage). Not that much of peddling it and so on, because there seems to be less and less people convicted as pushers and peddlers and importers of the drug. When one looks at the situation as far as sentencing goes, it seems sometimes that relative to the persons convicted for importation, the little guy, the time he gets for usage almost seems to equate to it.

I had an experience just before the Government changed the system, whereby, we sent prisoners to Jamaica where they had to spend terms, I think, over 12 months. I was in the company of a lady parole officer in the prison system in Jamaica - a very fine outstanding and knowledgeable lady who had been working there for many years. In fact, I am aware that she talked to certain officials at the time that we were bringing our prisoners back, expressing an interest in working here in our prison system. She took me to one of the prisons (if I remember correctly it was Tamarind Farm) one they term an "open prison" and she explained things about the prison as we went along. That day there were six young people in prison.

One face that stands out was a little 18-year old, freckled-face boy - a first time offender, who was there for smoking ganja which was the big thing in those days. The officer said to me, that she understood that a stick of ganja cost \$2 in Cayman and would I please inform the authorities that were sending these little children to prison in Jamaica, that larger amounts, as she understood, could be purchased for less than \$1 in the prison.

I remember that visit for more reasons than one, Madam Speaker. I had a carton of Winston cigarettes I had taken there. She took it and said she would, on a different visit give out one, two or three cigarettes, as the case may be, as it was against the rules for anyone to have a carton of them. As I was leaving I had the opportunity, briefly, to speak to them while some other non-Caymanian prisoners stared on with venomous looks. I remember it so vividly. I asked them what they needed in here and, Madam Speaker, they asked for a most peculiar thing - hand lotion. Why? Because inside of that prison there were lots of dust and wind that caused their skin to become so dry, it was cracking. I have had that experience.

Now, back to the Cayman situation: I still see those young kids in prison for that \$2 stick of ganja (or whatever the cost of it is now). Why? Because the law says that, 'thou shalt not consume'. One of the terrible offences is that a young kid uses it, and there were people in this Legislative Assembly that have passed Laws which go to the extreme to convict them. They are taken to the station and told to urinate: As if to say I cannot externally have any proof to convict you, but I am going to let you give me the proof, so I can convict you. Why, Madam Speaker? To show what a good conviction record the police is getting? To show means to justify the large numbers of police here versus the population? I really wonder!

Lots of young people are in Northward Prison and it is ridiculous that they are there for some of the frivolous things because they have been found using dope. It has been proven that prison does not solve that problem. It has to be solved psychologically through education and through offering alternatives. It is in the head; their heads want to feel different, therefore they use it. I am not standing here saying that those people found with so many hundreds or thousands of pounds of it, importing it into this country that only gets eight years should not get 80. By all means, but they do not get it. That is where I see a problem with what is happening here. With the sentencing, for example, Madam Speaker, which came about during the debate on another Motion here. The whole system, I believe is out of touch with reality. This Motion is asking for no more and no less than inviting the Government to get real, to get in touch with reality of what is happening here and what it is helping to happen here.

If the numbers of people in this prison identified by an outside authority does not worry the Government and the do-gooders in this country, then perhaps there is no doubt as to why this thing keeps escalating. Repeat offenders, it is known even the simplest among us understand that particularly in the use of hard drugs and the one most familiar to us now is cocaine; that persons who use this become addicted to it, it becomes habitual and they use it over and over and over again. Unless the Government is prepared for those to put them into prison and keep them there forever, then that is the only way they can stop that.

Somewhere along the line, Madam Speaker, it seems necessary for the Government to become aware, that there is a difference between using dope, which injures the individual,

they are killing themselves and those who possess it intending to sell it and those who import it into this country. There is a tremendous difference, that it appears the Government is unable to see. Because of that, there are large numbers of people in Northward prison.

We have stretched the Law to being concerned with, which might mean, it seems, that Joe Blow is walking down the street and he walks past where dope is known to be sold, he gets arrested for being concerned with, and then our Judges give them the full weight of the Law to teach them that they must not be concerned with - use of drugs, adding to the prison population.

Madam Speaker, if one looks around at the situation carefully, there are but few of the people who are in jobs where they work everyday that they get into problems. Working people do not seem to fall within the category of those who get in trouble because their time is occupied. It goes without saying there has to be a mind set where they have a responsibility to themselves, their families, and that they want to work and be productive, be useful, and earn money for themselves. I suggest there is less, much, much less of those who find themselves in prison. It is those who have a job this week or for two or three weeks on a construction site and after that there is no job. I have always heard that the Devil finds work for idle hands. So they are the ones that are finding themselves in prison.

One of the recitals in this Motion speaks about the need caused mainly by the inability of persons who cannot find jobs - the repeat offenders, and I believe that. All the statistics prove it. Also, we do not find a lot of persons with higher education in our prison. Among the white collar crimes are what our people have been able to learn from non-Caymanians and have put into practice. So our better educated, few of them are in prison either because they have had the opportunity of viewing life from a higher understanding - a more developed mind. We are talking about those that did not have that good an opportunity and the need for creating some sort of situation whereby that particular condition can be changed.

One unfortunate situation in these Islands is that once you have gone to prison, you have to punish for the rest of your life. At least to the largest extent, I think that is the mind set. Few people take into account that when someone goes to prison for a year, two years or whatever the case is, their freedom of movement has been taken away. Each morning they get up to a bell; each meal they eat within a certain time; each night they are locked into a cell and that is not the normal way of life. It would do us all good to understand that while we ourselves might not experience prison life that we surely cannot count on the fact that our children will not. Some of us have very personal experiences because we have close relatives and friends who are in there.

I can declare that I know of persons in Northward Prison whose fathers have never drank or smoked, whose mothers have never drank or smoked, who have been brought up in the best and most caring, loving type of home and they are there because of the influence of other parts of society. When they go to school, when they go out into the night and meet with friends who coax them into situations where they commit offences. So those who pontificate and believe they are free of it, just give Father Time enough time, they might be surprised.

This Motion refers to the need for having a job to do once the people are released from the prison. The Resolve is asking that the Government look at establishing a programme that will assist them in securing jobs upon their release. Now what is so offensive about that is that the Government must once again come to say we already have something in there that is working and we are taking care of it, there is no real problem. It really beats me!

During Question Time (during this Sitting), the fact came out that there is some skills training being offered in woodwork and so on. From the point of view that you have a person in your control, body and soul, is the time where you can force them to learn some particular skill. That is assistance and to have it halfheartedly set up in the prison is not sufficient. It does not bring the results which are necessary.

More importantly, is that when prisoner 'X' is coming out, that he has some skill in some particular area, or he wishes to get into some particular job, there should be some mechanism whereby the Government that put him there, should be in a position to say, "Look prisoner 'X', there is a vacancy down at so and so; if you will behave in a proper manner, work the regular hours, do as these people say, you can get that job". And that the Government, the private sector and the prisoners have an inter-acting situation whereby, the three can be of assistance to each other.

That is my understanding as to what this Motion is asking for. If I were to try I can see nothing wrong or offensive with this Motion - what it is asking for, what it is asking the Government to do and I believe it can only be the Government that finds something wrong with it.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

Third Elected Member for George Town.

**MR. TRUMAN M. BODDEN:**

Madam Speaker, I support this Motion. It sets out, I think, very clearly the fact that we have a problem with getting prisoners back into society in an adjusted manner. The Motion itself, is once again, a Motion which is merely asking and I will read this: "BE IT NOW THEREFORE RESOLVED THAT the Government investigate the possibility of establishing a programme which will assist prisoners in securing jobs upon being released from Northward Prison." It is asking nothing more than that they investigate the possibility. I find it amazing, that since Government admits that this is a problem, the statistics clearly show that this is a problem, why they are not prepared even to investigate the possibility of establishing a programme.

I am speaking here because the policy is made by the four Elected Executive Council Members, who would have made this decision in Executive Council, along with the other Members and the Honourable Administrative Secretary whose Portfolio it falls under, has put Government's case to

this Honourable House. I will be fairly brief on this because previous Members and the Mover who did a very good opening on this have set out the facts, time and again.

On summary, the facts that have come out, some of which have been admitted by the Third Official Member, show that persons in prison who have been there on repeat basis are approximately 53 per cent of the prison population. It shows that the average age of prisoners is 28 years of age, that it is getting younger. It has shown that the prison has grown by four times in the last 10 years and it shows clearly that if there are repeat offenders back in prison then there has to be merit, there has to be something good that can come from Government investigating the possibility of providing assistance to get the prisoners back into society when they are released.

The problem is further inflamed by the fact that Government's attitude seems to be that they have something against rehabilitation. The Member for Social Services has said that in relation to young drug offenders, that we are looking at a lost generation. There is no stress on rehabilitation in the Government's programmes and we know that half of the prison population, or thereabouts, are actually drug offenders.

So the situation is one that is quite sorrowful at this stage and until one actually sees young people in prison, at a tender age, and we realise that unless they get help there and they get help in society, then it could well be that they may never be able to fully fit back into the society from which they are taken. I believe that the penal system should provide two ingredients to prisoners. First and foremost there should be rehabilitation programmes to try to get them back in the general mainstream and secondly it does show that when a person commits a crime, that they must pay some price for it.

Where I find difficulty in understanding Government's approach is that they are basing this on the fact that they will have to spend a few thousand dollars to employ one Coordinator for the programme after prisoners are released. Despite all of the genius that apparently rests with the Elected Government in Finance, that approach in my view is one of the most lame excuses that one could find. If a successful programme of rehabilitating of even a few prisoners and getting them back into society is carried out, then the savings in money is tremendous.

We find that in the estimates for this year, it is estimated that Government will spend \$3,317,853 on recurrent expenditure, mainly in salaries and I think there is another \$400 odd thousand in Capital. We also find that despite what the Government may have tried to state, that they have not increased other civil servant posts this year and even though the new services came in showing that there were no increases; we know as a fact that what they did (and this was the Member for Communication and Works Portfolio) was to put in very large amounts of staff for this year.

In 41-009 of the Capital Expenditure we see (and this is all in relation to staff), out of the \$917,900 for Agriculture, the Member put in for Technical Support Staff - Long Term \$100,000; Technical Support Staff - Short Term \$76,300 and for Local Staff \$130,000. Altogether you are looking at \$300,000 of new staff, so do not tell me that at this stage you cannot come here and give one new staff to deal with the coordinating of this matter. But once again this has a low priority, it is a pet project, I guess.

As I understand the Finance Committee's agenda now, we are now a public body, other than when we go private, and I am going to read from two short areas of the agenda. Right now we have the Government coming in a day's time and asking for new staff: not only one new staff, but quite a few. What I am saying I guess is, "Look, you are coming in tomorrow (or whenever we will meet on this schedule for tomorrow) asking for new staff for other departments. Would you please add one person to try to deal with this rehabilitation of our youth who are in prison?"

I find it depressing to believe that Government is taking such a hard line, presumably because the Backbenchers brought it. I see no rational reason why this Motion should not be accepted and if you cannot find \$30,000 or \$40,000 there, then look at the way these things are put in under capital expenditure. For example, between the Member for Communication and Works, a million dollars for Purchase of Lands - no detail. Take \$30,000 out of the \$256,000 of Capital that is in there under Landfill or Garbage or something. It does not even say what it is, it just says Grand Cayman. Take \$30,000 out of that money, they will not miss it.

The reason for saying that we are having release of prisoners on Licence, this is good. The Third Official Member put it forward and this is all well and good, I am not saying that nothing is being done. What we are saying is that something more needs to be done and I believe that you should have an open mind. When I say you, I mean the Elected Government because we know that this is where the majority of Executive Council lies. Keep on what you are doing there, but have a look at the present Motion. It seems to me that there is no good reason, whatsoever, why the money could not be found out of these massive \$4 or \$5 million here and there for experts in total.

It is to me a question of dealing with the present. Government normally tries to blame a Government of seven years ago. They are living in a totally different world now and hopefully the second Government that is coming near the end of its term, after seven years, would have reached a stage where they are looking more at reality. So what I suggest is that Government try to take an open mind to the problems of the young generation because these are the people, this young generation who in the future are going to sit in these seats in here. They are going to be making policy and I do not believe they are going to ease up on us if we make mistakes at this stage. They are a demanding generation.

I am going to make one suggestion since Government does not see fit to support the Motion. Government is compulsorily putting people in prison under the Law. It is a compulsory matter. I have said time and time again, if you can take away a person's freedom, (and do not get me wrong I am not, as such, saying that I am against that system), then why can you not compulsorily force them, during the time they are there, to attend drug service and to deal with education? I do not think it should be

voluntary. When they go to prison, if it is necessary, lets change the Law so a Judge can order that they get the necessary education and the necessary counselling inside of the prison. It seems to me from what the Member for Prisons has said, a lot of the failure is because it is a voluntary matter. But if they need it, if you have already taken away their freedom, you can at least, I think, try to direct them in the right direction and let them attend what will be beneficial. Let them try to learn skills but you are going to have to spend some money to do it.

So let us ease up on the roads or whatever else we are doing at this stage. Take a bit out of the \$5 million for Cayman Airways that we have just guaranteed, and guarantee a loan for maybe \$100,000 and get some proper tools, add more people into the prison. I would like to go a bit beyond this, I believe, I really believe that there is a problem getting people who have been in prison placed in jobs. There are no two ways about it and Government, I believe, should try to assist more. Perhaps if Government took on some of these prisoners when they left, and tried to assist them with jobs within Government, then perhaps after they have spent a period in any job, whether it is there or with the private sector; and once they can get over the hump of the first six to 12 months, they would then be in a position that they can fit back into society and they can continue to have meaningful lives. Because it is only that way that I see it that we are going to finally deal with this problem.

It is a problem, we have to face it. We are all employers and somebody has to take the step. I guess what I am saying is, because the system of incarceration is run by Government, I feel Government has a heavy load on its shoulders to try to place those first people where they can be under considerable amount more supervision, I would say, because Government also has the Social Services system, and try to bring them back into society. I do not know what the answer is. I guess no one can give an absolute answer, but I believe that Government should do more. Society needs to do more and that is true, but I believe if Government did more, then this problem could perhaps be alleviated.

I support the Motion, I am asking Government to look at this, not only in trying to place prisoners in the private sector but taking some of them on in Government and to get the necessary machinery in place for the counselling and the rehabilitation - both inside and outside of the prison which must surely follow, and that something is done with what must be one of the largest repeat offenders anywhere in the world.

Here we are dealing with human lives and you can never place any type or any amount of money on a human life even if a few people in prison are rehabilitated then that, I think, is at least one achievement.

Thank you.

**MADAM SPEAKER:** Before the Honourable Third Official Member speaks, we have to clear up a matter procedurally. I would ask the Honourable First Official Member under Standing Orders 33(1) to have that suspended in order that the Member may speak a second time.

**HON. J. LEMUEL HURLSTON:** Madam Speaker, I was only going to ask the House if it would agree to a 15 minute suspension. It would be convenient to the Government Bench.

**MADAM SPEAKER:** There is a question before the House that the House should be suspended for 15 minutes. I shall put the Motion.

**MR. W. McKEEVA BUSH:** Madam Speaker, I wish to speak on the Motion before the House.

**MADAM SPEAKER:** I have not yet put the Motion. The question is that the House should be suspended for 15 minutes. The Motion is open for debate.

**MR. W. McKEEVA BUSH:** Madam Speaker, just recently the House reviewed its practices of suspensions and breaks and it was determined that breaks were too long and therefore we stopped taking breaks, that is, refreshment breaks. I cannot now agree at this point in time in the midst of our debate on this special occasion because the Government find themselves trapped, to now suspend to have a break under Special Standing Order, so that they can reconsider.

Madam Speaker, the Government must stop this hop scotch way of governing. This House cannot be suspended on their whims and fancies. This morning we came here early, I do not mind that. I can't stay late. I have always been a proponent of meeting later in the afternoon so that we do not interrupt with Government proceedings like Executive Council. I have put Motions to that extent and they would not accept it. Now what do they want? They found themselves in a ticklish situation that all Members on this side of the House saying, we are going to support this Motion. What do they want? They should have supported it from the beginning.

I cannot support this, Madam Speaker. Every time we turn around, they want us to flip-flop.

**MADAM SPEAKER:** The Third Official Member.

**HON. J. LEMUEL HURLSTON:** Madam Speaker, I beg to withdraw the Motion.

**MADAM SPEAKER:** There is another Motion before the House that the Motion for suspension should be withdrawn. I need to have a vote on that Motion, that amendment that it be withdrawn. I

shall put the question. The question is that the Motion for the suspension of the House be withdrawn. If there is a debate on that, if there is no debate - the Honourable Member for Communications and works.

**HON. LINFORD A. PIERSON:** Madam Speaker, I will have very little to say on this except that under collective responsibility I support the withdrawal, but deep down in my heart I feel that it would have only been reasonable for the House to have considered a suspension of 15 minutes as the Members on this side have cooperated fully during this Session, and previously, with the Backbench. As recently as a few weeks ago when the First Official Member asked the Government Bench to accept four questions from one Member in order to facilitate all questions being asked in a timely manner.

Madam Speaker, we have been cooperating fully with requests made by the Backbench and I am appalled that they should find in their hearts today, that they could not also support a similar request from the Government Bench.

**MADAM SPEAKER:** I shall put the question. Before I put the question, I would like to say that I find it very unusual that the Government seems to be in a position to reconsider its original non-acceptance, that Members could not all have gotten together to have agreed on something that would have been probably workable. I much regret this. I shall have to put the Motion now,...

**MR. W. McKEEVA BUSH:** Madam Speaker....

**MADAM SPEAKER:** ....that the suspension be withdrawn.

**MR. W. McKEEVA BUSH:** Madam Speaker, as one Member has spoken, I think it is only right that other Members get a chance to speak, since a new matter was drawn into the debate.

**MADAM SPEAKER:** Are you now speaking of the suspension on the withdrawal?

**MR. W. McKEEVA BUSH:** On the withdrawal. I think that is what the Member spoke on.

**MADAM SPEAKER:** The First Elected Member for West Bay, I am giving you the opportunity.

**MR. W. McKEEVA BUSH:** Madam Speaker, other Members wish to speak.

**MADAM SPEAKER:** I thought you wanted to speak. The First Elected Member for Cayman Brac and Little Cayman.

**CAPT. MABRY S. KIRKCONNELL:** Madam Speaker, speaking on the withdrawal, I think it is regrettable that Government has been forced to withdraw it because I feel that we are going to lose more than 15 minutes in debate. I made a plea for the need to look into the matter and I think it is unreasonable that we do not assist them, since we all are familiar that the Executive Council works under collective responsibility.

**MADAM SPEAKER:** The Second Elected Member for Cayman Brac and Little Cayman.

**MR. GILBERT A. McLEAN:** I find nothing wrong with the Government withdrawing the Motion which was originally put. They are open to do what they wish to do. They put a Motion and they withdrew that Motion. I do not know of the occasions when the Government has been so ultra cooperative with the Backbench in this House and if this is the case now, I think it is something new. I think I should refer to the matter raised by the Member for Communications about the House and Government being so amicable to the taking of four questions so that those questions could all be answered. I do not see the relevance in that particular situation to what is happening here now.

As I am the Member who had the most questions in the House this time, if they choose not to have done that, so that would have been the case. I have no complaints one way or the other. If they had not done so, that would have been their business, but I think a point needs to be made that during this particular Sitting, there have been all sorts of unusual changes in the routine of the House and I think it has been all on the side of Government. It is as if there is an anxiety to get this Sitting of the House over with and I personally disagree with the haste of doing the business of the House.

I think the business of the House should take such time as is necessary to be completed and in this case if the Member of Government wishes to withdraw it and to vote against this Motion, they can do so freely. If they find something offensive and wrong with it, they can vote against it. I am voting for it and that is my duty as a Member of this House.

**MADAM SPEAKER:** I shall put the question that the Motion originally proposed by the Third Official Member be withdrawn. That is that there should be no suspension. Those in favour please say aye, those against no. I shall put the question. Those in favour please say Aye...Those against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED: MOTION TO WITHDRAW MOTION TO SUSPEND PROCEEDINGS FOR 15 MINUTES PASSED UNANIMOUSLY.**

**MADAM SPEAKER:** We shall proceed with the debate on the Private Member's Motion. If no other Member wishes to debate, I would ask the Mover of the Motion if he would like to reply?

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

Thank you, Madam Speaker.

I would like to say that in the beginning I was appalled to see the approach Government took with respect to this Motion. Personally, it appears that the attitude of Government is to knock down anything that comes from the Backbench. Be it good, bad, or indifferent!

The Third Official Member replying on behalf of Government made certain points to which I would like to reply. He mentioned that there is now in place technical and vocational training; that there is in place weekly drug counselling and that there is also an educational programme to assist those prisoners who are deficient academically. I am also pleased to hear, as a result of the Parliamentary question that was raised on this issue, that the Education Department is now finding it convenient to now support these educational programmes at Northward Prison.

He did mention that the results of the GED exams taken by the prisoners were encouraging. This shows the kind of potential that we have in prison. All that the prisoners are saying is "Give us a chance, put the programmes in place and we will show you that we will take advantage of them." But the Member did go on and he mentioned that the success of such programmes, that is the programme we are calling for, is dependent on the inmates and their attitude as far as taking advantage of what is available. That is true to a large extent, but I say, let us put the programme in place and let us not doom the programme to failure before it starts.

It is my personal opinion that a programme of this nature, if established, will be supported by our Caymanian inmates because I think many of them will welcome the opportunity of learning a skill and maybe improving their academic qualifications by attending educational classes while in prison. He did confirm that no such programme as we are calling for now exists at Northward Prison but he did say that there is in place at Northward Prison a pre-discharge programme which is now in existence. I would just like to read a portion of the Law which brought this pre-discharge programme into existence and it is the Imprisonment (Amendment) Law, 1981, Law 10 of 1981, Section 22.

"22. (Section of the principal Law is substituted by the following:)

30 (1) In addition to any other power that he may have, the Director may at his discretion and on such terms and conditions as he thinks fit as to custody or otherwise authorise a prisoner not being under sentence of death or recommended for deportation to leave the prison -

- (a) under escort, for the purpose of visiting a dying relative or of attending a funeral service; or
- (b) for part of a day, for attendance at any place if he considers that through such an absence from prison the skill, knowledge or development of the prisoner would be thereby advanced.

(2) A convicted prisoner shall, at the discretion of the Director, be eligible during the thirty days prior to the date of his anticipated discharge for up to five days pre-discharge leave to be taken on such conditions as the Director may think, necessary."

That is what they are referring to, Madam Speaker, and this was brought about in 1981. I just want to point out how effective this programme has worked. I called the prison this morning to get some statistics and between 1981 and 1989 two prisoners were able to take advantage of this programme. In 1990 nine prisoners and in 1991, so far, we have had 23 prisoners who were released under this programme. I just want to say that I support such a programme because anything we can do that eases the adjustment or assists the adjustment of that prisoner back into society, I will support. It does nothing to assist that prisoner in finding employment upon being released.

The Member speaking on behalf of Government did mention that he really did not think this programme would work because of the tight employment condition right now in our society. Madam Speaker, in my opinion this is more reason why Government should consider a programme of this nature because it is going to be even more difficult now for our prisoners once they are released to find a job.

I recall the other day, I was on my way to the Government Administration Building and a young man met me who had just been released from prison and I asked him how he was doing and what he was doing. He said, "Mr. Jefferson, I just got released from prison, I do not want to go back to prison and I have been looking for a job, but you know what is sad? I have visited everyone of those hotels, I have visited just about every job site that is around and I cannot find a job" He said to me, "You know as much as I do not want to go back to prison, if I cannot find a job from which I can earn money to buy food and take care of my needs, then I am going to do something that is drastically bad again and I will end up back in prison." Maybe he was one of those who was released on the pre-discharge programme, but it did not work, it did not help him in securing employment.



During our visit to Northward Prison sometime ago (that is the Backbenchers), I personally asked the Director if there was such a programme in place that assisted prisoners, upon being released, in finding employment. He said, "No." What is most pathetic, Madam Speaker, are the excuses thrown out on behalf of the Government for not supporting this Motion. The Member said the reason why Government is not supporting the Motion is because they are not prepared to employ additional staff for this programme.

When you compare the cost of employing, maybe, one coordinator for such a programme, as opposed to what is now being proposed by Government where, because of the explosion in the prison population, they have to now look at building additional cells to accommodate the prisoners, there is no comparison in cost and statistics like what I quoted yesterday, which makes it plain that over 50 per cent of our present prisoners are repeat offenders. Government's excuse about them not being prepared to employ additional staff for this programme reflects their insensitivity to the needs of the people of this country.

On the other hand, in the 1991 Budget the Member for Communication and Works brought a request and it was approved for expenditure in excess of \$900,000 for an Agriculture Programme in this country. Who will it benefit? Only a few Caymanians, but many foreigners.

I also find it amusing that Government is not able to support this Motion because of their concern over controlling the increase in the size of the Civil Service. What a pathetic excuse, Madam Speaker! One of the Members who spoke mentioned that there is a request for additional staff for Government in the same area pending to go to Finance.

It is amazing the attitude of the present Government. It is my contention that the reason why they are not prepared to support this programme is because they personally do not have a brother, a sister, an aunt, a child, an uncle presently at Northward Prison. That is not the reason why I am supporting it. My reason why I am bringing such a Motion calling for such a programme is because of my concern and interest in the people of this country. But it is amazing how insensitive the Elected Members of Executive Council are.

Madam Speaker, this Government has failed in its responsibilities to the people of this country. The small man in this country has been forgotten. I know the present Member for Communication and Works, for many years when he was on the Backbench talked about the little man. All of a sudden the little man has been forgotten. I wonder why?

**HON. LINFORD A. PIERSON:**  
explanation?

Madam Speaker, I wonder if the Member would give way for an

**MR. JOHN D. JEFFERSON, JR.:**  
confirm and I see no reason why I have to give way, Madam Speaker.

Madam Speaker, what I have said, others can support and

I personally think that the attitude of Government reflects the statement that was made formally by the Member for Health and Social Services. We must write off a generation! In my opinion, Government's programme against drug abuse in this country is nothing more than a facade and it has failed miserably.

I want to ask the Member or Elected Members of Executive Council how many persons have been sent abroad in the past year for drug treatment at the rehab centres in Minnesota or West Palm Beach? Not many, Madam Speaker. The reason why is because of under-funding. The money is not in place and it appears that only the privileged few have access to such programmes. The present counselling programme has not been as effective as it should be for the same reasons. It is under-staffed and under-funded.

I believe that the only effective programme against drug abuse in this country can only be effectively administered through the establishment of a local rehab facility where all who need the treatment and service has access to it. I can assure the people of this country if Government does not now support this programme, it will only be delayed because I can assure the people in this country that we will have it in place after the 1992 election, when we will be in a position put together a majority to form a Government.

In his contribution, the Honourable Member for Education, mentioned that there is a programme in place where prisoners are released under certain conditions; where they have to go to church, they have a curfew, etcetera. My only question is, how many prisoners have been released under this programme? Not many! So this programme is no substitute for the one we are talking about or calling for.

He also mentioned that he knew many employers who were prepared to re-employ prisoners upon being released and he also mentioned that he had seen some of the references from these employers that brought tears to his eyes. They might have brought tears to his eyes, but I bet it did not soften his heart. It did not soften his heart to the extent that he was prepared as an employer to employ a couple of these prisoners upon being released from prison. I wonder how many former prisoners he has employed? I understand even his gardener is a foreigner.

He also mentioned that these prisoners must be prepared to help themselves and I agree. But we must also be prepared to do our bit in assisting them. The only way we can do that is by investing in proper programmes at Northward Prison which will improve their skills and their level of academics. This can be done at a reasonable cost - programmes fully funded by Government, not one that is left on a voluntary basis to one or two interested prison officers who have an interest but one that is properly funded and staffed.

We need additional workshops in the areas of auto mechanics, plumbing, electrical, because those areas are where a lot people are employed in this country and by obtaining a

skill it provides that prisoner upon being released a better chance of finding employment especially with the assistance of the coordinator of this programmed we are calling for in placing that prisoner in a job.

I also feel that if Government is going to be effective in its fight against drug abuse in this country the time has come for the establishment of a proper local re-hab facility. We must be prepared to give our Caymanian prison population a second chance. We must form a partnership consisting of the prison, the private sector, Government and the prisoner. I feel, because of the present situation, Government should have considered such a request favourably and as a priority. The Motion was reasonable and for the benefit of the listening public, I would like to repeat what it calls for. It says: "BE IT NOW THEREFORE RESOLVED THAT the Government investigate the possibility of establishing a programme which will assist prisoners in securing jobs upon being released from Northward Prison.". "Government investigate the possibility", Madam Speaker, on this side of the House we are in no position to commit Government to any expenditure. All we can do is put forward recommendations as suggestions and that is all we are asking for.

If through the establishment of such a programme we are able to assist one or two dozen Caymanians in successfully readjusting to society, that expenditure would have been worth it. I am an advocate and a supporter of the small man in this country. That is the man that we must assist and be concerned about because the rich man is able to pay his way in any society. If he does not make it here, he can go somewhere else. He has an option but it is my firm contention that if this issue is not addressed promptly at this stage, we are in for many more problems in the future. Serious crimes and increase in drug abuse and all of its ills will greatly affect and influence the way of life that we have enjoyed for so many years in this country.

In closing I would like to urge all Honourable Members of this House to support this Motion because I think it is timely, I think it is essential and it would be a step in the right direction in assisting those among us who have been so unfortunate to have found themselves in prison. We must remember that these are our people and I feel it is only fair for us to give them a second chance of becoming productive citizens of our community.

Thank you, Madam Speaker.

**MADAM SPEAKER:**

I shall put the question on Private Member's Motion No. 13/91 - Pre-Release Programmed at Northward Prison, "BE IT NOW THEREFORE RESOLVED THAT the Government investigate the possibility of establishing a programme which will assist prisoners in securing jobs upon being released from Northward Prison.". Those in favour please say Aye, Those against no.

**AYES and NOES.**

**MADAM SPEAKER:** The Ayes have it.

**MR. W. McKEEVA BUSH:**

Madam Speaker, may we have a division?

**MADAM SPEAKER:**

Certainly. Madam Clerk.

**DIVISION NO. 22/91**

**Ayes: 8**

Mr. W McKeever Bush  
Mr. John D Jefferson, Jr  
Mr. Truman M Bodden  
Capt. Mabry S Kirkconnell  
Mr. Gilbert A McLean  
Mr. Roy Bodden  
Mr. Franklin R Smith  
Mr. John B McLean

**Noes: 7**

Hon Thomas C Jefferson  
Hon Richard Ground  
Hon J Lemuel Hurlston  
Hon W Norman Bodden  
Hon Benson A Ebanks  
Hon D Ezzard Miller  
Hon Linford Pierson

**AGREED. PRIVATE MEMBER'S MOTION NO. 13/91 PASSED BY MAJORITY.**

**MADAM SPEAKER:**

The next item is Private Member's Motion No. 14/91 - Provision of Sufficient Staffing at Cruiseship Landing; to be moved by the Third Elected Member For West Bay.

**PRIVATE MEMBER'S MOTION NO. 14/91**

**PROVISION OF SUFFICIENT STAFFING AT CRUISESHIP LANDING;  
PUBLIC TRANSPORTATION DEPOT IN GEORGE TOWN CENTRAL AND  
SUSPENSION/REVOCATION OF TAXI OPERATORS' LICENCES**

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

Madam Speaker, I beg to move Private Member's Motion No. 14/91 entitled, Provision of Sufficient Staffing at Cruiseship Landing; Public Transportation Depot in George Town Central and Suspension/Revocation of Taxi Operators' Licences, and it reads:

WHEREAS tourism is considered one of economic pillars in our society;

AND WHEREAS the numbers of visitors to these Islands by cruiseships continue to increase;

AND WHEREAS there have been constant complaints of harassment by taxi-drivers of these visitors;

AND WHEREAS continued behaviour of this nature will damage the cherished reputation of the Cayman Islands as a friendly and pleasant tourist destination;

AND WHEREAS it is the combined opinion that there is not sufficient staff to properly maintain control at the cruiseship landing;

AND WHEREAS it is also the suggestion that any taxi drivers who are guilty of harassing cruiseship passengers should have their taxi licences revoked;

AND WHEREAS it is essential that buses providing public transportation to and from George Town have a central location in George Town for the picking-up and off-loading of passengers;

BE IT NOW THEREFORE FURTHER RESOLVED THAT Government consider taking steps to:

- (a) add sufficient staffing at the cruiseship landing by employing two additional dispatchers in order to ensure proper control; and
- (b) investigate the matter of harassment of cruiseship passengers by taxi drivers with a view, in the case of future occurrence of this nature, of taking the appropriate action to have the licences of such taxi operators suspended or revoked;

AND IT BE NOW THEREFORE FURTHER RESOLVED THAT Government consider taking appropriate action to establish a central location in George Town for buses providing public transportation to and from central George Town."

**MR. W. McKEEVA BUSH:**

Madam Speaker, I am pleased to Second the Motion.

**MADAM SPEAKER:**

Private Member's Motion No. 14/91 has duly been Moved and Seconded and is now open for debate. The Third Elected Member for West Bay.

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

Thank you, Madam Speaker.

Madam Speaker, I found it necessary to bring this Motion because of the serious state of affairs that presently exist in the transportation services in this country.

It is a fact that the number of cruiseships visiting the Cayman Islands have continued to increase and greater numbers of visitors to our Islands arrive by cruiseship and like the Motion mentioned, Tourism is one of the economic pillars in our society so cruiseship business is very important in increasing tourism in this country.

I feel that because of this increase in cruiseship traffic that the Government must now look at the necessity of increasing the staff at the cruiseship landing in an effort to maintain greater control over the taxi operators in that area and the cruiseship passengers themselves to ensure that they do not cross the streets using the indicated cross-walks because all one has to do is visit the dock area on a cruiseship day to see the chaos that exists during that period of time when cruiseships are in the harbour. Passengers are there battling traffic, there are taxi drivers who are not prepared to abide by the rules of queuing up and instead they are parked on the street harassing passengers for a trip to the beach or on tours.

This lends itself to an ugly scene, a very unfavourable impression as far as the cruiseship passengers are concerned and I think if the present situation continues it will definitely damage our image as a tourist destination.

What is unfortunate is that the majority of the cruiseships who visit the Cayman Islands, their last port of call is Jamaica where it is a way of life of harassing cruiseship passengers in an effort to obtain business.

I have seen many of those cruiseship passengers when they reach George Town, they do not even want to hear what you have to say to them because, like I said, their last port of call they were so harassed that it has had a very negative impact, or influence, as far as their experience is concerned.

I think it is only reasonable for us to address this situation by first of all considering the necessity of beefing up the staffing at the landing by adding the two additional dispatchers to control traffic flow and dispatch the taxi operators to the beach or on tours.

I also feel it is very essential that the members of staff in that area are properly uniformed and wear the necessary I.D.s because there are people in that area who are employed either by the Port Authority who are dressed in civilian clothing which makes it very difficult for them to be identified by the cruiseship passengers.

It is also necessary to have a policeman or policemen stationed in that area for the purpose of maintaining control. When I talk about control, I am talking about control over the taxi operators in that area by warning them, by issuing tickets if they do not fall in line or by doing whatever is necessary to keep them in order because the situation is not good.

The only thing that area reminds me of sometimes is a market. Taxi operators are there shouting to cruiseship passengers, 'Trip to the beach', 'Tours' and I guess, what is

fortunate is that the majority of these people who are guilty of this, are not Caymanians.

What has happened recently is, the Caymanian taxi operators have become so concerned about the situation and about the possible damage that such behaviour will have on our tourism that, they themselves have decided to organise. They have taken steps to do this. They are in the process now of forming an association in an attempt to protect the business and to ensure that they are in a position to continue to survive financially in the transportation industry.

I would just like to read, a couple of letters from this group which supports the provision of this Motion and the first letter I would like to read is dated the 1st of July, 1991 and it is addressed to:

**\*His Excellency the Governor in Council,  
Government Administration Building,  
George Town,  
Grand Cayman,  
Cayman Islands, B.W.I.**

Honourable Gentlemen,

We the undersigned Caymanian taxi drivers, honest natives of the Cayman Islands, loyal subjects of Her Gracious Majesty, the Queen of England (out of desperation) is appealing to the Council to please take immediate action to stop -

- a) the harassment of tourists in the streets on cruiseship stop-over and the threat to our tourist industry.
- b) the issuing of taxi licences to foreign nationals, particularly, Jamaicans, as they are our biggest problem.
- c) make an investigation into taxi licences issued by the Police Department during the years 1989 through 1991.
- d) cancel all taxi licences issued to non-Caymanians.
- e) restrict the picking up of passengers from the road on Harbour Drive on cruiseship days in the immediate area of the Port.
- f) cancel all taxi licences issued to foreign policemen.
- g) no foreign national (with or without Caymanian status) should be issued a taxi licence and those in the above category (now holding a taxi licence) should be withdrawn by the proper authority.

We the Caymanian taxi drivers are very concerned about our future and we are definitely disgusted and frustrated over the problem created by foreign taxi drivers -

- 1) because of lack of knowledge of the country, our Government or otherwise;
- 2) the lack of loyalty to our country and the total disregard for law and order.

The issuing of taxi licences to Jamaicans is earning us a reputation which will eventually bring us in line with Jamaica and will consequently strangle our tourist industry.

We are appealing to our Government now to take action to rid our country of an evil that is like a cancer, slowly but surely eating away the very fabric of our society and will eventually sever the mainstay of our economy.

We also appeal to the Honourable Members of the Council to take into account the vast amount of tour buses that is (28 seaters and 30 seaters) which is also strangling the small taxis. Some of the tour buses make as much as three tours per day with a minimum of \$560 per tour and when their tours are over they come in the line-up and deprive the small taxis of what should be theirs.

They are also offering Seven Mile Beach Tours and they should not be allowed to come in the taxi line-up...."

**MADAM SPEAKER:** Excuse me, Honourable Member the tape has to be changed and I will suspend proceedings until 2:00 P.M.

AT 12:31 PM THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:04 P.M.

**MADAM SPEAKER:** Please be seated. Proceedings are resumed, Private Member's Motion No. 14/91 the Third Elected Member for West Bay continuing the debate.

**MR. JOHN D. JEFFERSON, JR.:** Thank you, Madam Speaker. When we adjourned for lunch I was reading a letter from a group of Caymanian taxi operators and I would just like to complete that letter. The next paragraph says:

"We do hope that you Honourable Gentlemen will take a very serious look at this regrettable situation and do something to ease the growing tension in this country. If our Government cannot protect us, then like any other animal given the sense of self-preservation we will protect ourselves."

Madam Speaker, this is signed by quite a group of people who are employed in that area. I would also like to read a copy of another letter on the same subject. It is an open letter to the Government of the Cayman Islands with regard to taxis and it says:

"We are a few Caymanian drivers who are very concerned and are becoming very disgusted and frustrated about a few problems when the cruiseships visit here each week. Here are a few of those problems we chose to point out and hopefully have some action taken very soon to resolve them.

#### 1) Queue

There is a queue which every taxi driver is supposed to join if he or she would like to transport passengers out of the Port Authority's horseshoe to wherever they may desire to go on any day that a cruiseship visits. At this point we ask the Honourable Member of the Legislative Assembly responsible for Tourism Aviation and Trade to take only 10 minutes of your valuable time, it is all you will need and visit by the pier on any cruiseship day and witness the impoliteness that is conducted by some of the taxi drivers.

There are taxi drivers who are not in line but who are out on the street shouting at, and hassling the tourists, "To the beach! Sight-seeing tours!." The tourists do not appreciate this and will tell you what their remarks are. "This place is so beautiful, but it seems so much like Jamaica, the people there bother you all the time".

Look and enumerate how many non-Caymanians are in the line and vice-versa out on the street. You can count the amount of non-Caymanians who are in the line on one of your hands, and you may do the same for the amount of Caymanians who are out on the street on the other. The latter being there because it is becoming compulsory to earn a dollar.

In other words, we are saying that it is primarily the foreign cab drivers who are making a mess of this taxi business and it is going down the drain very fast since it is leaving such a terrible impression on the tourists. Those who are guilty should either have their licences suspended or revoked.

#### 2) Taxi Licences

Why are there so many new taxi licences being issued recently? It is visible that there is a new taxi on the road every two days and they are non-Caymanians. Why?

We already have too many cabs, the majority being foreign nationals who do not know A to B about the islands. Some go to the Turtle Farm looking for the Tortuga Club. What a shame, what a great impression.

Also we have noticing that civil servants (police in general) are driving taxis too. We speculated that civil servants were not allowed to have a second job. Please can we have some answers?

#### 3) Tour Buses

We realise that the tour bus owners are Caymanians or legal citizens but they are practically contracting almost all of the business from the ships and also from the hotels.

Several of them have seven or eight 30 seater buses which are each filled about three or four times a day so that by the time the smaller cabs, who are in line, get to the top there is approximately nothing left to get.

We feel that the Government should establish a system which only allows the tour buses to have so many people per day per ship since we, the smaller cab drivers, also need a little bread to put the butter on, that we are slowly earning.

**Last but not least, we Caymanians have to vote next year. We need the Members of the Legislative Assembly who we voted for three years ago and who are supposed to be helping us Caymanians in our own country. We urge you to wake up and act quickly or there will be many regrets in our main industry, (Tourism).**

**We thank you all for your prompt attention to this urgent matter or we will be forced to take it upon ourselves.**

### **Caymanian Taxi Drivers.\***

The contents of those letters gave us a little insight as to the feelings that are prevalently wide-spread in the transportation industry and one I feel Madam Speaker, that needs our urgent attention.

Government has greatly aggravated the situation by refusing to consider placing a moratorium on taxi licences or at least those licences that are issued ensuring that they are only to Caymanians. By that I mean, born Caymanians. We have taxi drivers today who do not speak a word of English. How in the world could this happen? You have Cubans in there, Hondurans or other nationalities who cannot even speak our native language out there driving a taxi.

I think it is also necessary to investigate those incidents of harassment by cruiseship passengers by taxi operators with a few of collecting their names and advising them that any reoccurrence of this nature will be dealt with severely. By that I mean, Madam Speaker, that a recommendation will be made to the Traffic Department to have their licences either suspended or revoked.

What is sad is that some of the same culprits today were the culprits when I was in the business over three years ago. Their attitude is, we do not want any rules and we must be in a position to do whatever we feel like doing. The time has long passed when we can continue to tolerate that kind of attitude when it so severely affects one of our main industries in this country, that being Tourism. We must clean up our image in this area at any cost if we are to save our tourism in these Islands.

The other provision of the Motion calls for a bus depot in central George Town. At the present time, buses providing transportation to the general public to and from George Town use the former Kirk Plaza parking lot for this purpose. There were designated slots in there for the buses and taxis and it was a real convenient location because a lot of people in this country still depend on public transportation as a means of getting back and forth and also for shopping purposes. This situation was aggravated first of all when the Kirk Plaza was sold because a lot of these persons road the bus to town, shopped at Kirk Plaza, it was the position where they just walked outside, put their groceries on the bus and went back to West Bay or East End or wherever they came from.

After the building was sold to Barclays Bank these people then had to make arrangements to shop elsewhere. I understand that Barclays Bank will soon be starting the construction of their new office building which will basically take in, I understand, the front part of the parking lot which will eliminate the area presently used by buses offering public transportation. It is important, I feel, that if this is the situation that Government should look at an alternate site that will be designated for this purpose as a bus depot. One of the suggestions was, maybe, somewhere in the vicinity behind the Public Library in George Town. An area could be designated for that purpose, I am not sure how practical this would be with all of the cars that are being parked in that area now, but suffice it for me to say that an alternate site has to be found, otherwise a lot of our people who depend on this very valuable service will be greatly inconvenienced.

We have had representation from a number of these bus operators. As a matter of fact they wrote the letter and signed the letter and I think it was addressed to the Member for Communication and Works, who is responsible for transportation in this country. As a representative I did do a covering letter and did forward it to the Member because I felt that he was in a much better position to approach Barclays at that stage about the possibility of negotiating them to allow the buses to continue to use that area. I was surprised when I got a letter back from him saying that I knew the bus drivers on a personal basis and he thought it would be a much better position if I made representation on their behalf.

Madam Speaker, I am going to get my colleague from West Bay to elaborate on that situation a little further but suffice it to say, that there was representation made on behalf of these operators to Barclay's Bank. But I think the situation is that we have to seriously look at an alternate location for a bus depot.

What I mentioned today with regard to the transportation services are serious matters that have to be addressed and I feel and trust that Government is sensitive to the request. Because I feel that if we continue to turn our backs or hide our heads in the sand, hoping that this situation will go away, it will not. It will only get worse and I feel that if it is not addressed it will greatly affect the tourist industry in this country.

I also support the recommendations in the two letters that I read, some of them at least. The one I really support is the fact that I think Government now has to think in terms of who are issued new taxi licences and I agree with the suggestion that it should be only to born Caymanians and I also think that we have to even look at it a little further.

There are two types of persons out there offering transportation services. We have taxis and we have tour operators and they are offering two different services. The whole purpose of a taxi is to take persons from point A to point B.

The taxi driver should also be in a position where they are very knowledgeable, with regard to the history of the country, the conditions, locations and destinations, etcetera, but I

think more importantly the tour operators, who are responsible for conducting tours in this country, should have accurate information with regard to our Islands because it is amazing what some of those tours are told by those tour operators.

The people in the industry feel that it is time the Government require some type of test, be it, including general facts on the Cayman Islands, etcetera, which would add to some consistency and also improve the information that is being made available to our visitors. What is important is that a large percentage of our cruiseship passengers, if they have had a satisfactory experience here on a cruise, they will fly in later to spend one or two weeks and that is the whole objective the cruiseship business, as far as I am concerned.

I would say that 90 per cent of people employed in the transportation services are good, honest, upright people whose only concern is that they be in a position where they can make an honest living from that industry. They are the ones that are concerned that a few rotten apples are going to spoil it for everybody.

So, Madam Speaker, I support these concerns and I trust that Government will see fit to accept the provisions of this Motion for I feel that they are genuine, they are needed and this Motion is very timely.

Thank you.

**MADAM SPEAKER:**

Honourable Member for Tourism Aviation and Trade.

**HON. W. NORMAN BODDEN:**

Thank you, Madam Speaker.

Madam Speaker, I rise to make a short contribution to Private Member's Motion No. 14/91, which deals with the Provision of Sufficient Staffing at the Cruiseship Landing and Public Transportation Depot in George Town Central and Suspension/Revocation of Taxi Operators Licences.

This Motion expresses concern over an existing situation in regards to ground transportation and the adverse effects it can have if allowed to continue unchecked on our important tourism industry.

A serious concern which I assure this House is fully shared by Government and especially by the Members of Government directly responsible for these subjects, that is, the Honourable Member responsible for Communications and Works, in regards to ground transportation and, to myself, the Member for Tourism Aviation and Trade, with responsibility for tourism.

It is a fact, that today, we have what I consider to be a very unhealthy and unsatisfactory situation which has developed in our taxi and tour service. If left unattended, this will severely damage the good name and valuable reputation of these Islands; a reputation which has been built up over the years through hard work and the provision of a high standard of services provided by many different people from different walks of life.

This good image in the tourism marketplace enables our country to continue to attract a fair share of business. In fact, an increasingly large number of cruiseship passengers, but there can be no doubt that unless a consistently high level of service is provided in all areas of our tourism industry, we can stand to lose market share in this highly competitive business and no one of us in this country can afford to allow this to happen.

In my opinion, and this was voiced by the Mover of this Motion as well, the majority of taxi and tour operators provide a good, reliable service and are good ambassadors for our country, as there are still those who understand the contribution that they must make to our continuing tourism development, and they also appreciate the value of the tourism industry to the Cayman Islands economy.

However, unfortunately, just as in any other type of business there is that small minority who sometimes tend to take success for granted. These types of are definitely not a credit to this country, nor to themselves and least of all to tourism. These are the operators that we must deal with and that I am sure are the targets in this Motion. These are the operators Government has been attempting and will eventually succeed in bringing in line.

The Motion correctly and clearly states that continued behaviour of this nature will damage the cherished reputation of the Cayman Islands as a friendly and pleasant tourist destination and I want to repeat and endorse that completely, Madam Speaker. These are the qualities which have brought us success and which we very definitely cannot afford to lose because if we ever do, we will be placing at serious risk one of the main pillars of our economy. Taxi and tour operators will lose their livelihood and our whole economy, island wide, will suffer.

Madam Speaker, it is also a fact that this Government or any Government can legislate, can pass Laws and attempt to enforce them, but much depend on the caliber of the individual member of our community as well.

Success depends on each individual to be a good example, to display the right attitude and to conduct himself or herself in such a way, that will encourage our visitors to return and to recommend the Cayman Islands to their families and friends. This is the goal of the Department of Tourism and of all the people of these Islands, I am sure.

Having said that, Madam Speaker, in turning our attention to the quantity and nature of complaints being received, although I agree that even one complaint is one too many, I should point out here that last year the Department of Tourism received one written complaint regarding a taxi driver operating from the cruiseship dock and to-date, two written complaints have been received by the Portfolio for 1991. This is not an attempt, nor should it be interpreted as such, to deny that there is a pressing and urgent need to correct the situation which exists and sometimes seems to be getting worse. It is true that some tourists,

who are dissatisfied with the services they receive here, often do not bother to put their complaints in writing, but as a consequence, and even of greater concern, is the fact that neither do they bother to return to the Cayman Islands and the poor impression with which they leave our shores is even of greater concern to all of us, which we must all work together to correct.

At our Tourist Information Booth at the cruiseship dock there have been many varied verbal complaints from visitors and I think the Mover spoke about some of them. These complaints range from indecent language, inappropriate dress, soliciting business outside the Port Authority's procedures and regulations, overcharging, overcrowding of vehicles, lack of knowledge on the Cayman Islands, a display of bad attitudes and poor conduct between the taxi drivers themselves (I think this includes the tour operators as well), as well as quarrels between taxi drivers and the dispatchers at the dock.

However, except in a few cases, there has been a lack of specifics which would enable Government to deal with the drivers causing the trouble on an individual basis. But, these are clearly unacceptable conditions which must be corrected and controlled.

Quite clearly the crux of the problem lies in the fact that under the present Traffic Law, it is too easy to obtain a taxi licence and too difficult to lose it. Therefore, a more effective means must be found to discipline and control irresponsible taxi and tour operators and to refuse or revoke taxi licences where misconduct can be proven. Many attempts have been made in the past by many different Governments and different individuals and to my mind Mr. Ira Walton has been one of them. Different attempts have been made to organise and improve the situation and I know that a solution is still being actively pursued.

For some time now, Government, has been working on a new Traffic Law, which is badly needed. I do not want to commit him, but I understand from the Member for Communications and Works that it will be brought to this House in September. This will provide the machinery for dealing thoroughly with taxi and tour operators licences under which conditions they are to be issued, the criteria that must be met and of course, provisions for suspension or refusals.

I would also suggest and be supportive of that in the section dealing with taxi licences, that a maximum be placed on the number of licences that can be issued which will be reviewed from time to time based on market conditions. It appears to me and others that, we have reached or are fast reaching the stage where we will have more taxis and tour operators than even our large market can support. I know that when you say this you get the other side of the argument that, we operate under a free enterprise system but I also recall the time when liquor licences was pegged to the population ratio and, therefore, I believe that a precedent has been set and hopefully this can be applied in the case of taxi licences and tour operators.

It should be noted that at the present time there is in fact provision under the Traffic Law in section 43, through an amendment, which was brought by Government and passed by this House in 1988, whereby the Commissioner of Police may suspend a taxi licence for up to six months under certain circumstances. I will not take the time of the House to read this, but this was an attempt to bring some semblance of discipline and control over the taxi drivers who are guilty of misconduct. To the best of my knowledge, this section of the Traffic Law has not been used very often, it is of course, also true that at the time this amendment was actually seen as a stop-gap measure until a new Traffic Law could be put in place when a code of conduct and stronger measures of control, as I have said earlier, could be provided for in the Law. But I must again adhere that even then, much still depend on the cooperation of each and every driver.

Now, Madam Speaker, the Mover spoke about the large number of taxi licences and in the letters of representation that he read out, concern was expressed about the different nationalities of the taxi drivers. I would say that I can agree and support the concern that is being expressed, but I think the facts of the matter must be examined very carefully.

First of all, it is my understanding that under the Traffic Law as it exists, that a Caymanian can very easily get a taxi licence, unless of course he has had a long history of traffic offenses, but normally a Caymanian can get a taxi licence. The only method or means by which that licence can be lost at the present time is if the driver concerned is taken to court and convicted of a criminal offense. The Traffic Law, I mentioned earlier, that the Member plans to bring in September, will go some ways to correcting this situation as I see it.

In addition to that, Madam Speaker, some years ago, I think it is probably three or four years ago, communications were sent to the Traffic Department saying that before any non-Caymanians are issued a taxi licence that they would first have to obtain a Gainful Occupation Licence. To the best of my knowledge, the Board has reneged from issuing Gainful Occupation Licences for the past several years which cover taxi drivers.

I know of a specific case of a Caymanian lady who is married to a Jamaican, has two or three children, and who has made representations to me, personally, for the past two or three years complaining that her husband cannot get a taxi driver's licence or a tour operators licence and that this is creating severe hardships for her. I think she has made representations to the Member of Government responsible, she has also made representations to the Board, but those are some of the difficulties that have to be dealt with. So it supports the point that taxi drivers licences are not handed out in a willy-nilly fashion to Tom, Dick and Harry.

I have listened to the contents of the letters that have been read by the Mover and sometimes those representations are made to me about the large number of non-Caymanian taxi drivers that we have. But on closer examination, one would find that the majority, if not all of these taxi drivers and tour operators, are Caymanian Status holders. Under the Law, whether we accept it or not, they have equal rights. Many of them are spouses of Caymanians and they make the representation, if so and so can raise their children in this country, why should not I, as a Caymanian spouse, to raise my children here as well.

There is also the situation which is well known where



Government for many years now has allowed Cubans with close Caymanian connections to be repatriated to the Cayman Islands. Many times, work permits have been waived in order to assist those families and it is probably true, that from time to time you will find some of that category of person with close Caymanian connections operating a taxi.

So, that is a situation that has to be faced and that has to be corrected but I certainly support that these must be addressed and it must be addressed very urgently. Amongst those, there could be many illegal taxi drivers and I would hope that the enforcement arm of the Caymanian Protection Board can certainly follow up on this and check out to see exactly whether or not we have illegal taxi drivers operating in this country.

From a tourism point of view, in order to try to improve the impression of our cruiseship visitors, in consultation with the Port Authority, the Portfolio of Tourism Aviation and Trade and the Department of Tourism have met with the Member and the Port Director many times and the dispatchers that are employed there by the Port Authority and discussed the procedures that should be followed.

We have set policies of not allowing any taxi drivers or tour operators to go personally on the dock to receive any of our visitors the minute that they are stepping off of the boats that bring them dock side.

We do not allow them to go beyond the fence, we do not allow signs or literature from any businesses to be distributed on the dock area. We only allow literature from the Department of Tourism or the Chamber of Commerce.

I know the sort of impression that a person can receive when they first arrive in a new country. It is a lasting impression and it is very important that we do what we can to improve that. But it is an area that has not been ignored, Madam Speaker. In our development process, in our attempt to provide a good service and to cope with the increased number of cruiseship passengers being handled at our Port, I must say here, that the Port Authority has done an outstanding job in improving and providing facilities at the dock to organise the handling and dispatch of visitors, as well as from a security point of view.

But quite obviously, some of the problems also originate from a lack of sufficient space that would permit the Port Authority to introduce better measures of control and organisation. It is also my understanding that the Port Authority is planning to expand its facilities to include the old Webster Dock and to provide a holding area for taxis and tour buses where they will be radio controlled and called for by the dispatchers, as necessary. This, when accomplished should bring more order and improve organisation in loading and dispatching vehicles. The Member for Communication and Works undoubtedly will expand more on this when he speaks but the Port Authority, I am certain, keeps the need for manpower to cope with the high volume of traffic being handled at the Port under constant review.

Madam Speaker, on the matter of harassment to tourists, be it to a cruiseship passengers, to local residents or stay-over guests, I can give the assurance to this House and especially the Members, especially the First and Third Elected Members for West Bay who brought this Motion, that through the combined efforts and staff of Communications and Works, the Port Authority, the Portfolio of Tourism Aviation and Trade and the Department of Tourism, that any reports of misconduct which can be substantiated will be investigated to the best of our abilities and will not be treated lightly if guilt can be established.

In dealing with the last Resolve section of the Motion, regarding the need to establish a central location in George Town for buses providing public transportation to and from central George Town, that is between George Town and the different districts, this would undoubtedly be a most convenient and desirable facility to have, but this will require further consideration and planning.

One area that comes to mind which must be covered for example is, if a central pick-up and drop-off point is designated in the centre of town, there must be some means of forcing bus operators providing a service between districts, to use that area for the embarkation and disembarkation of passengers rather than having multiple street stops as well in other parts of the centre of town; this would only further congest traffic flow. If this can be done, Madam Speaker, it will certainly receive my support but as I said, it does require further consideration.

On behalf of Government, I am pleased to accept this Motion, Motion No. 14/91 and once again assure the House that serious consideration is being given and will continue to be given until the necessary improvements are accomplished as Government fully agrees that in the interest of all, the situation causing concern just cannot be allowed to continue.

With those few words, Madam Speaker, again as I said, I support the Motion and I thank you.

**MADAM SPEAKER:**

Honourable Member for Communication and Works.

**HON. LINFORD A. PIERSON:**

Madam Speaker, I rise to speak to Private Member's Motion No. 14/91 which Resolves that Government consider taking steps to:

- "a) add sufficient staffing at the cruiseship landing by employing two additional dispatchers in order to ensure proper control; and
- b) investigate the matter of harassment of cruiseship passengers by taxi drivers with a view, in the case of future occurrence of this nature, of taking the appropriate action to have the licences of such taxi operators suspended or revoked;"

It was further Resolved in the Motion "that Government consider taking appropriate action to establish a central location in George Town for buses providing public transportation to and

from central George Town".

Madam Speaker, I support this Motion as I am aware of the problems which this Motion seeks to rectify. As Honourable Members are aware, the subject of transportation including taxi operators spans the Portfolios of Tourism and Communications and Works. Thus, the reason why I have decided to speak to this Motion.

The preamble to the Motion raises a number of points for consideration. Perhaps one of the most crucial is the question of the importance of the cruiseship business to the economy of the Cayman Islands. Because of this position, it is most important that Government places top priority on improving the facilities in the general atmosphere as will be conducive to maintaining the image of these Islands as a top rate port of call and tourist destination.

When this is fully put in place, we will see an automatic improvement within the operations of the dock area. It is my position that proper facilities such as adequate cruiseship berthing facilities and proper dispatch systems should be put in place before the problems on the dock will be effectively addressed.

As regards to the harassment of visitors, the Port Authority, of which I am Chairman, have already made recommendations for the appropriate provisions to be included in the new Revised Traffic Law, to prevent taxi drivers ignoring the current regulations which have been put in place by the Authority.

Madam Speaker, some taxi drivers virtually ignore the dispatcher at the Port. The new Traffic Law will seek to prohibit taxi drivers collecting passengers along Harbour Drive and thus ignoring the proper procedure of collecting passengers within the areas designated by the Port Authority for that purpose.

The Port Authority has also made arrangements with the Civil Aviation Authority for a parcel of land in the area of the old agricultural grounds off Thomas Russell Way to be used as a holding area for taxis which will operate out of the Port Authority dispatch area. As recently as the 5th of July, my Portfolio wrote to the Chief Engineer on this matter and I will now read this memorandum for the record;

**To the Chief Engineer,  
Attention: Mr. Max Jones**

**Subject: Proposed Holding Area for Taxi and Tour Bus Operators at Thomas Russell Way next to Farmers Market, George Town, Grand Cayman.**

**I write to confirm our telephone conversation of the 3rd of July, 1991. Please proceed with development drawings and cost estimates for toilet facilities, parking for approximately 100 vehicles, dispatch area etcetera, for a proposed holding area for taxi and tour bus operators at Block 20(c) parcel 46. For ease of reference please find attached a copy of map 14(d).**

**This matter was discussed with Mr. Donnie Ebanks about four months ago and we agreed that if Public Works Department was unable to attend to our request, the Portfolio would pay a private firm to do the work.**

**Your immediate attention to this matter is appreciated.**

**Principal Secretary  
Communication Works and Agriculture."**

Madam Speaker, I have read that to show that action is already being taken in this very important matter. The taxis will be called into dispatch area by radio as needed, thus this proposed arrangement will also have the effect of removing the taxis that now park along the Harbour Drive/South Church Street area and those of us that have had to drive that route can attest to the inconvenience and congestions caused by those taxis parking along that route.

I would not wish to leave the impression in the minds of Honourable Members or the listening public, that no action is now taken to discipline taxi drivers found to be guilty of harassing visitors within the Port Authority controlled area.

The Code of Conduct, which the Port Authority now has in place, provides appropriate discipline by suspending from operation any taxi drivers who are found to harass visitors. But as stated earlier, the proposed arrangements to radio dispatch taxi drivers from the area of the old agricultural grounds, plus legislating in the new Traffic Law the appropriate provision to prohibit the collection of passengers by taxi drivers outside of the controlled area, as is now being done, will definitely improve the system.

It is my hope that the Traffic Law, as mentioned by the Honourable Member for Tourism, will be ready for presentation to this Honourable House at the September meeting. This will, of course, be subject to the necessary legal drafting of the Law and Regulations being completed in time for the necessary input from the public and approved by Executive Council.

The Motion states that there is at present insufficient staff at the cruiseship landing and suggests the employment of two additional dispatchers. I cannot agree with this statement

and in a few minutes, Madam Speaker, I will explain why. But, I will take time at this point to say, that I, as Chairman of the Port Authority, and speaking on behalf of the Port Authority Board, we are very pleased with the work that is now carried out by the Chief Dispatcher, Mr. Ira Walton, and we do not think that the problem is at that level.

However, as of the 1st of July, that is this month, we have at the Port Authority, employed one security officer full time at the landing on the days that we have cruiseship calls. We feel that this will add some order and efficiency to the dispatch area. As regards to suspension of operations of the taxi drivers as apart from the suspension of licence, I would like to make that point, the Port Authority is authorised to suspend the operation of a taxi driver but it is the Police Department that has the authority to suspend a licence.

As mentioned, the question of suspension of a licence is a matter for the Police Department who has the complete control in that matter. We have on record at least one recent instance when a taxi driver was suspended from operating at the tourist landing and recommended to the Police Department that that individual taxi driver's licence also be suspended but to-date we have not been advised of any action being taken by the police in compliance with our request.

As regards the last part of the Resolve section of the Motion, asking Government to consider taking appropriate action to establish a central location in George Town for buses providing public transportation to and from central George Town. Efforts are still being made to locate an appropriate area for this purpose.

In the interim, however, Madam Speaker, my Portfolio is investigating various possibilities and alternatives. However, one of the major problems is that the location should be within close proximity of central George Town. We are considering the area behind the Library as a possibility for bus drivers dropping off passengers in George Town; and parking for taxi drivers in the proposed area at the old Agricultural Ground.

Earlier in the year the Third Elected Member for West Bay, the Mover of this Motion, wrote to me about this problem as the present parking depot at the Kirk Plaza compound will soon be utilised by the new proprietors for their own proposed development. There is no doubt, Madam Speaker, that a designated central location in George Town for buses providing public transportation is badly needed, thus, Madam Speaker, the reasons why my Portfolio has given this matter our very serious consideration and attention.

As stated in the foregoing, much of the concern expressed in this Motion is being addressed by my Portfolio, even though I regret that we were not able to have done more to date.

Accordingly, I have no problem in supporting this worthy Motion. Thank you..

**MADAM SPEAKER:**

The First Elected Member for Bodden Town.

**MR. ROY BODDEN:**

Thank you, Madam Speaker.

I am happy and somewhat relieved that the Government sees it fit to support this Motion, as it will give us a chance to work together to try to solve what has been, and still continues to be, a festering problem. Nevertheless, there are a few comments which I would like to make; some of them emanating from the contributions of previous speakers and some of them originating from my experiences in other jurisdictions.

As far as the whole notion of organising an effective, courteous taxi service is concerned, I believe that the taxi drivers have pretty much to do that for themselves. I do not believe it will work if the Government has to legislate restrictions and regulations. There will always be objections and suspicions to any regulations and rules which emanates from the Government or any other body, except themselves.

Consequently, I am suggesting that what we should aspire to do is to help the taxi drivers form themselves into an association where they can regulate, discipline and police themselves, so to speak. Set their own code of conduct, arrive at their own rules and regulations for the inspection of their cabs, and hopefully have no splinters of organisations, but one organisation, even if they might have a branch which operates at the Airport, a branch which operates at the dock, and as is current one which operates out of the Holiday Inn and those who choose to operate from the little section down here on Albert Panton street.

I believe, that the most noble and perhaps workable organisation must come from within the taxi drivers themselves. I know that there are a number of intelligent, responsible, and capable taxi drivers out there who can effect such an organisation because of the representation at a meeting which was attended by a couple of my colleagues yesterday afternoon, called by some of these people, is any indication of the caliber of taxi drivers, I am satisfied that they have good people, they have a perspective on what needs to be done, but they just need a little help. It seems to me from what has been said by the Members replying on behalf of the Government, the Government is quite willing to do that. So it seems fair to say, at this point, that we are on our way.

I would like to comment briefly on what I hear is an intention. I believe that the solution to the kinds of problems that we are talking about, in this Motion, does not necessarily lie with the introduction of a new Traffic Law. I believe it is time that we, in this country, think about moving into the direction of a Transport Authority which will deal with the issuing of licences; general drivers licences; licences to taxis; have to do with roads; upkeep of roads; fund-raising for roads; implementation of toll roads; toll booths; whatever this kind of thing a Transport Authority would do, and we already have the numerous models - the Port Authority, the Civil Aviation Authority, and I know that the Honourable Member who has responsibility for Communications and Works, being his energetic self, is probably thinking about this and I would invite him to start

it and leave us, the guys on this side, to take it over and continue it when we change places.

I am glad that we see this problem in unison and one perspective because we are trying to develop, among other things, as a serious tourist resort. While it is true that there are few good taxi drivers, there are also a few bad ones. What we have to do, without prejudice, we have to find ways to weed out the bad ones, to get rid of those whose conduct violates the good old Caymanian sense of propriety. But I would caution, that while we have to do this, that care is taken because I do not want to get down to saying we have to cull all of one nationality, or we have to be prejudice against nationalities, because it would be untrue and unfair if I were to stand up here and try to be a hypocrite by saying that some Caymanian taxi drivers do not sometimes fall below the expected code of conduct and operation.

So I hope we do not fall into the trap of saying, well all of the Caymanians are good guys and all of those who are not Caymanians are bad guys. No! Caymanians themselves, will tell you that even among their fraternity of taxi drivers there are some of our nationality who need a little brushing up. That is why I have said that I would be happy if they set the standards, if they make the arrangements and tell the Government this is how we see our Association could be improved. I believe it could be improved by having the people who cater, especially to our overseas visitors, to get some grounding, some kind of formal grounding, even if it is just a couple of hours in our history, culture and tradition so that when they are asked questions by foreigners they can answer intelligently and accurately.

As regards the proposal to establish a holding station off Thomas Russell Way, this is indeed noble and a commendable objective, but I would also hope that the Honourable Member would see fit to expanding this, perhaps into some parking where a nominal fee could be charged so that our people when they come in from the various districts, and are in search of a parking space, could find some place which is safe and convenient because as was quite rightly noted, when the Barclay's Bank takes over the old Kirk Plaza spot, that is going to create a quandary.

I was speaking a few days ago to a respected constituent and supporter of the Backbenchers who came up with the idea that the Government should try to acquire some land off Thomas Russell Way, to establish some kind of public parking space so that when people come into town to shop they could park there conveniently and safely; and if a sidewalk was set up, they would be happy to take their umbrellas, walk the little distance, which would give them time to meet friends, renew old acquaintances and socialise.

I have to commend Mr. Elsberth Terry for that idea and I hope it is an idea that the Government could see fit to investigate and to pursue because certainly, it is one that would be filling a worthy need and eventually if a reasonable amount is charged for the parking space, the cost of the land and the development would be paid for.

As I have said, Madam Speaker, there is no need to belabor this point because this is one of those occasions where the Backbenchers and the Government sees eye to eye. It is now for us to set the wheels in motion but I would like to reiterate, we have to encourage our taxi drivers to make the regulations themselves, to set their own code of conduct because it is true there are some cases and some instances where some people will have to be disciplined.

The most obvious need is a need for a dress code. The need to eliminate some forms of vulgar behaviour which, until recently was unknown and certainly is unacceptable to those of us accustomed and who came from Caymanian stock. I hear of instances where the behaviour of some taxi drivers is nothing short of a virago. We cannot have this, we cannot have people jostling, pushing and pulling the tourists around. What is bad about that as far as I am concerned, to people who do not know better, they will go away and label us all and say, "Well you know, the worst experience I have had was at that Caymanian port called George Town. Those people are not civilised because the taxi drivers tugged us all over town trying to get a fare."

The taxi drivers themselves must accept responsibility for this but the Government must see that they have proper facilities in terms of space to operate from. That is not the end of the problem however, because there are cases where taxi drivers' business is being cut in upon by people who are occupied elsewhere and who have other jobs. That is grossly unfair and in a free enterprise society I do not know how we can deal easily with that, except to appeal to the good conscience of the people.

I think it is grossly unfair for someone whose only occupation is that of a taxi driver, to have to compete with someone who has a full time job in for example, the Civil Service. I cannot condone that and I would hope that among other things when these people who have jobs, particularly in the Government service, apply for dispensation to take other jobs (especially one as sensitive as taxi driving), that serious consideration should be given.

I have spoken to people whose only means of livelihood comes from their driving a cab and when they have to compete with people who have regular Civil Service jobs, I do not know how they can expect to make it. So we have a mammoth task ahead of us. The good consolation is that we can all work together to try to solve these problems; I hope that the solution can come in the not too distant future because the problem is one that begs a solution.

I would like to commend the Mover and Seconder of the Motion and say that it has my wholehearted support. Let us work together as a House, let us work together Backbenchers and Government to see if we can solve these problems to the benefit of our worthy constituents who have been crying out for years for the solution to these problems.

Thank you.

**MADAM SPEAKER:**

The First Elected Member for West Bay.

**W. McKEEVA BUSH:**

things have been covered and I would like to thank the Government for accepting the Resolution.

Madam Speaker, back in 1986, Government accepted a Resolution which I was part of, Moved by the now Member for Communication & Works and seconded by me. It is heartening to hear Government say that they are doing something, because really if one goes to the Minutes of those meetings one can see that some of the problems (or I should say, 90 per cent of the problems) that were experienced then and generated that Resolution, are the same problems that we are experiencing today. I would say that they should have been cleared up by now because the problems have only been compounded. So, Madam Speaker, I am glad to hear that something is going to be done.

I am happy to hear that they will be bringing some sort of regulations regarding the granting of taxi licences. I would make the suggestion that if these things are not in the Law now or in the regulations we have now, they would put them there and see that they are carried out. I believe that the person granting a licence should satisfy himself that the applicant is of good character and fit to act as a taxi driver. That person granting the licence should satisfy himself that the applicant has adequate knowledge of this entire country and that should be a condition for a person to get a licence.

We have heard of the person who went to the Turtle Farm instead of the Tortuga Club or the persons who went up, took four passengers behind Caribbean Utilities Plant instead of going to the Spotts dock. So, there needs to be some serious requirements. Of course there would be the provision to suspend a licence if for any reason they suspect that after a person received a licence that he is not a fit person.

Now I know many times that we have had the complaints that the Authorities here have had complaints - 42 complaints in one instance and that person who was being complained of is still a taxi driver, still out there causing problems, using indecent language and carrying on and I have to ask myself why in the world has that person not lost his licence?

And, Madam Speaker, I believe that there should be offences relating to the conduct of the driver and the management of a taxi. I believe that in those regulations the Members talked about, it should be an offence for a cab driver to cause obstruction by loitering or misbehavior in any public place or street. It should be an offence for any person to hinder the driver of another cab in the taking up or the setting down of passengers.

Just today I went on the water-front to observe what was going on there. Things were slow, but the Government has organised what is known as the horseshoe, we have heard about it here today and in that horseshoe people pay to be in line there. Just today, as passengers were coming across the street from the stores and getting into a cab, which was parked in that horseshoe, one other taxi driver walked across to them, and he saw us there so he was very quiet about what he did, but he did say to them, "To the beach, to the beach", when he knew that they had already started getting into that cab.

I believe with the Regulations which are to come to this House, that the offence should be punishable by some sort of penalty, whether that is cash wise or whether that is losing their licence, but in some instances it should cause them to lose their licence. Wanton or furious driving; use of insulting or abusive language during the time in conveying passengers; use of insulting gestures during the time they are dealing with passengers; Madam Speaker, we must take strong measures.

And, as I told those people yesterday afternoon we just heard about, I am all for protecting them but there must be some sort of penalty for the misbehavior that is going on in this country and giving this country a bad name.

We have heard the suggestion of the taxi operators forming themselves into an Association. This is nothing new; this goes right back again to 1986, when we dealt with that matter. I feel very strongly that it would be in the best interest to have a strong cohesive organisation capable of representing the views of taxi operators. In speaking to that group yesterday afternoon, I advised them of their need to be organised for the sake of discipline and to be able to represent themselves. I am one of those Members who believe that there would have to be some form of official regulation.

When we talk about Associations we have had Taxi Associations and they did not work out. I believe that it is time that this Government takes matters into its hands and sees that this Association is set up with the proper safe-guards for all concerned. It is no use in telling the taxi people - go out there and form an Association because it will end up the same as you have right now. There would be a lot of confusion and people not doing anything. Government has to make every effort to form it, and only licence those people that are part of it. That is my opinion. I have had too often now to deal with this case of taxi people misbehaving, carrying on and bringing the tourist industry into ill-repute. And, there could be attached to that Association a lot of benefits maybe they could even have their own health insurance; this is done elsewhere. I am one of those too, that would hope that Government puts its foot down, have them form the Association and keep them in some kind of uniform.

As a member of the G.R.I.P.s Committee the Transport Authority is something which I discussed with the Member responsible on that Committee, because it is something I support. Madam Speaker, I am one of those who feel that the whole Government transportation sector should be formed into some kind of transport authority, for more reasons than one, which I might not have latitude to deal with.

Madam Speaker, I also feel that limiting the granting of licences to born Caymanians might not give the desired effect. Many of our own people also cause problems there. The Third Elected Member for West Bay, the Mover of this Motion, and I as well as others, have had representations where we have been asked us to see that only born Caymanians are given licences. As I said, that might not give the desired effect. What I think is needed is a weeding out process. Take out the bad, provide further or some form of training of taxi operators and cancel those licences which were bought because we know that there have been

police officers who were prosecuted for selling licences. If taxi licences were bought, cancel those. These would be good steps towards cleaning up the taxi business in this country.

While we make regulations for the taxi operators to adhere to, we should also make regulations to provide protection for taxi drivers and owners which would include some kind of penalty and ensure the operator of his payment. This again is something that we have had complaints about. Many times operators pick up tourists and they refuse to pay them. They have nobody to complain to, they run to the police but the police tell them they cannot help them. Again, if they had an Association with a proper dispatch service this would remedy some of that situation.

I believe that we should have penalties provided for those persons who hire a taxi with intent to avoid payment; or having failed or refused to pay the fare after hiring the taxi refuses to give his address; or with intent to deceive, gives a false address. These are matters that can be included in the Regulations and I would hope that before the Regulations are drafted that Members opposite would meet with us, either formally or informally, to discuss some of these matters. If they do not want to do that, of course it is in the Hansards and they can take the ideas from there. However, I would hope that these Regulations are not too long in coming because as I said they have been coming since 1986. This Resolution deals with not only the taxi operators, as such, but for those buses providing public transportation to and from central George Town. I do not know that if we put a facility up above the Glass House, whether that is going to service the needs of the people for central George Town.

Madam Speaker, those bus operators made representation to me because they are about to be evicted from the Kirk Plaza parking lot; not that the owners of that property are pushing them out, but because construction is about to start. I spoke to the owners there and work should begin anytime now (sometime next month) so there is haste in this matter. There is not time for the wheels to grind slowly.

I believe that a good place for these bus operators to operate from would be right here next to the library in the old Public Works Compound. That is for more reasons than one. It is central and those people who come into town, pay their gas bill, go to the banks, do their business, etcetera, want to have the transportation at their finger tips.

So, Madam Speaker, I hope that the Government is taking note of what I am saying and that this matter of providing a central location is not something that we can get in September. This is something that needs to be addressed immediately.

Madam Speaker, I hope my contribution is taken in the light that it is given.

**MADAM SPEAKER:**

shall ask the Mover if he would like to reply.

Would any other Member wish to continue the debate? If not I

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

Thank you, Madam Speaker.

I want to first of all say thank you to the Members of Government who spoke in support of this Motion and also my colleagues on this side for their contribution to the debate. I am glad that Government recognises the urgency of these issues and it appears from what has been said by the Members of Executive Council that something is being done already in an attempt to resolve the situations that I have outlined.

I just want to impress upon Government the fact that this issue of the taxi operators needs to be addressed immediately. I have been told by members of that fraternity that if Government does not do something soon then they will have to resort to measures in an attempt to survive which may not be the most pleasant, nor in our best interest here as a tourist destination.

I personally believe that there are many taxi operators out there who are operating illegally, that is non-Caymanians, because I have been told also, Madam Speaker, that it is a present policy of the Caymanian Protection Board not to issue any Gainful Occupation Licences for people who are non-Caymanians to engage in the taxi or transportation services.

I have no problem with insisting that Government consider only issuing taxi licences to born Caymanians because I firmly believe that there are some rights that we should hold exclusively for our people. I am not advocating that any action be taken to revoke or suspend any licences that are currently held by persons who are married to Caymanians and who have obtained those licences legally because many of those persons are upright and outstanding citizens and they are providing a very professional service to our visitors to this country.

I believe that something that would greatly benefit and would go a long ways in eliminating the present situation at the docks is if there is a provision for a special sign to be posted there at the dock landing that informs the cruiseship passengers of those services which are available and the cost of those services; be they tours, transportation to the beach, etcetera. This is one of the reasons why there is so much confusion in that area because the cruiseship passengers are coming off having no idea of what other services are available and at what cost. In an attempt to maybe advise or inform the passengers of their services, some taxi drivers become very vocal and they get out of line. So I think it would help, Madam Speaker, if a proper sign is established at the Port that advises the cruiseship passengers of the services which are available through your independent taxi operators.

I welcome the news that maybe in the September Sitting, legislation will be coming forward that will establish certain requirements and guidelines for the issuance of taxi licences and will perhaps include a code of conduct for persons holding these licences which they must abide by, because there is definitely a need for some type of discipline in that industry. I was amazed at the statement of the

Member for Communication and Works that he felt that it was not necessary to employ additional staff because they had one Security Officer in place there who was responsible for keeping control of traffic in that area and the movement of people. All that Member has to do is go down there on a cruiseship day and he can see very clearly that additional staff is definitely necessary if the job is going to be done properly.

With regards to the suggestion of the queuing out on Thomas Russell Way, I am not sure that it is practical because what will happen is it will require every taxi or tour bus to have to purchase a mobile telephone or radio for that purpose so that they can hear when their number is being called. But I do welcome the idea that this matter is being looked into and if it does work then I have no problem in supporting that effort.

I feel personally that if the taxi operators are not in a position to organise themselves, then Government should take measures to ensure that they are, by maybe supporting the establishment of an Association and requiring that any member of the public who does have a taxi licence be required to be a member of that Association. It is necessary for somebody to be in a position to discipline those operators who step out of line. At the airport there are conditions established by the Civil Aviation Authority for controlling or regulating taxi operators and the system works very well. The taxi operators recognise that if they are going to be allowed to operate from the airport then they have to abide by the rules. So something must be done similar to this with regard to all taxi operators or tour bus operators holding licences in this country.

Madam Speaker, I brought a motion similar to this last year, Motion No. 70/90 calling basically for the same things and to date that committee has not met to deal with these very important issues. I just hope that Government's support is genuine and that they will get on with addressing these very important issues with regard to transportation in this country.

I urge the Member for Communication and Works to find a central location in George Town for buses providing public transportation back and forth to George Town. A lot of people depend on public transportation and once the construction of the new Barclays building takes place, the bus drivers will not be allowed to continue to use the old Kirk Plaza parking lot.

I also urge that the incidents of harassment of our cruiseship passengers be investigated; that the names of the culprits are taken note of and that these people be warned that this type of behaviour will not be tolerated in future and if they do violate the rules, their licences will be revoked or suspended. I think the message has to be clear and anyone stepping out of line should have to pay the consequences.

Again, I want to say thank you to Government for supporting this Motion and also to my colleagues who have spoken. To those who did not speak but through their silence indicate their support, I thank you.

**MADAM SPEAKER:** I should put the Question on Private Member's Motion No. 14/91 that the Motion be passed. All those in favour please say aye, those against no.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. PRIVATE MEMBER'S MOTION NO. 14/91 PASSED UNANIMOUSLY.**

**MADAM SPEAKER:** The next item is Private Member's Motion No. 15/91, to be moved by the First Elected Member for West Bay.

**PRIVATE MEMBER'S MOTION NO. 15/91**

**Welfare Cost of Living Increase  
for Less Fortunate Persons in the Cayman Islands**

**MR. W. McKEEVA BUSH:** Thank you, Madam Speaker.  
Madam Speaker, I beg to move Private Member's Motion No. 15/91 which reads:

"WHEREAS the needs of the poor are increasing;

AND WHEREAS the cost of living has increased;

BE IT NOW THEREFORE RESOLVED THAT Government consider increasing the amount given to indigents through the Social Services Department to bring it to an appreciable level to the cost of living."

**MR. JOHN D. JEFFERSON, JR.:** Madam Speaker, I beg to Second the Motion.

**MADAM SPEAKER:** Private Member's Motion No. 15/91 has been duly moved and seconded and is open for debate. The First Elected Member for West Bay.

**MR. W. McKEEVA BUSH:** Madam Speaker, in my opinion this Resolution addresses a very

important matter one that strikes at the conscience of Government. It seeks get an increase in the monthly or weekly financial assistance from Government for indigents, retarded people or other words, people who for one reason or the other cannot ever meet their basic needs and other persons which might need at times temporary assistance through the Department of Social Services.

The present procedure falls under several headings. When someone is seeking assistance from the Social Services they have to go through quite a bit of procedure and I would like to read for the House the Regulations which addresses that procedure. I quote:

#### **"Extended Assistance Eligibility Determination**

1. Clients who are elderly, permanently physically disabled, retarded, chronically ill, or chronically mentally ill are generally regarded as potential candidates for extended assistance.
2. Clients requesting extended assistance due to physical or mental disability including mental retardation are required to provide Department of Social Services with supporting medical documentation of their disability unless the Department already have documentation in their records.
3. In cases where elderly or disabled clients have adult children who have incomes the Case Worker should contact these children, in person or by letter, to make them aware of their legal responsibility to contribute to the support of their parents and to assess what contribution each child could make. These resources should then be taken into account in determining the clients eligibility for assistance.
4. Persons who have met the above criteria and whose expenses exceed their income or whose finances are strained to the point where their basic needs are not met are eligible for extended assistance.

Before I go into that, Madam Speaker, I would point out that in the case of point 3, where the Case Worker should contact the children of elderly or disabled clients to make them aware of their legal responsibility to their parents; this is something that I believe rarely works. In some instances it does work but most of the time the people applying for any assistance from Government have no one to depend on, even sometimes if they have children. I further quote from the Regulations.

#### **"ASSISTANCE ALLOWANCE**

1. The standard amount of assistance for an individual is \$50 per month, sometimes given in cheque or voucher form or in a combination of a cheque and food-voucher.
2. The standard amount of assistance for a couple, both of whom meet the eligibility criteria, is \$65.
3. Permanent assistance in the form of weekly food-vouchers is occasionally authorised. The Case Workers Supervisor should be consulted before authorising this type of assistance.
4. Other amounts may be given under unusual circumstances:
  - a) if an elderly couple is supporting a retarded adult child they could probably grant the adult child \$50 per month in his own right plus the \$50 or \$65 per month for the parents."

Which, Madam Speaker, still only amounts to a maximum of \$115 for three persons for the month and one of them could be a retarded adult child.

#### **"Temporary Assistance**

1. Clients who are not permanently disabled or elderly but whose financial situation is not adequate to meet their basic needs are generally regarded as candidates for temporary assistance.
2. Temporary assistance is regarded as time limited.
3. Clients are considered for temporary assistance whose situations could be improved through counselling, employment, through Court action for Maintenance Orders or other changes which the Case Worker could affect to reestablish the clients as self-supporting individuals or families.
4. The Case Worker will determine eligibility by the same procedure as for extended assistance via the financial application.

#### **Assistance Allowance**

1. The clients found eligible for weekly financial assistance are usually given temporary



assistance in the form of vouchers made out to a particular vendor rather than a cheque.

2. Except in unusual circumstances the voucher is for food stuffs and is as follows:

Family size - 1 person - amount allowed \$20 per week.  
 2 persons - \$30 per week.  
 3 persons - \$35 per week.  
 4 persons - \$40 per week.  
 5 persons - \$45 per week.  
 6 to 8 persons - \$50 per week.

a) Amounts over \$50 per week are given only families of more than 8 persons, in this case an additional \$5 per child per week may be added."

But in this instance, Madam Speaker, the maximum given out to a family of eight is \$200 per week.

"b) Conversely if an elderly couple receives some but not enough help from relatives or friends the Department might only grant part of the usual \$50 to \$65 per month.

c) Other individual circumstances will be considered on their own merit.

d) Extended assistance is issued by the Department of Social Services generally during the first week of each month.

e) Case Workers must follow the appropriate authorisation procedures to arrange for provisions of the clients cheque and secure the clients signature and the name of any other authorised recipient."

I suppose that the form of the Regulations are not out of line but I have contention that the amounts that are given to retarded people, poor persons are otherwise.

For this year, Government has in the financial assistance vote a sum of \$220,000 estimated for this year's Budget. Now that Financial Assistance Budget, as I said, provides for monthly or weekly disbursements to needy persons. But in addition, to providing monthly or weekly checks and vouchers for food that same vote is also used to provide services such as rental assistance, utility payments, (lights, telephone, water etc.), connection for electricity, clothing, furniture, appliances, medical supplies, (not supplied by hospital) that is pampers, bed-liners and so on, and even payment for the Pines Geriatric Ward is taken from this amount. In addition to any other need the client may have, which is not met under any other area of services delivery, are met from this Vote.

As I said, all such assistance are based on an over-all assessment of the persons ability to meet their needs. The assessment is what is known as the means test. Many persons object to this test but I guess in the absence of something else the Government must give some kind of accounting of the money it spends. All these things, Madam Speaker, come out of a Vote of \$220,000 for the year.

It is clear from these procedures which I have just informed the House about, that we need to revise the amounts that are being handed out. I could give many cases and reasons as to why we need to increase the Financial Assistance Budget, but suffice it to say, that the present practice of giving a man and wife a maximum of \$65 for the month, while a single person can receive up to \$50 is neither fair nor equal; it is backward. The cost of living has risen many times since those procedures were written and adhered to and I would look at the years 1985 to the present. The cost of living increased in 1985 by 2.3 per cent, 1986 by 2.8 per cent, 1987 by 4.3 per cent, 1988 by 5.2 per cent, 1989 5.9 by percent, 1990 by 7.7 per cent and there is expected to be at least a 10 per cent increase this year in the cost of living. A person who was paid \$50 in 1985 should be getting \$72 based purely on the cost of living adjustments, likewise, a man and wife who were paid \$65 in 1985 should now at least be getting \$93 to \$94 to be able to purchase the same goods in 1991 as they purchased in 1985.

If our indigent people took that \$50 into the supermarkets today, they can only buy two-thirds of what they purchased in 1985. Their money has shrunk and we need to ask ourselves, is this enough to help our old people who are poor and have no one to help them? When we visit some of these old and indigent people they tell us of their plight, their sorrowful plights. They are trying to get by on a diet that is far from satisfactory to maintain their health and strength. There are many different compositions to what Social Services gives. For instance, someone getting \$50 per month might have a Home Health Aide Worker. Government might, or might not be paying for that Home Health Aide Worker so they do get something else. But on the need for food alone, what can \$50 for the month do? What can \$65 for two people do?

I have not tested the waters to hear whether Government is going to accept this Resolution or not. I do not know. Probably I am going to be given a long line about Government having a lot of expenditures and a lot of need for this and a lot of need for that. I just want to point out the waste and the misdirection of Government funds because when we look at the Consultancy Budget for this year and for last year, it is most appalling. The same Portfolio, the Portfolio of Health and Social Services spent some \$1,353,798, last year in consultancies. It is estimated for this year to be \$1,268,818. The Government even had a consultancy to study Caribbean Utilities Company which cost this country \$54,919.06. The same Portfolio of Social

Services spent \$8,435.27 on the consultancy for drafting that monstrosity, the Hospital Authority Bill and also expenses for International Healthcare Cooperation for the Dental Clinic.

We find consultancies for the Postal Department, Radio and Telephone Law Review, Central Funding Scheme, The Electrical Law Review and Vehicle Licencing and Inspection Department. This was a Motion that I brought that they turned down; they are looking at it in another way, to be able to say that the Backbench did not do it, they did it. They have to get a consultancy to do it.

Madam Speaker, these are going to cost \$176,000, well no, that will cost some \$75,000, but then a further amount is approved for the same Portfolio; the Portfolio of Communication and Works for an Agricultural Plan, Executive Director - \$50,000, Hi-Tech Agronomist - \$50,000. That is long-term consultants they call it and then they go further and talk about short-term consultants.

For a Consultant Base Line Study - 24 man days, \$8,000. That was an expensive man.

"Consultants

Strategic Market Studies - 25 man days	\$8,500.
Land Utilisation Consultant - 20 man days	\$6,800.
Irrigation Consultant - 15 man days	\$5,250.
Livestock Consultant - 120 man days	\$25,000.
Plant Protection Consultant - 10 man days	\$3,500.
Quarantine Consultant - 15 man days	\$5,250.
Aquaculture Consultant - 40 man days	\$14,000."

Madam Speaker, are these Members of Executive Council able to do anything themselves? I could go on with the waste, because it is that! And of course the Member for Health, my good friend, the one who tells me that I do not know anything about hospitals and therefore I cannot run one, yet he had to get a consultant for laundry.

Madam Speaker, I hope I am not going to hear that they do not have the money. I know that we have severe expenditures facing this country but what we are paying our poor indigent people in direct payments is a pittance. Surely this increase is necessary and I make the plea to Executive Council that before we concern ourselves with the Pension of Members of Parliament, the Members of Executive Council and other well situated people we must consider those who are virtually penniless at this time, unless the Government comes to their aid.

When rising costs strike, food, clothing and housing are affected; it is the poor, the destitute and the deprived who feel the worst every time. So, Madam Speaker, this Motion is timely, it addresses a very important matter and I do not feel that we are being unreasonable in asking for an increase. The Motion asks the Government to "consider" and I could only put that word in because the Standing Orders say that I, as a Member, cannot put a charge on the country's finances unless it is recommended by the Governor through a Member of Executive Council. To get around that problem, I put in the word "consider" but the word "consider" must tell them that they have to do something.

If this Motion is passed, I do not hear any foolishness about Government cannot find the money, nor do I want to hear anything about the Pension Law will address it because we do not need another Law to do what we are asking. We need not a Law, but we need to be aware, to be sensitive of the needs of the poor.

There is no room for new tricks with mirrors or old juggling acts that I know the Executive Council can do; say one thing and mean another. I am asking them if they are passing this Motion, to do as it says.

Thank you.

**MADAM SPEAKER:**

The Honourable Member for Social Services and Health.

**HON. D. EZZARD MILLER:**

Madam Speaker, I rise to accept the Motion on behalf of Government. The fees are currently under review. Providing there are no unforeseen circumstances, the increases will appear in the 1992 Budget now under production.

Thank you, Ma'am.

**MADAM SPEAKER:**

Second Elected Member for Boddin Town.

Would any other Member wish to continue the debate? The

**MR. G. HAIG BODDEN:**

Madam Speaker, I would only like to say that I add my support to this Motion. The amounts paid to the indigent under these provisions has been out-dated for sometime and it is certainly necessary to review it. The only way a person could live on what is being paid today, would be for them to find some way of eliminating the last 20 days in each month and perhaps live in suspension somewhere until the first of the next month arrives.

Because of the time constraints, I will not go into the merits of this Motion which speaks for itself and would only hope that the Department will use its efforts to determine that those in need of this help receive it. I would just like to mention that I know of a case where an elderly lady past the age of 70, was denied help. It is my understanding that these payments now go to able bodied men who are fully employed and I think not only the amounts of money paid need to be reviewed, but the method of assessing the

need also needs to be reviewed.

**MADAM SPEAKER:**  
Mover like to wind up?

If no other Member wishes to continue the debate would the

**MR. W. McKEEVA BUSH:**

Thank you, Madam Speaker.

I am glad to hear that the Member has accepted the Motion. He ran quickly after accepting it, but I note what he said about the fees being currently under review and replaced in the estimates. I do not know when he started to review these fees, but I know when I checked into it, there was nothing going on. Maybe the Motion jolted him into action and possibly this is what was needed - not only to review but they needed to do something. So I hope that when the estimates are placed before us that we will see these figures increase to an appreciable level to the cost of living, which is really no fault of the poor people in this country but due largely to the Government's policies.

Thank you.

**MADAM SPEAKER:**

I shall put the question on Private Member's Motion No. 15/91: "BE IT NOW THEREFORE RESOLVED THAT Government consider increasing the amount given to indigents through the Social Services Department to bring it to an appreciable level to the cost of living."

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

against No.

**AYES.**

**MADAM SPEAKER:** The Ayes have it.

**AGREED. PRIVATE MEMBER'S MOTION NO. 15/91 PASSED UNANIMOUSLY.**

**MADAM SPEAKER:**

This concludes the business for the Second Meeting of the 1991 Session. I shall now ask for a Motion for the Adjournment.

### **ADJOURNMENT**

**HON. THOMAS C. JEFFERSON:**

Before I move the adjournment I am sure that Members will agree that we should give our vote of thanks to the Clerk and her able staff for all of the assistance granted to us during these 14 or 15 days. Especially, it was a privilege to watch Members in the Common Room partaking of those mangoes almost every hour you went in.

Madam Speaker, it is a pleasure to move the adjournment of this Honourable House until Monday the 2nd of September, 1991.

**MADAM SPEAKER:**

The question is that the House do now adjourn until 10:00 a.m., Monday, 2nd September, 1991. I shall put the question. Those in favour please say Aye, those against, No. The Ayes have it.

**AYES.**

**MADAM SPEAKER:**

The House is accordingly adjourned until 10:00 a.m., on Monday, 2nd September, 1991.

**AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., MONDAY, 2ND SEPTEMBER, 1991.**